

Proposed Amendments to the Apprentices Act, 1961

The Apprentices Act, 1961 was enacted with the objective of regulating the programme of training of apprentices in the industry by utilizing the facilities available therein for imparting on-the-job training. The Act makes it obligatory for employers to engage apprentices in designated trades to impart apprenticeship training on the job in industry to school leavers and ITI pass outs, Graduates engineer, Diploma holder and Certificate in 10+2 vocational stream to develop skilled manpower. There are four categories of apprentices namely; Trade Apprentices (ITI pass outs, 8th, 10th & 12th pass outs), Graduates engineer apprentices, Technician apprentices (Diploma level) and Technician (Vocational) apprentices (Certificate in 10+2 vocational courses).

2. Comparing the size and rate of growth of economy of India, the performance of Apprenticeship Training Scheme (ATS) is not satisfactory and a large number of training facilities available in the industry going unutilized depriving unemployed youth to avail the benefits of the ATS. To improve the participation of industry and youth in ATS in a large number, Office of the Prime Minister's National Council on Skill Development (PM's NCSD), Central Apprenticeship Council (CAC), National Commission on Labour (NCL), Indian Labour Conference (ILC), Confederation of Indian Industry (CII) and National Skill Development Agency (NSDA) have given a slew of recommendations to make changes in the Apprentices Act, 1961 to make it more responsive to industry and youth. Apart from above, a Working Group constituted by DGE&T, Ministry of Labour & Employment in November, 2013 for revamping all the Schemes run by DGE&T has also given its recommendations in respect of Apprentices Act. 1961.

3. An Inter Ministerial Group (IMG) was constituted comprising representatives from Ministry of Railways, Ministry of Micro Small Medium Enterprises, Ministry of Power, Ministry of Defence, Planning Commission, NSDA & DGE&T for discussion on the suggestions received from PM's NCSD, CAC, NCL, ILC, CII, NSDA and WG. Three meetings of the IMG were held under the Chairmanship of DG/JS and IMG has submitted recommendations.

4. Based on the recommendations of IMG, proposals to amend the Act are being uploaded for public consultations alongwith the summary of the suggestions received from various sources and the Minutes of the meetings of the IMG. Comments/suggestion may be sent by 15th July, 2014 on the e-mail address given below:

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P R E F A C E

The Apprentices Act, 1961 was enacted with the objective of regulating the programme of training of apprentices in the industry by utilizing the facilities available therein for imparting on-the-job training. The Act makes it obligatory for employers to engage apprentices in designated trades to impart apprenticeship training on the job in industry to school leavers and person having National Trade Certificate (ITI pass outs) issued by National Council for Vocational Training (NCVT), Graduates engineer, Diploma holder and Certificate in 10+2 vocational stream to develop skilled manpower. There are four categories of apprentices namely; Trade Apprentices (ITI pass outs, 8th, 10th & 12th pass outs), Graduates engineer apprentices, Technician apprentices (Diploma level) and Technician (Vocational) apprentices (Certificate in 10+2 vocational courses).

2. Comparing the size and rate of growth of economy of India, the performance of Apprenticeship Training Scheme (ATS) is dismal and a large number of training facilities available in the industry going waste depriving unemployed youth to avail the benefits of the ATS. To improve the participation of industry and youth in ATS in a large number, Office of the Prime Minister's National Council on Skill Development (PM's NCSD), Central Apprenticeship Council (CAC), National Commission on Labour (NCL), Indian Labour Conference (ILC), Confederation of Indian Industry (CII) and National Skill Development Agency (NSDA) have given a slew of recommendations to make changes in the Apprentices Act, 1961 to make it more responsive to industry and youth. Apart from above, a Working Group constituted by DGE&T, Ministry of Labour & Employment for revamping all the Schemes run by DGE&T has also given its recommendations in respect of Apprentices Act, 1961 based on the discussions held in two meetings.

3. Since the implementation of the proposed recommendations will change the basic structure of the ATS which is in operation since 1962, it was felt that before making changes in the Apprentices Act, 1961, wide range of consultations of different stakeholders are essential. Keeping this aspect in fore, an Inter Ministerial Group (IMG) was constituted comprises representative from Ministry of Railways, Ministry of Micro Small Medium Enterprises, Ministry of Power, Ministry of Defence, Planning Commission, NSDA & DGE&T for discussion on the recommendations proposed by PM's NCSD, CAC, NCL, ILC, CII and NSDA and WG as a first step. Three meetings of the IMG were held under the Chairmanship of DG/JS and IMG has submitted recommendations. These recommendations would be further discussed in the CAC-a tripartite statutory body and simultaneously, these recommendations would also be posted on DGET's web-site for inviting the comments of public at large and these will be also circulated to States/UTs for seeking their comments..

The Proposals

National Apprenticeship Scheme started in 1959 on voluntary basis to develop skilled manpower for the industry. When the desired result was not achieved from the voluntary apprenticeship scheme, it was thought of to modify the existing scheme and to implement the same through regulation. The Apprentices Act, 1961 was enacted in 1961 and came into force on 01.03.1962. Initially, the Act envisaged the apprenticeship training of trade apprentices.

The Act was amended in 1973 and 1986 to include training of graduates and technicians and technician (vocational) apprentices respectively under its purview. It was once again amended in 1997 and 2008 to amend various sections of the Act as regards definition of “establishment” and “worker”, reservation for candidates belonging to Other Backward Classes etc.

Although ATS has been in operation for over four decades but there is no significant improvement in respect of seat location as well utilization. Details of seats location and utilization for trade apprentices are given below:-

Year	Seats located	Seats utilized
2004-05	253541	170848
2005-06	234388	167554
2006-07	255990	186122
2007-08	258163	185224
2008-09	261236	187339
2009-10	274741	197994
2010-11	294171	204213
2011-12	321937	218032
2012-13	337087	203970
2013-14	359356	211632

Proposals have been received for making changes in the Apprentices Act, 1961 from CAC, PM's NCSD, WG constituted by this Ministry, NSDA, NCL, ILC, CII. These proposals are given at Annexure-I. In this regard, an Inter Ministerial Group (IMG) had been constituted & its three meetings were held under the Chairmanship of Director General of Employment and Training/Joint Secretary to finalize the recommendations for the making changes in the Apprentices Act, 1961. The IMG has given the final recommendations which are given at Annexure-II.

Proposed changes in the Apprentices Act, 1961

On the basis of recommendation given by the IMG, the following changes have been proposed in the Apprentices Act, 1961:

Issue No.1: To simplify workflow for establishments while engaging apprentices

An employer in the private sector having pan-India operations has to go to each State/UT for work relating to engagement of apprentices which they feel that such process is cumbersome. Such employers prefer to go to respective Regional Directorate of Apprenticeship Training (RDAT) under DGE&T for engagement of apprentices.

The IMG considered above and recommended that implementation of Apprenticeship Training Scheme in those organizations which are operating business /trade in more than four States, will rest with the Central Government.

Accordingly, Section 2 of the Apprentices Act, 1961 would be amended.

Issue No.2: Change in the definition of “Worker”

Of late majority of employers hire contractual workers in their premises instead of employing regular workers thereby resulting in reduction in number apprentices to be engaged and causing training facilities going unutilized. Under the Act, contractual workers are not counted while locating the apprenticeship seats in the establishment.

The IMG considered above and agreed to make change in the definition of the worker by including contractual workers, daily workers, agency workers, casual workers, seasonal workers, etc.

Accordingly, new definition of worker in clause “(r)” of section 2 of the Act would be substituted.

Issue No.3: Trade-wise and Unit-wise regulation and deployment of apprentices in the service & informal sector.

Employers’ associations exhorted that present system of location of seats restrict their freedom in engaging the apprentices as per their requirement and they have to engage apprentices where they don’t need.

Apprenticeship seats are located in the establishments for each designated trade on the basis the ratio of trade apprentices to workers other than unskilled workers and also the training facilities available in the establishment for the trade. The provision of the Act also force the employers to carry out the engagement of apprentices in a stretch even though there is no or less production activities in its premises during the period of apprenticeship training. Further, procedure for location of seats in service sector needs more flexibility.

The IMG considered and recommended that within a financial year each establishment should not engage apprentices less than 2.5% and not more than 10% of the total worker of all trades. Further, the establishments may be given flexibility to take into account seasonality in operation and establishment may engage apprentices as per apprenticeship months within the above limits. There will not be any requirement of survey of establishments for fixing the number of seats.

