

NATIONAL CAMPAIGN COMMITTEE

For Central Legislation on Construction Labour

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Dear Friends,

This circular is further to the 15th Nov. 2019 circular of the NCC-CL.

On 11th Dec. 2019 the Code on Social Security 2019 has been introduced in the Lok Sabha as Bill No. 375 of 2019. We are enclosing a copy of parts of this Code directly related to the **construction workers** which are the following:

1. Section 7 Constitution of State Building Workers Welfare Board.
2. Chapter VIII Social Security and Cess in Respect of Building and Other Construction Workers.
3. Section 163 Repeal and saving Repeal (1)

The following are the questions to be raised in this context:

1. Once the BOCW Acts are repealed, the existing BOCW Welfare Boards will be dissolved and wound up. What will happen to the registration with the Welfare Boards by Building workers? Will their registration cards be made invalid?
2. In continuation of the previous query, what will happen to the Benefits such as Pension, Education Assistance etc, will they be stopped as a result?
3. With the repeal of the BOCW Cess Act, what will happen to the huge sums of money already collected and the interest accrued?

THE UNCERTAINTIES CREATED BY THE Code on Occupational Safety, Health & Working Conditions, 2018 and the Code on Social Security, 2019 ON THE FUNCTIONING OF THE BOCW BOARDS UNDER THE BOCW ACT AND BOCW CESS ACT, 1996:

The proposal to repeal the twin BOCW Acts of 1996 under the above mentioned two Codes has created an uncertainty about the continuation of the 37 existing State/UT BOCW Boards in spite of the fact that section 7(1) of the Code on Social Security provides for the constitution of the Boards "every State government shall constitute a Board to be known as the (Name of the State) Building and Other Construction Worker Welfare Board and Sec. 7(7) provides for the formation of one or more advisory committee.

There is uncertainty and anxiety about the fate of the huge cess fund which has been accumulated over a long period and the larger amount of interest earned on it. There is uncertainty about the continuation of the millions of registered beneficiaries. There is uncertainty about the continuation of the financial assistance for education currently being given to millions of children of registered beneficiaries. There is uncertainty about the continuation of pensions to aged construction workers.

The Central government has not shown much interest in the re-constitution of the Central Advisory Committee after the term of the previous Central Advisory Committee was over.

It is not clear whether the Central government will collect the 12.5% to 20% contribution from the registered construction workers in addition to the 1% cess on the cost of construction provided under chapter VIII of the proposed Code on Social Security.

There is no clarity about the collection of resources, in the form of collective contribution, for the other segments of unorganized sectors. Therefore NCC-CL has decided to Reject the Four Codes and Campaign to Save the BOCW Acts.

THE LACUNAE:

1. The role of state governments and State Boards has been reduced while the role of the Central Government has been increased.

2. In Chapter VIII on **Social Security and Cess in Respect of Building and Other Construction Workers, self-assessment of cess** is included. This will definitely lead to lower Assessment and less Collection of Cess.

3. The provision of **registration of construction worker as beneficiary** has been added after our interventions with the Labour Ministry. But the very crucial **Section 13 on Identity Cards, with the provisions for the employer to enter the details of work done by the beneficiary in the identity card**, has been left out which will lead to serious problems.

A comparative table on the Code on Social Security, 2019 as introduced in the Lok Sabha on 11-12-2019 and BOCW Acts 1996 is enclosed with this circular.

FUTURE PLAN OF ACTION:

1. **A detailed critique on the likely impact of the Social Security Code on the existing BOCW Boards will be circulated shortly.**

2. NCC-CL has started the preparations for conducting a rapid study on the functioning of the BOCW Boards in 10 to 15 States and cities, in collaboration with two more organizations. This study will be utilized to develop strategies for ensuring proper utilization and ensuring the proper functioning of the State & UT BOCW Boards.

3. A National Meeting of organizations working with construction workers and participating in this study will be called in February 2020 to discuss their proposals for proper functioning of the 37 BOCW Boards.

ALL TRADE UNIONS AND OTHER ORGANIZATIONS WORKING WITH DIFFERENT SEGMENTS OF UNORGANISED SECTOR WORKERS NEED TO COME TOGETHER AS STATE JOINT ACTION COMMITTEES to demand Sectoral Welfare Boards and Cess to be collected from various products of Labour, on the pattern of Kerala and Tamil Nadu. They must demand that dedicated Funds be set up in all Welfare Boards. Further they must demand 3% allocation from Central and State Budgets for Social Security of Unorganised workers. Without adequate and specific financial provisions the promise of Social Security for the masses will remain a mirage.

Trade unions and other organisations working with construction workers need to come together and develop a common understanding of the likely impact of the proposed Codes on the BOCW Boards functioning under the BOCW Acts. Similarly trade unions and other organizations working with other segments of unorganised sector workers which will be

adversely affected by the OSH and Social Security Codes also need to come together and develop a common understanding of the likely impact of the proposed Codes on the existing system of social security delivery.

We must remember that Mine Workers, Dock Workers, Building and other Construction Workers, Plantation Workers, Contract Workers, Inter-State Migrant Workers, Working Journalists and other News Paper Employees, Motor Transport Workers, Sales Promotion Employees, Beedi and Cigar Workers, Cine Workers and Cinema Theater Workers will all be impacted by the repeal of sectoral Acts currently benefitting them. Without the united strength of all these segments it is difficult to reverse the proposed repealing of the labour legislations which were enacted after long struggles over the past seventy years. It is absolutely wrong on the part of the Ministry of Labour and the Government of India to have proposed the repealing of the large number of labour legislations without adequate consultation with the workers' organisations working in these segments. They must unitedly fight to **SAVE THEIR SPECIFIC LABOUR LEGISLATIONS.**

4. The campaign of **Domestic Workers** for a comprehensive central legislation to provide them social security and regulation of work through tripartite boards also needs to join with these unorganized sector workers. This huge workforce, largely female, has been entirely ignored in the Labour Codes. **6. UNITY WITH ORGANISED SECTOR TRADE UNIONS**

It is equally important for the unorganized sector workers to develop unity with the trade unions of the organized sector on the proposed Codes. The Central Trade Unions have called for a national strike on 8th January 2020 but they are not raising the demands of labour legislations primarily meant for the unorganized sector separately. The Central Trade Unions need to understand the importance of mentioning the names of these legislations separately, because these legislations have been providing social security to millions of workers in the unorganized sector directly This fact has not been adequately realized as yet. NCC-CL appeals for the unity of the entire organized sector and unorganized sector workers.

Yours Sincerely,
Subhash Bhatnagar