Accordingly, Section 8 would be amended to provide flexibility to the employer to engage apprentices.

Issue No. 4: Government regulation on addition of new trades

Employers can not start training in the trade/occupation under the Act in spite of having immediate potential of employment unless the government notified such trade/occupation in the Official Gazette. As per the existing process, addition of a trade/occupation starts with preparation of course curriculum by trade experts followed by approval of CAC & NCVT members, vetting of notification and its publication in the Gazette of India. The entire process is time consuming.

The IMG considered and recommended that companies may be allowed to starts new trade without waiting for notifying such trades in the official gazette of India. But it may be obligatory for the establishment to disclose the duration and syllabi of the Optional Trades on the web-portal to check the quality of training.

The IMG also recommended that employers who wish to get the trades notified under the Apprentices Act, 1961 from retrospective date (where training has started) may also be allowed to do so.

Accordingly, section 2 & section 37 would be amended. Further new section would be added to regulate optional trades.

Issue No.5: Expanding the scope of Apprenticeship

Apprenticeship training is restricted to four categories of apprentices namely; (i) Trade Apprentices (ITI pass outs, 8th , 10th & 12th pass outs), (ii) Graduate Apprentices (Graduate engineer), (iii) Technician Apprentices (Diploma holder) and (iv) Technician Vocational Apprentices (10+2 vocational subjects). Non-engineering graduate courses, Modules under Skill Development Initiative Scheme (SDI) and other courses run by Skill Development Centres (SDCs) of States, approved by NSDA are not covered under the Act and students completing such courses do not get benefit of apprenticeship training to improve their skill and employability.

The IMG considered and recommended that the scope of the apprenticeship training should be enhanced in order to bring the internship/on-the-job training of other courses, all graduates in various fields such as B.A, B.Com., B.Sc., etc. may be brought under Act to enhance their skills and employability.

The IMG also recommended that in order to include modules under SDI and other courses run by SDCs of States, approved by NSDA, provision of rebate in the apprenticeship training period should be allowed for the persons undergone such training while preparing course curricula under ATS.

Accordingly, Section 2(j) & Section 6 would be amended .

Issue No. 6: Qualification and age requirement

With the existing provision relating to qualification and age requirement made in the Act is for designated trade, the employers particularly in informal sector find it difficult to engage apprentices. Further it may not be feasible to bring employers/ establishment in the informal sectors under the ambit of apprenticeship training scheme.

The IMG considered the above and recommended that in case of apprenticeship training in informal sector (optional trade), the qualification, physical fitness etc. may be decided by the employer, subject to minimum age as per law of the land. But the age should not be less than 18 years in trades related to hazardous industries for both optional and designated trades.

Accordingly, section 3 would be amended.

Issue No.7: Payment of stipend to apprentices

Existing rates of stipend paid to the apprentices are too low to meet the basic needs such as transportation, clothes etc. and they prefer to go for low paid employment near to their place of staying.

The IMG recommended that rates of stipend should be 70% to 90% of the minimum wages for semi skilled workers applicable in the States/UTs from Year1 to Year3 respectively.

The IMG also recommended that in case of establishments which are having turnover less than Rs. 100 crore and are covered under the Micro, Small and Medium Enterprise Development (MSMED) Act, stipend will be shared by the Government equally during the first year of the training only . This support may be initially given only for apprentices in designated trades but may be considered subsequently for optional trades also keeping in view the response of the scheme and the financial implications.

Accordingly, rule 11 of the Apprenticeship Rules, 1992 would be amended.

No. 8: Offences & Penalties:

Due to fear of imprisonment, employers tend to avoid coming under the purview of the Act and training facilities available with them go unutilized.

The IMG considered the above and recommended that those establishments which are not engaging full quota of apprentices and having more than 250 workers will invite penalty at the rate of Rs. 500 per shortfall of Apprenticeship Month. Establishment or industry which is under the Board of Industrial and Financial Reconstruction and any establishment or industry having less than two hundred and fifty workers shall not be liable for such penalty. Non-payment of penalties in time may be allowed with 10% interest and unpaid penalties may be made recoverable as arrear of land revenue.

The IMG also recommended that the penalty for the defaulter should be at the rate of rupees one thousand every occurrence of the offence(s) other than the engagement of full quota of apprentices.

Accordingly, section 30 would be amended.

Issue No.9: Powers of inspection

There is apprehension amongst employers that they will face harassment at the hands of officers whenever they come for inspection. The inspection is done to monitor the apprenticeship training in the establishments.

The IMG considered the above and felt that it is also not appropriate to do away with the clause altogether as there might be serious complaints warranting inquiry, but number of inspection of one establishment may be restricted and such a inspection shall be after prior approval of Central or State Apprenticeship Adviser.

Accordingly, section 29 of Act would be amended.

Issue No. 10: Web based Apprenticeship Portal

At present there is no mechanism in place where youths are able to know the details of apprenticeship seats trade-wise and establishment wise and they have to move from one place to another to find out details.

The IMG recommended that all the establishments be required shall enter detail of their trade-wise requirement in respect of apprenticeship training on the web-portal for apprenticeship training.

Accordingly, section 19 of the Act would be amended.

Issue No. 11: Registration of contract

Under the present provisions, employers send contract to Apprenticeship Adviser for registration and Apprenticeship Advisers after verification allocate registration numbers and returns to employers. Existing process of registration of contract is not practicable for small establishments which are in large numbers, forbids them for engaging apprentices.

The IMG considered the above and recommended that in case employers intend to engage apprentices in those trades which is determined by him, employers may be given option to inform the apprenticeship adviser through post or e-mail or web-portal and for this purpose a window may be created on the Web-portal. But in other cases where apprentices intend to take final examination conducted by NCVT, in such cases, employers must be required to enter details as

prescribed on the web-portal for verification of the details entered by them by the concerned Apprenticeship Adviser and if no communication is received from Apprenticeship Adviser within 30 days of entering the details, it will be presumed as contract is deemed registered. However, the employers will be held responsible for authenticity of data entered by him.

Accordingly, Section 4 would be amended.

Issue No.12: Duration of Apprenticeship

Employers are of the opinion that period of apprenticeship training is too long and it is affecting them financially. At present, the period of apprenticeship training for trade apprentices varies from trade to trade & it is 6 months to 4 years.

The IMG recommended that duration of apprenticeship training should be fixed as minimum six months and maximum three years (including the rebate) because it is not possible for one to acquire enough skill in less than six months which will enable him to get reasonably good employment. In addition, suitable rebate in these durations would be given to apprentices based on their other training prior to Apprenticeship. However, there should be flexibility for an apprentice to complete the period of training of apprenticeship in duration of upto maximum of five year so as to permit sandwich pattern of learning and work. Different phases of such apprenticeship would need approval of Central/State Apprenticeship Adviser.

Accordingly, Rule 7 of the Apprenticeship Rules, 1992 would be amended.

Item No. 13: In-house training infrastructure

Due to heavy cost involved in setting up in house training facilities, employers prefer to send apprentices to other training centres for providing basic training. As per the existing provision, the employers have to impart basic training to the fresher apprentices either in its premises or in institutes set up by the Government. .

IMG considered the above and recommended that basic training may be outsourced. Further in order to facilitate MSMEs , the IMG also recommended that to begin with, all the MSMEs may be required to engage apprentices as per their obligation and requirement and if need is arisen, MSMEs may identify competent

training providers themselves for providing basic training to their apprentices. The IMG also recommended that suitable enabling provisions may be made in the Act to permit approved Third Party Agencies engaging apprentices (for basic training with them and on-the-job training with partnering establishments as proposed in the formulation circulated) in future, whenever Government feels appropriate.

Accordingly, section 9 would be amended.

Issue No.14: Regulations with regard to holidays, leaves, shift working, hours of deployment

Holidays, leaves, shift working and hours have been prescribed separately for apprentices.

The IMG agreed with the recommendation that there is no need for different rules for apprentices in this regard and these should be the same as those for regular workers except coverage in ESI Act which is separate dispensation for regular workers.

Accordingly, Section 15 of the Act would be amended.

Issue No. 15: Apprentices from Outside the States

At present there is no provision to restrict any person to undergo apprenticeship training in other States. However, States are not accepting persons from other States for apprenticeship training.

IMG recommended that explicit provision should be made in Act clearly stating that persons can undergo apprenticeship training in States other than his home State.

Accordingly, new section would be inserted.

Issue No.16: To give preference to apprentices for employment.

As per the existing provision of the Act, It shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment, nor shall it be obligatory on the part of the apprentice to accept an employment under the employer.

This is one of the impediments which discourage youth to join the apprenticeship training as they are not sure whether they will get employment after completion of the apprenticeship training.

The IMG felt that by making it obligatory on part of the establishment to give preference to apprentices at the time of regular recruitment could lead to unwanted litigations. Hence, it recommended that establishments could be directed to formulate their own policies for recruiting trained apprentices. Accordingly, a provision may be made under the Apprentices Act, 1961.

Accordingly, section 22 of the Act would be amended.

Issue No. 17: Examination

At present there is no compulsion on the part of the apprentice to take final examination. However, apprentices who wish to get National Apprenticeship Certificate(NAC), have to appear and pass a test conducted by the National Council .Therefore, apprentices appear in the examination to get NAC which help them in getting employment and also helps them in other purposes such as getting loans etc.

The IMG recommended that sitting in the examination to get NAC after completing the apprenticeship training may be made optional and it should be left to the apprentices to appear in the examination and those apprentices who intend to take examination to get NAC will follow the procedure laid down by the National Council of Vocational Training for conducting examination. Apprentices who wish to undergo examination conducted by other agencies may be allowed to do so.

Accordingly, section 21 will be amended.

Annexure-I

Recommendations given by Central Apprenticeship Council(CAC), National Commission on Labour (NCL), Indian Labour Conference(ILC), National Skill Development Agency(NSDA) and Working Group (WG) for making changes in the Apprentices Act, 1961.

Sl. No.	Recommendations	CAC	PM's NCSD	NCL	ILC	NSDA	WG
1	2	3	4	5	6	7	8
1.	To simplify workflow for establishments while engaging apprentices	Some of the organizations are operating same business/trade from different location because of business/ trade requirement & also for further expansion of their business/ trade. Implementation of such types of organization shall be rest with Central Government.	Implementation of ATS in those organizations which are operating business /trade in more than four States shall be rest with the Central Government.				

2.	Change in the definition of worker	There are a number of establishments covered under this Act getting their work done through contractual workers, daily workers, agency workers, casual workers, seasonal workers, etc. As per the Act, above categories of workers do not come under the definition of worker with the result that these workers are not counted for assessment of apprenticeship seats. Definition of worker should be amended to include these types of worker.	Change in the definition of "Worker" under the Act to include contractual workers, daily workers, agency workers, casual workers, seasonal workers, etc.				
3	Trade-wise and Unit-wise regulation and deployment of			Small enterprises are presently	Industry should enhance	In the existing process of notification,	For providing flexibility to the establishments

	<p>apprentices in the service & informal sector.</p>			<p>deprived of the opportunities of having apprentices, since the law lays down a minimum strength of tradesmen of different categories in an establishment for allowing apprentices on a proportionate basis. There is need to provide flexibility so that even if the strength of different categories of tradesmen in a small enterprise does not match up to</p>	<p>seats for apprenticeship by amending the Act.</p>	<p>apprenticeship advisor or an appropriate government authority notifies the number of apprentices for each trade that an employer needs to take on board at each unit. In addition, there is a varying ratio of apprentices to regular workers for various trades. It is felt that regulating the number of apprentices at the trade level at each unit (as well as the varying ratio) serves limited purpose. Market forces must be allowed to operate and units should be</p>	<p>engaged in the on-the-job training under the formal apprenticeship system, the Group recommends that establishments may be allowed to train up to 20% more people than the seats notified without seeking any prior approval from RDAT / State. The Group also recommends that instead of fixing the number of people to be engaged as Apprentices, a minimum number of Apprentices Months be prescribed for establishments in which seats are</p>
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				<p>what is required to keep apprentices, if the combined strength is such as to allow keeping an apprentice of a particular category as per the proportion laid out, the small enterprises should be allowed to engage such apprentices.</p>		<p>allowed to undertake self-assessment by way number of apprentices for each trade they could have on-board.</p> <p>However, each company/unit must be mandated to deploy sufficient number of apprentices totaling to at least 5% (based on discussions so far) of the overall workforce (regular plus contractual workers).</p> <p>On the higher side, each</p>	<p>already notified and for those which want to get into formal apprenticeship system. Such minimum Apprenticeship Months in a year may be kept as half the number of workers. To ensure that the flexibility given to the establishments are not misused, the Group considers it appropriate to recommend that maximum Apprenticeship Months be kept as twice the number of workers even in the formal apprenticeship</p>
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						<p>company/ unit must not deploy more than 10% (based on discussions so far even though a few companies have advocated an upper limit of around 20%) of workforce (regular plus contractual workers) as apprentices. This provision would discourage companies from having an abnormally high number of apprentices on board (instead of regular workers) with a possibility of using them as relatively inexpensive labour.</p>	<p>system and the establishments be allowed to operate within this band.</p> <p>There would be simplified reporting requirement for such establishments and such establishments need not get the seats notified from State / Centre till the number of apprentices engaged by them remains less than a particular number (say 10).</p>
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						<p>Some relaxation can be made in exceptional cases (like loss making companies registered with BIFR) by way of exemption for the year granted by the apprenticeship advisor or an appropriate government authority.</p> <p>There is a need to bring more services sector companies and trades on-board by way of deployment of apprentices. Each company/unit in the services sector should be</p>	
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						encouraged to have sufficient number of apprentices totaling to at least 2.5%(based on discussions so far) of the overall workforce (regular and contractual). This is expected to give impetus to number of apprentices deployed.	
4.	Government regulation on addition of new trades			Inadequate coverage of skill requirements, mismatch in demand and supply relation, lack of flexibility in the engagement of trade apprentices		In the rapidly changing world, the Government would find it difficult to create the administrative machinery with appropriately skilled people to be able to effectively notify new trades. Companies	Given the large number of new occupations and trades constantly coming up, it necessary that flexibility be accorded to begin with at least under informal apprenticeship scheme to

						<p>should be allowed to be able to do so freely, based on market trends and the overall skills landscape. Company would be required to send such a recommendation to the appropriate government authority and they would have to respond to this request within 30 days failing which the proposed new trade would be deemed to have been accepted.</p>	<p>undertake on-the-job training in the trades not notified under the Act. Also, the number of trades notified under the formal apprenticeship system be reviewed every year mandatorily and new additions be made on the basis of the feedback received.</p>
5	Expanding the scope of Apprenticeship					<p>Given the need to train a larger people as apprentices for eventual employable, including self-</p>	<p>The present system of apprenticeship divides candidates into strict categories and does not</p>

						<p>employment, it is felt that all undergraduate, MES and other courses being run by SDCs, NSDC partners and other providers could be brought under the purview of the Apprentices Act.</p>	<p>favour apprenticeships to be made a part of various course curriculums. For example, a person who has not taken admission to an ITI is considered a fresher while a person who has passed out from an ITI is given rebate for on-the-job training. However, there is no category identified in the Act for candidates undergoing the ITI course. The Group, therefore, felt that it necessary that suitable amendments be</p>
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							made so that apprenticeship / on-the-job training could be encouraged as a part of different courses also.
6	Qualification and age requirement						Anyone fulfilling minimum age requirement and qualifications determined by the employer / establishment willing to provide training should be allowed to undergo on-the-job training under such informal stream.
7	Payment of stipend to apprentices				Enhancement of rates of stipend.	Stipend payable to apprentices should be directly linked to macro-economic indicators and	Less rate of stipend is one of the reasons why many interested candidates don't feel like taking

						<p>hence minimum wages for the trade at the state level (60% to 90% of the minimum wages from Y1 to Y4 respectively). Industry should be free to pay higher stipend to apprentices if it feels so.</p>	<p>up on-the-job training. The Group, therefore, feels it appropriate that the stipend under the Scheme be increased to at least Rs. 3000/- per month for first year, Rs. 4000/- per month for second year and Rs. 5000/- per month for third year. This rate may be revised every year on the 1st of January on the basis of CPI.</p>
8.	Offences & Penalties	Some of the establishments are not filling up seats located by Apprenticeship	Penal provisions, especially those relating to imprisonment may be reviewed			Penalties under the Apprentices Act include imprisonment up to 6 months & fine	Under the existing scheme, an establishment not doing the required number

		<p>Advisers by making one excuse or the other and this has resulted in training facilities going unutilized. Apparently, existing penal provisions prescribed in the Apprentices Act 1961, are not sufficiently deterrent to improve utilization of seats effectively. In the era of globalization and stiff competition, it is of utmost importance that existing training infrastructure available in the industry be utilized at the optimum level to develop skilled manpower as per the requirement of the industry. The CAC recommended that</p>	<p>appropriately. Employers who are 'proven' willful defaulters of serious violations be subject to imprisonment. Penalty should be provided for in cases of minor violations.</p>			<p>in willful default case even though these have been used very sparingly. There is also personal liability of promoters/, managers in certain cases. Such provisions create unnecessary apprehension in the industry and demotivate the industry to take more apprentices on board. Since such penalties (especially imprisonment) have rarely been used in the past, these must be dropped. As articulated above, the industry should be allowed</p>	<p>of on-the-job training can be acted against by making a due case by the concerned State/Central Government Official. The Group feels that this may be converted into a system of payment by the establishments on its own for the shortfall. Penalty at the rate of Rs.5000/- per shortfall of Apprenticeship Month may be adequate in this regard. To encourage more establishments participate under the scheme, the Group feels that</p>
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		<p>(a) A fine equal to the amount of stipend payable for unutilized seats per month will be imposed on the employer till the seat is filled up.</p> <p>(b) Power should be given to Sub-Divisional Magistrates to impose penalty as it will lead to faster disposal of the cases.</p> <p>(c) A prior notice of 90 days shall be given about exact number of seats for which penalty is going to be imposed and the industries which are under Board of Industrial and Financial Reconstruction</p>				<p>to self-regulate and report its achievements vis-à-vis the targets. Defaulting units could be subject to specified fine, levy or cess for non-compliance.</p>	<p>establishments having less than 250 workers be not brought under such penalty clause at least to begin with. Non-payment of penalties in time may be allowed with 10% interest and unpaid penalties may be made recoverable as arrear of land revenue.</p>
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		should be exempted.					
9.	Powers of inspection					Inspection of apprenticeship related matters by Government authorities creates resentment in the industry. Inspections often become counter-productive. In line with the proposed self-regulation by the industry, the inspection clause should be substantially diluted to cover only on a small sample of units.	
10.	Web based Apprenticeship Portal			Lengthy & clumsy administrative procedures of record keeping			In the current regime, there is a lack of ease and transparency

				and filling of return.			<p>faced by institutes and students in the process of filing applications for apprentice training. In addition, companies find the returns to be submitted to the government quite tedious and cumbersome. There is a need to develop and commission a web-based portal where all companies would also be required to publish their trade-wise requirements of apprentices. Apprentices would also be encouraged to</p>
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							<p>apply online. This would facilitate online infection between apprentices and companies. Companies would also publish the details of apprentices deployed on this portal and government authorities would be able to get any apprentices data directly from the portal.</p>
11	<p>Registration of contract</p>						<p>Registration of contract for informal trades may be made simpler and a simple form signed by the establishment</p>

								and the candidate posted to pre-designated centres shall be accepted for the purpose. In addition, facility to enter details in this regard may also be made available on the web for people who can do so electronically. In such cases, there shall not be any requirement for classroom training if the establishment and the candidate are willing to undergo such training.
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12	Duration of Apprenticeship					Duration of some existing apprenticeship trades/ courses appears to be long which should also be rationalized.	Minimum duration of apprenticeship for a trainee may be fixed as six months and maximum three years.
13	In-house training infrastructure					Currently, there is a requirement for in-house training infrastructure. However, it is felt that all companies, big or small, to be allowed to outsource training of apprentices if they do so for their own employees as well.	

14	Regulations with regard to holidays, leaves, shift working, hours of deployment					Under the current laws, holidays, leaves, shift working and hours of deployment for apprentices' vis-à-vis regular workers. There is no need for different rules for apprentices in this regard and these should be the same as those for regular workers. Apprentices could also be covered under ESI Act to enable them get the corresponding benefits like other workers.	
15	Apprentices from Outside the States					Currently, there are restrictions on deployment of apprentices from outside the State.	

						Apprentices should be allowed to seek training in any company/unit anywhere in India irrespective of location.	
16	To give preference to apprentices for employment.	50% of direct recruitment vacancies will be filled up by the apprentices trained in the same establishment and remaining 50% will be filled up equally by the apprentices trained earlier by same establishment or other establishments or from open market selection.	Preference should be given in the employment to those apprentices who have been trained by a particular industry when job opportunities open up in that particular industry or firm.				
17	Examination						The present apprenticeship scheme expects every trainee to

							<p>undertake a final examination conducted by NCVT. Given that an informal apprenticeship regime is being proposed and also a new facility to get directly assessed on the basis of prior learning has been opened under SDIS, the candidates undergoing informal training may be allowed to undergo tests / exams / assessments conducted by other means like third party assessment under SDIS also. The examination</p>
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							process itself be rationalized by clubbing different tests in one examination similar to the recent changes in CTS.
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Minutes of the 1st Meeting of Inter Ministerial Group to discuss and recommend amendments to the Apprentices Act, 1961 held under the Chairmanship of Director General of Employment and Training/Joint Secretary on 1st May, 2014 at 11:00 A.M. in Main Committee Room, C-Wing, Shram Shakti Bhavan, New Delhi

The 1st Meeting of Inter Ministerial Group (IMG) to discuss and recommend amendments to the Apprentices Act, 1961 was held under the Chairmanship of Director General of Employment and Training on 1st May, 2014 at 11:00 A.M. in Main Committee Room, C-Wing, Shram Shakti Bhavan, New Delhi. List of members who attended the meeting is at Annexure-I.

2. At the outset, Shri Alok Kumar, DG/JS welcomed the members of IMG and explained about the reasons for constituting the Group. He informed that various recommendations have been received for making changes in the Apprentices Act, 1961 from the Prime Minister's National Council on Skill Development, the National Skill Development Agency (NSDA) and the Working Group constituted by this Ministry. As the Apprentices Act, 1961 is being relooked at in totality, it is felt that views of other Ministries, who are already implementing the Apprenticeship Training Scheme in establishments under their control, may also be taken. He reiterated that reasoned opinion and suggestions on the various issues concerning the changes in the Apprentices Act, 1961 were expected from all participants.

3. The discussion on the recommendations proposed by PM's NCSD, NSDA and Working Group are as follows:

Issue No.1: To simplify workflow for establishments while engaging apprentices

Recommendation proposed by PM's NCSD:

Implementation of Apprenticeship Training Scheme in those organizations which are operating business /trade in more than four States will rest with the Central Government.

The Group has gone through the relevant provision under the Act which is reproduced below:

Section 2 (d) "appropriate Government" means -

- (1) in relation to -
 - (a) the Central Apprenticeship Council, or
 - (aa) the Regional Boards, or
 - (aaa) the practical training of graduate or technician apprentices or of technician (vocational) apprentices, or;
 - (b) any establishment of any railway, major port, mine or oilfield, or
 - (c) any establishment owned, controlled or managed by -
 - (i) the Central Government or a department of Central Government,
 - (ii) a company in which not less than fifty-one per cent of the share capital is held by the Central Government on partly by that Government and partly by one or more State Governments,
 - (iii) a corporation (including a co-operative society) established by or under a Central Act which is owned, controlled or managed by the Central Government;
- (2) in relation to -
 - (a) a State Apprenticeship Council, or
 - (b) any establishment other than an establishment specified in sub-clause (1) of this clause, the State Government;

The Group after going through the existing relevant provision of the Act agreed with the recommendation of the PM's NCSD relating to implementation of Apprenticeship Training Scheme in those organizations which are operating business /trade in more than four States, will rest with the Central Government.

As per the provision of the Act, the State Apprenticeship Advisers are responsible for implementation and monitoring of the Act in respect of trade apprentices in State Government Undertakings/ Departments and Private Establishments operating in the State. An employer in the private sector, who has pan-India operations and who seeks to engage apprentices in its establishments located in different States/UTs has to contact each State Apprenticeship Adviser separately for engagement of apprentices and implementation of apprenticeship training in his establishments which is cumbersome for them as different States have different way of working. Therefore, they prefer to work with Regional Directorate of Apprenticeship Training (RDAT) as all RDATs have same set of working procedure.

In order to incorporate above recommendation, the Section 2 of the Apprentices Act, 1961 is required to be amended by adding item (ba) after item (b) under sub-clause (1) of clause (d) of section 2 of the Act which is given below:-

“(ba) any establishment which is operating business or trade from different locations situated in more than four States, or,”

Issue No.2: Change in the definition of “Worker”

Recommendation proposed by PM’s NCSD:

Change in the definition of “Worker” under the Act to include contractual workers, daily workers, agency workers, casual workers, seasonal workers, etc.

The Group has gone through the existing relevant provision of the Act which is reproduced below:-

Section 2 (r) “worker” means any person who is employed for wages in any kind of work and who gets his wages directly from the employer but shall not include an apprentice referred to in clause (aa).

The Group agreed with the recommendation of the PM’s NCSD relating to change in the definition of the worker by including contractual workers, daily workers, agency workers, casual workers, seasonal workers, etc. Presently the section 2 (r) of the Act, states that worker means any person who is employed for wages in any kind of work and who gets his wages directly from the employer but shall not include an apprentice.

Under the Act, the numbers of seats of apprenticeship training are decided on the basis of total number of workers other than unskilled worker working for the trade in establishments and the training facilities available for the trade in the establishment. There are number of establishments covered under this Act getting their work done through contractual workers, daily workers, agency workers, casual workers, seasonal workers, etc. As per the Act, above categories of workers do not come under the definition of worker with the result that these workers are not counted for assessment of apprenticeship seats and training facilities available in such establishments go unutilized. Therefore, desirous persons are deprived of the availing the benefit of apprenticeship training. It is clarified that workers of above categories will be counted when they are working in the premises of the establishments

In order to utilize the training facilities available in the establishments optimally, existing definition of worker in clause (r) of section 2 of the Apprentices

Act, 1961 may be amended by substituting new definition of worker in clause “(r)” of section 2 of the Act, which is given below:

(r) “worker” means any person working in the premises of the employer and who is employed directly or through any agency including a contractor for wages in any kind of work and who gets his wages directly or indirectly from the employer but shall not include an apprentice referred to in clause (aa)”

Issue No.3: To give preference to apprentices for employment.

Recommendation proposed by PM’s NCSD:

Give preference to the apprentice in the employment who has completed the period of his apprenticeship training in his establishment or industry when job opportunities open up in that particular industry or firm.

The Group has gone through the relevant provision of the Act which is reproduced below:

“It shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment, nor shall it be obligatory on the part of the apprentice to accept an employment under the employer.”

The Group after going through the existing relevant provision of the Act, agreed with the recommendation of the PM’s NCSD relating to giving preference to the apprentice in the employment who has completed the period of his apprenticeship training in his establishment or industry when job opportunities open up in that particular industry or firm because the establishment will get skilled manpower and in return, the cost, time and effort invested would be realized. Since apprentices would be familiar with the working environment, infrastructure and facilities available in the establishment, they will contribute to higher productivity from the very beginning. There will also be a competitive spirit rather than compulsive spirit among the apprentices while undergoing apprenticeship training as they would feel secure and motivated with chances of getting absorbed in the establishment itself. In this regard, Hon’ble Supreme Court in its judgment in AIR 1995 SC 1115 has stated when Other things being equal, a trained apprentice should be given preference over direct recruits. The Group felt that in order to avoid litigations arising because of word “preference” in future, the procedure being followed by Ministry of Railways in the recruitment of apprentices

for regular job may be considered while amending the Section 22(1) of the Act and framing rules thereunder.

In order to incorporate the give preference to the apprentice in the employment who has completed the period of his apprenticeship training in his establishment or industry when job opportunities open up in that particular industry or firm, sub-section (1) of Section 22 of Act, may be substituted as under,-

“(1) It shall be obligatory on the part of the employer to give preference to the apprentice in the employment who has completed the period of his apprenticeship training in his establishment or industry when job opportunities open up in that particular establishment or industry or firm.”

Preference provided under sub-section (1) of section 22 shall be such as may be prescribed:

- I. Other things being equal, a trained apprentice should be given preference over direct recruits.*
- II. For this trainee would not be required to get his name sponsored by any employment exchange.*
- III. If age bar would come in the way of the trainee, the same would be relaxed in accordance with what is stated in this regard, if any, in the concerned service rules. If the service rules being silent on this aspect, relaxation to this extent of the period for which the apprentice had undergone training would be given.*
- IV The concerned training institute would maintain a list of persons trained year wise. The persons trained earlier would be treated as senior to the persons training later. In between the training apprentice, preference shall be given to those who are senior.*

Issue No. 4: Offences & Penalties:

Recommendation proposed by PM’s NCSD:

Penal provisions, especially those relating to imprisonment may be reviewed appropriately. Employers who are ‘proven’ willful defaulters of

serious violations be subject to imprisonment. Penalty should be provided for in cases of minor violations.

Recommendation proposed by NSDA :

Penalties under the Apprentices Act include imprisonment up to 6 months & fine in willful default case even though these have been used very sparingly. There is also personal liability of promoters/, managers in certain cases. Such provisions create unnecessary apprehension in the industry and demotivate the industry to take more apprentices on board. Since such penalties (especially imprisonment) have rarely been used in the past, these must be dropped. As articulated above, the industry should be allowed to self-regulate and report its achievements vis-à-vis the targets. Defaulting units could be subject to specified fine, levy or cess for non-compliance.

Recommendation proposed by WG:

Under the existing scheme, an establishment not doing the required number of on-the-job training can be acted against by making a due case by the concerned State/Central Government Official. The Group feels that this may be converted into a system of payment by the establishments on its own for the shortfall. Penalty at the rate of Rs.5000/- per shortfall of Apprenticeship Month may be adequate in this regard. To encourage more establishments participate under the scheme, the Group feels that establishments having less than 250 workers be not brought under such penalty clause at least to begin with. Non-payment of penalties in time may be allowed with 10% interest and unpaid penalties may be made recoverable as arrear of land revenue.

The Group has gone through the existing relevant provisions of the Act which are reproduced below:

- Section 30 (1) If any employer-
- (a) engages as an apprentice a person who is not qualified for being so engaged, or
 - (b) fails to carry out the terms and conditions of a contract of apprenticeship or
 - (c) contravenes the provisions of this Act relating to the number of apprentices which he is required to engage under those provisions,
- he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.
- (2) If any employer or any other person-
- (a) required to furnish any information or return-

- (i) refuses or neglects to furnish such information or return, or
- (ii) furnishes or causes to be furnished any information or return which is false and which he either knows or believes to be false or does not believe to be true, or
- (iii) refuses to answer, or give a false answer to any question necessary for obtaining any information required to be furnished by him, or
- (b) refuses or willfully neglects to afford the Central or the State Apprenticeship Adviser or such other person, not below the rank of an Assistant Apprenticeship Adviser, as may be authorised by the central or the State Apprenticeship Adviser in writing in this behalf] any reasonable facility for making any entry, inspection, examination or inquiry authorised by or under this Act, or
- (c) requires an apprentice to work overtime without the approval of the Apprenticeship Adviser, or
- (d) employs an apprentice on any work which is not connected with his training, or
- (e) makes payment to an apprentice on the basis of piece-work, or
- (f) requires an apprentice to take part in any output bonus or incentive scheme.

he shall be punishable with imprisonment for a term which may extend to six month or with fine or with both.

As per section 30(1) and (2) of the Act, "If any employer contravenes the provisions of this Act relating to the number of apprentices which he is required to engage under those provisions, engages as an apprentice a person who is not qualified for being so engaged, etc., he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both".

The Group has also gone through the recommendations proposed by PM's NCSD, NSDA and WG & recommended that penalty clause should not be harsh but it should be liberal which would encourage more employers to join apprenticeship training scheme and will also remove fear of prosecution. The Group after deliberations recommended that those establishments which are not engaging full quota of apprentices will invite penalty at the rate of Rs. 500 per shortfall of Apprenticeship Month. The Group also recommended that establishments having less than 250 workers be not brought under such penalty clause at least to begin with. Non-payment of penalties in time may be allowed

with 10% interest and unpaid penalties may be made recoverable as arrear of land revenue.

Therefore, Section 30 (1) & (2) of the Act, may be substituted by:

“30. Offences and penalties. --- (1) *If any employer contravenes the provisions of this Act relating to the number of apprentices which he is required to engage under the provisions of the Act, he shall be served with a notice, by an officer duly authorised in this behalf by the appropriate Government, for explaining the reasons for such contravention with in a period of thirty days from the date of receipt of such notice.*

In case the employer fails to reply the notice with in the period specified under sub-section (1), or the authorised officer is not satisfied with the reasons put forth, the employer, after affording an opportunity of being heard in person, shall be liable to pay a penalty at the rate of rupees five hundred per shortfall of apprenticeship month till such number of seats are filled up:

Provided that any establishment or industry which is under the Board of Industrial and Financial Reconstruction and any establishment or industry having less than two hundred and fifty workers shall not be liable for such penalty.

- (2) *If any employer or any other person -*
- (a) *required to furnish any information or return -*
 - (i) *refuses or neglects to furnish such information or return, or*
 - (ii) *furnishes or causes to be furnished any information or return which is false and which he either knows or believes to be false or does not believe to be true, or*
 - (b) *fails to carry out the terms and conditions of a contract of apprenticeship, or*
 - (c) *requires an apprentice to work overtime without the approval of the Apprenticeship Adviser, or*
 - (d) *employs an apprentice on any work which is not connected with his training, or*
 - (e) *requires an apprentice to take part in any output bonus or incentive scheme, or*
 - (f) *engages as an apprentice when working conditions in terms of occupational safety and health are inadequate or improper,*
 - (g) *refuses or wilfully neglects to afford the Central or the State Apprenticeship Adviser or such other person, not below the rank of an Assistant Apprenticeship Adviser, as may be authorized by the Central or the State Apprenticeship Adviser in writing in this behalf*

any reasonable facility for making any entry, inspection, examination or inquiry authorized by or under this Act,

he shall be liable to pay a penalty at the rate of rupees one thousand.

Issue No.5: Trade-wise and Unit-wise regulation of Apprentices

Recommendation proposed by NSDA

In the existing process of notification, apprenticeship advisor or an appropriate government authority notifies the number of apprentices for each trade that an employer needs to take on board at each unit. In addition, there is a varying ratio of apprentices to regular workers for various trades. It is felt that regulating the number of apprentices at the trade level at each unit (as well as the varying ratio) serves limited purpose. Market forces must be allowed to operate and units should be allowed to undertake self-assessment by way number of apprentices for each trade they could have on-board.

However, each company/ unit must be mandated to deploy sufficient number of apprentices totaling to at least 5% (based on discussions so far) of the overall workforce (regular plus contractual workers).

On the higher side, each company/ unit must not deploy more than 10% (based on discussions so far even though a few companies have advocated an upper limit of around 20%) of workforce (regular plus contractual workers) as apprentices. This provision would discourage companies from having an abnormally high number of apprentices on board (instead of regular workers) with a possibility of using them as relatively inexpensive labour.

Some relaxation can be made in exceptional cases (like loss making companies registered with BIFR) by way of exemption for the year granted by the apprenticeship advisor or an appreciate government authority.

Recommendation proposed by WG:

For providing flexibility to the establishments engaged in the on-the-job training under the formal apprenticeship system, the Group recommends that establishments may be allowed to train up to 20% more people than the seats notified without seeking any prior approval from RDAT / State. The

Group also recommends that instead of fixing the number of people to be engaged as Apprentices, a minimum number of Apprentices Months be prescribed for establishments in which seats are already notified and for those which want to get into formal apprenticeship system. Such minimum Apprenticeship Months in a year may be kept as half the number of workers. To ensure that the flexibility given to the establishments are not misused, the Group considers it appropriate to recommend that maximum Apprenticeship Months be kept as twice the number of workers even in the formal apprenticeship system and the establishments be allowed to operate within this band.

The Group has gone through the existing relevant provisions of Act, which is reproduced below:

Section 8(1) The Central Government shall, after consulting the Central Apprenticeship Council, by order notified in the Official Gazette, determine for each designated trade the ratio of trade apprentices to workers other than unskilled workers in that trade:

Provided that nothing contained in this sub-section shall be deemed to prevent any employer from engaging a number of trade apprentices in excess of the ratio determined under this sub-section.

(2) In determining the ratio under sub-section (1), the Central Government shall have regard to the facilities available for apprenticeship training under this Act in the designated trade concerned as well as to the facilities that may have to be made available by an employer for the training of graduate or technician apprentices or technician (vocational) apprentices.

The group was explained about the existing procedure for locating apprenticeship seats. As per section 8 of the Apprentices Act, 1961, the apprenticeship seats are located in the establishments for each designated trade on the basis the ratio of trade apprentices to workers other than unskilled workers and also the training facilities available in the establishment for the trade.

After going through the existing provisions of location of apprenticeship seats and the recommendations for introducing flexibility in the matter of number of apprentices and taking into consideration to have safeguards for preventing misuse of apprentices as low paid workers, the Group recommended that within a financial year each establishment should not engage apprentices less than 5%

and not more than 15% of the total worker. Further the establishments may be given flexibility to take of seasonality in operation.

Therefore, to include above recommendation, Section 8 of the Act may be substituted as:

“Number of apprentices for a designated trade may be such as may be prescribed.”.

Apprenticeship Rules could be as follows:

- *Number of apprentices to be engaged in a designated trade shall not be less than 5% and not more than 15%*
- *Establishment may engage apprentices as per apprenticeship months within the above limits , the numbers being counted for a financial year.*

Issue No.6: Government regulation on addition of new trades

Recommendation proposed by NSDA:

In the rapidly changing world, the Government would find it difficult to create the administrative machinery with appropriately skilled people to be able to effectively notify new trades. Companies should be allowed to be able to do so freely, based on market trends and the overall skills landscape. Company would be required to send such a recommendation to the appropriate government authority and they would have to respond to this request within 30 days failing which the proposed new trade would be deemed to have been accepted.

Recommendation proposed by WG:

Given the large number of new occupations and trades constantly coming up, it necessary that flexibility be accorded to begin with at least under informal apprenticeship scheme to undertake on-the-job training in the trades not notified under the Act. Also, the number of trades notified under the formal apprenticeship system be reviewed every year mandatorily and new additions be made on the basis of the feedback received.

The Group has gone through the existing relevant section of the Act which is reproduced below:

Section 2(e) "designated trade" means any trade or occupation or any subject field in engineering or technology or any vocational course which the Central Government, after consultation with the Central Apprenticeship Council, may, by notification in the Official Gazette, specify as a designated trade for the purposes of this Act;

The Group has gone through the recommendations proposed by NSDA and WG. The Group was also explained the process of designation of trades under the Act.

Under the existing provision of the Act, the Central Government, after consulting the Central Apprenticeship Council, issue notification in the Official Gazette for designation of trade for trade apprentices, graduate apprentice, technician apprentices and technician (vocational) apprentices.

The process of addition of a trade in the list of designated trade starts with preparation of course curriculum by trade experts followed by approval of CAC & NCVT members, vetting of notification and its publication in the gazette of India.

The above process takes a long time in practice. From the past experience, it has been observed that just after the finalization of trade syllabus, employer started engaging persons for such trades but as per rule they will not be treated as apprentices before the trade designated under the Act. Trade (s) is designated under the Act from the date of publication in the gazette of India.

After going through the existing procedure of designation of trade and in the interest of the apprentices, the Group recommended that companies may be allowed to start new trade without waiting for notifying such trades in the official gazette of India. The Group also recommended that employers who wish to get the trades notified under the Apprentices Act, 1961 from retrospective date (where training has started) may also be allowed to do so.

It is therefore proposed after clause (l), the following clause shall be inserted; namely:-

“(la) “optional trade” means a trade or an occupation or a subject field or an vocational course in engineering or technology, not being a designated trade, determined by employer as such for the purposes of apprenticeship training; ’ ;

After section 7 of the principal Act, the following section shall be inserted; namely:-

“7A-The optional trade shall be regulated in such manner as may be prescribed.”.

The Apprenticeship Rules will be framed after consulting the Central Apprenticeship Council.

In section 37 of the principal Act, for sub-section (2), the following sub-section shall be substituted; namely:-

“(2) The power to make rules this section shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act received the assent of the President, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.”.

Issue No.7: Expanding the scope of Apprenticeship

Recommendation proposed by NSDA:

Given the need to train a larger people as apprentices for eventual employable, including self-employment, it is felt that all undergraduate, MES and other courses being run by SDCs, NSDC partners and other providers could be brought under the purview of the Apprentices Act.

The Group was explained that presently there are four categories of apprentices under the Act:

- i) Trade Apprentices (ITI pass out and School leavers)
- ii) Graduate Apprentices (Graduate engineer)
- iii) Technician Apprentices (Diploma holder)
- iv) Technician Vocational Apprentices (10+2 vocational subjects)

Given the size of the country and its economy, that there are just 3.59 lakh seats located and 2.11 lakh seats utilized. 28,500 numbers of establishment engaging apprentices, the Group opined that scope of the apprenticeship training should be enhanced in order to bring more categories of persons/trades/vocations under ambit of Apprenticeship framework. Keeping this aspect in mind, the Group recommended that all Undergraduates including non- engineering, modules under Skill Development Initiative Scheme (SDI) and other courses run by Skill Development Centres (SDCs) of States, approved by National Skill Development Agency (NSDA) should be recognized under the ambit of Act. The Group also recommended that in order to include modules under SDI and other courses run by SDCs of States, approved by NSDA, provision of rebate in the apprenticeship training period should be allowed for the persons undergone such training while

preparing course curricula under Apprenticeship Training Scheme. All such courses will be covered under section 2(aa) of the Act which is reproduced below:

Section 2(aa) "apprentice" means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship.

Issue No. 8: Deployment of apprentices in the service sector.

Recommendation proposed by NSDA:

There is a need to bring more services sector companies and trades on-board by way of deployment of apprentices. Each company/unit in the services sector should be encouraged to have sufficient number of apprentices totaling to at least 2.5%(based on discussions so far) of the overall workforce (regular and contractual). This is expected to give impetus to number of apprentices deployed.

The Group has gone through existing relevant provision of the Act which is reproduced below:

Section 8(1) The Central Government shall, after consulting the Central Apprenticeship Council, by order notified in the Official Gazette, determine for each designated trade the ratio of trade apprentices to workers other than unskilled workers in that trade:

Provided that nothing contained in this sub-section shall be deemed to prevent any employer from engaging a number of trade apprentices in excess of the ratio determined under this sub-section.

- (2) In determining the ratio under sub-section (1), the Central Government shall have regard to the facilities available for apprenticeship training under this Act in the designated trade concerned as well as to the facilities that may have to be made available by an employer for the training of graduate or technician apprentices or technician (vocational) apprentices.

The Group felt that as compared to the size of the country and its economy number of seats located and seats utilized are very low and procedure of location

of seats should be made liberal so that large numbers of seats are located. Keeping this in view the Group recommended that each establishment in the services sector should also engage at least 5% of the overall workforce as decided in Issue no. 5.

Issue No. 9 : Formal Training v/s On-the-job Training

Recommendation proposed by NSDA:

The existing apprenticeship scheme lays more focus on classroom training than on-the-job training. There is a need to recognize industry's experience in this regard, and if they feel that the best way to impart skills in few trades is on-the-job and at the shop floor, they should be allowed to do so, subject to a prescribed maximum (say, 75%) of total training time spent on-the-job. However, the safety and security of the apprentices must not be compromised.

The Group was informed that apprenticeship training itself is on-the-job training. Apprenticeship training consists of basic training and practical training. Apprentice having National Trade Certificate issued by National Council for Vocational Training need not to go basic training and fresher apprentice has to go basic training and basic training consist of 70% practical knowledge and 30% theoretical instruction. After discussion, the Group recommended that there is no need to amend the Act as apprenticeship training itself is on-the-job training.

Item No. 10: In-house training infrastructure

Recommendation proposed by NSDA:

Currently, there is a requirement for in-house training infrastructure. However, it is felt that all companies, big or small, to be allowed to outsource training of apprentices if they do so for their own employees as well.

The Group has gone through the existing provision relating to basic and practical training which is given below:-

Section 9(1) “Every employer shall make suitable arrangements in his workshop for imparting a course of practical training to every apprentice engaged by him in accordance with the programme approved by the Apprenticeship Adviser.

Section 9(3) Trade apprentices who have not undergone institutional training in a school or other institution recognised by the National Council or any other institution affiliated to or recognised by a Board or State Council of Technical Education or any other authority which the Central Government may, by notification in the Official Gazette, specify in this behalf, shall, before admission in the workshop for practical training, undergo a course of basic training.

Section 9(4) Where an employer employs in his establishment five hundred or more workers, the basic training shall be imparted to the trade apprentices either in separate parts of the workshop building or in a separate building which shall be set up by the employer himself, but the appropriate Government may grant loans to the employer on easy terms and repayable by easy installments to meet the cost of the land, construction and equipment for such separate building.

Section 9(5) Where an employer employs in his establishment less than five hundred workers, the basic training shall be imparted to the trade apprentices in training institutes set by the Government.”

After going the existing provisions, the Group recommended that basic training may only be outsourced and employer should be required to conduct practical training in his premises to every apprentice engaged by him.

To include above recommendation, Section 9 shall be amended as follows-

- (a) *sub-sections (4), (5) shall be omitted;*
- (b) *sub-section 5 of section 9 of the principal Act shall be substituted*

as,-

“Basic training shall be imparted to the trade apprentices in a basic training centre where basic training facilities for the trade exists”;

- (c) *sub-sections (6) and 8 (a) & (b) shall be omitted.*

Issue No.11 : Payment of stipend to apprentices

Recommendation proposed by NSDA:

Stipend payable to apprentices should be directly linked to macro-economic indicators and hence minimum wages for the trade at the state level (60% to

90% of the minimum wages from Y1 to Y4 respectively). Industry should be free to pay higher stipend to apprentices if it feels so.

Recommendation proposed by WG:

Less rate of stipend is one of the reasons why many interested candidates don't feel like taking up on-the-job training. The Group, therefore, feels it appropriate that the stipend under the Scheme be increased to at least Rs. 3000/- per month for first year, Rs. 4000/- per month for second year and Rs. 5000/- per month for third year. This rate may be revised every year on the 1st of January on the basis of CPI.

The Group has gone through the existing provision relating to above recommendation which is reproduced below:

Section 13 (1) - The employer shall pay to every apprentices during the period of apprenticeship training such stipend at a rate not less than the prescribed minimum, rate, or the rate which was being paid by the employer on 1st January, 1970 to the category of apprentices under which such apprentice falls, whichever is higher] as may be specified in the contract of apprenticeship and the stipend so specified shall be paid at such intervals and subject to such conditions as may be prescribed.

The rates of stipend for trade apprentices are prescribed as Rs. 2100 p.m. for 1st year, Rs. 2400 p.m. for 2nd year, Rs. 2800 p.m. for 3rd year and 3100 p.m. for 4th year.(with effect from 27th September, 2013)

During the discussion on fixing the rates of stipend on the basis of 60% to 80% of the minimum wages at the State level, Director (Manpower Planning and Training), Ministry of Railways informed that Ministry of Railways has its establishments in every State and every State has its own minimum wage. Therefore, it will be very difficult for taking approval for their Finance division for every State. Similarly, other Ministries which are having their units in different States may also face this type of situation. After detailed discussion, the Group recommended that Rs. 3000/- per month for first year, Rs. 4000/- per month for second year and Rs. 5000/- per month for third year may be given to apprentices. Rate of stipend shall be revised every year on the 1st of January on the basis of CPI.

Therefore, sub-rule(1) of Rule 11 of Apprenticeship Rules, 1992 may be amended after consulting the Central Apprenticeship Council.

(1) *The minimum rate of stipend payable to trade apprentices may be as follows, namely:-*

a). *During the First Year of Training: Rs.3000/-per month.*

b). *During the Second year of Training: Rs.4000/-per month.*

c). *During the Third year of Training: Rs.5000/-per month*

These rates will be revised on 1st January of every year on the basis of CPI.

Issue No.12: Duration of Apprenticeship

Recommendation proposed by NSDA:

Duration of some existing apprenticeship trades/ courses appears to be long which should also be rationalized.

Recommendation proposed by WG:

Minimum duration of apprenticeship for a trainee may be fixed as six months and maximum three years.

The Group has gone through the existing relevant section of the Act which is reproduced below:

“Section 6. Period of apprenticeship training -

The period of apprenticeship training, which shall be specified in the contract of apprenticeship, shall be as follows-

(a) In the case of trade apprentices who, having undergone institutional training in a school or other institution recognised by the National Council, have passed the trade tests or examinations conducted by that Council or by an institution recognised by that Council, the period of apprenticeship training shall be such as may be determined by that Council;

(aa) In case of trade apprentices who, having undergone institutional training in a school or other institution affiliated to or recognised by a Board or State Council of Technical Education or any other authority

which the Central Government may, by notification in the official gazette specify in this behalf, have passed the trade tests or examinations conducted by that Board or State Council or authority, the period of apprenticeship training shall be such as may be prescribed;]

- (b) In the case of other trade apprentices, the period of apprenticeship training shall be such as may be prescribed;
- (c) In the case of graduate or technician apprentices, technician (vocational) apprentices and the period of apprenticeship training shall be such as may be prescribed.

The Group was explained that period of apprenticeship training for trade apprentices varies from trade to trade & it is 6 months to 4 years. The Group has also gone through recommendations of NSDA and WG and existing provision of the Act & recommended that duration of apprenticeship training should be fixed as minimum six months and maximum three years because it is not possible for one to acquire enough skill in less than six months which will enable him to get reasonably good employment. However, there should be flexibility for an apprentice to complete the period of training of apprenticeship in a duration of upto maximum of five year so as to permit sandwich pattern of learning and work.

Sub-rule(1) & (2) of Rule 7 of Apprenticeship Rules, 1992 will be amended after consulting the Central Apprenticeship Council.

“(1) The period of apprenticeship training in the case of trade apprentices referred to in clause (b) of Section 6 of the Act shall be as specified in schedule-I.

(2) Where a trade apprentice is unable to complete the full apprenticeship course within the periods prescribed in sub-rule (1), the establishment concerned shall extend the period of his apprenticeship until he completes the full apprenticeship course but up to maximum of five years.

Issue No. 13: Web based Apprenticeship Portal

Recommendation proposed by WG:

In the current regime, there is a lack of ease and transparency faced by institutes and students in the process of filing applications for apprentice training. In addition, companies find the returns to be submitted to the government quite tedious and cumbersome. There is a need to develop and commission a web-based portal where all companies would also be

required to publish their trade-wise requirements of apprentices. Apprentices would also be encouraged to apply online. This would facilitate online interaction between apprentices and companies. Companies would also publish the details of apprentices deployed on this portal and government authorities would be able to get any apprentices data directly from the portal.

The Group found the recommendation of NSDA very useful. At present, there is no web based portal for implementation of Apprenticeship Training Scheme. The action has already been initiated to develop web based portal for apprenticeship training. The Group felt that stakeholders may not fill the requisite details in the web-portal for apprenticeship training on the basis of administrative instructions. Since the filling up the data into the portal is paramount importance, the group recommended that suitable provision shall be made in the Act which makes it stakeholders compulsory to enter the data into the portal.

In addition to above, the group opined that there is no system in place wherein persons can get information about the establishments engaging apprentices and their trade-wise requirement in respect of apprenticeship training and person has to move around the Office of Apprenticeship Advisers to get the details. The Group felt that a mechanism should be developed which should be easily accessible to the people at large. The Group recommended that all the establishments be required shall enter detail of their trade-wise requirement in respect of apprenticeship training on the web-portal for apprenticeship training.

In order to make the employers to compulsory to fill the details of apprentices as well trade wise requirement in respect of apprenticeship training, following section will be substituted:

- Section 4 (5) (i) Every employers shall enter the details of apprentices on the web portal as may be prescribed at the time of registering person for apprenticeship training:*
- (ii) Every establishment shall also give trade-wise requirement in respect of apprenticeship training on portal as may be prescribed.*

Issue No. 14: Apprentices from Outside the States

Recommendation proposed by NSDA:

Currently, there are restrictions on deployment of apprentices from outside the State. It is recommended that apprentices should be allowed to seek training in any company/unit anywhere in India irrespective of location.

The Group was informed that at present there is no provision to restrict any person to undergo apprenticeship training in other States. However, States are not accepting persons from other States for apprenticeship training. The Group felt that persons from other States may be allowed to join apprenticeship training in State other than his home State. In order to fill up the vacant seats of apprentices and give opportunities to persons from other states to avail the apprenticeship training, the Group recommended that explicit provision should be made in Act clearly stating that persons can undergo apprenticeship training in States other than his home State.

Issue No.15: Regulations with regard to holidays, leaves, shift working, hours of deployment

Recommendation proposed by NSDA:

Under the current laws, holidays, leaves, shift working and hours of deployment for apprentices' vis-à-vis regular workers. There is no need for different rules for apprentices in this regard and these should be the same as those for regular workers. Apprentices could also be covered under ESI Act to enable them get the corresponding benefits like other workers.

The Group agreed with the recommendation except coverage in ESI Act which is separate dispensation for regular workers.

To include above recommendation, sub-section 3 of Section 15 of the Act shall be substituted as:

- (3) *An apprentice shall be entitled to such leave and holidays as are observed in the establishment in which he is undergoing training.*

Issue No.16: Powers of inspection

Recommendation proposed by NSDA:

Inspection of apprenticeship related matters by Government authorities creates resentment in the industry. Inspections often become counter-productive. In line with the proposed self-regulation by the industry, the inspection clause should be substantially diluted to cover only on a small sample of units.

The Group has gone through the existing provisions of the Act which are reproduced:

“29. Powers of entry, Inspection, etc.-

- (1) Subject to any rule made in this behalf the Central Apprenticeship Adviser, or such other person, not below the rank of an Assistant Apprenticeship Adviser, as may be authorised by the Central Apprenticeship Adviser in writing in this behalf may-
 - (a) with such assistants, as he thinks fit, enter, inspect and examine any establishment or part thereof at any reasonable time;
 - (b) examine any apprentice employed therein or require the production of any register, record or other documents maintained in pursuance of this Act and take on the spot or otherwise statements of any persons which he may consider necessary for carrying out the purposes of this Act;
 - (c) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed in the establishment;
 - (d) exercise such other powers as may be prescribed:

Provided that a State Apprenticeship Adviser or such other person, not below the rank of an Assistant Apprenticeship Adviser, as may be authorised by the State Apprenticeship Adviser in writing in this behalf] may also exercise any of the powers specified in clause (a), (b), (c) or (d) of this sub-section in relation to establishments for which the appropriate Government is the State Government.

- (2) Notwithstanding anything in sub-section (1), no person shall be compelled under this section to answer any question or make any statement which may tend directly or indirectly to incriminate him.

The Group felt that open ended powers of inspection may discourage employers to engage apprentices because of fear of harassment at the hands of inspector. The Group felt that it is also not appropriate to do away with the clause altogether as there might be serious complaints warranting inquiry, but number of inspection of one establishment may be restricted and, that too with the written permission of apprenticeship adviser.

Apprenticeship Rules will be framed after consulting Central Apprenticeship Council which may be as follows:

“Officer, not below the rank of an Assistant Apprenticeship Adviser shall take the approval of Central or State Apprenticeship Adviser before inspection of an establishment”.

Issue No. 17: Qualification and age requirement

Recommendation proposed by WG:

Anyone fulfilling minimum age requirement and qualifications determined by the employer / establishment willing to provide training should be allowed to undergo on-the-job training under such informal stream.

The Group has gone through the existing provision relating to qualification and age requirement which is given below:

“Section 3. Qualifications for being engaged as an apprentice -

A person shall not be qualified for being engaged as an apprentice to undergo apprenticeship training in any designated trade, unless he -

- (a) is not less than fourteen years of age, and
- (b) satisfies such standards of education and physical fitness as may be prescribed:

Provided that different standards may be prescribed in relation to apprenticeship training in different designated trades and for different categories of apprentices.”

The Group noted that with the existing provision relating to qualification and age requirement made in the Act is for designated trade & it may not be feasible to bring employers/ establishment in the informal sectors under the ambit of apprenticeship training scheme. Therefore, the group recommended that in case of apprenticeship training in informal sector (optional trade), the qualification, physical fitness etc. may be decided by the employer, subject to minimum age as per law of the land.

To include above recommendation new definition ‘Optional Trade’ will be added as explained earlier. Apprenticeship Rules will also be framed in consultation with Central Apprenticeship Council to provide that:

- *is not less than fourteen years of age;*
- *satisfies such standards of education and physical fitness as decided by employer*

Provided that

- *duration of training shall not be less than 6 months and not more than 03 years. However, there shall be flexibility for an apprentice to complete the training of apprenticeship upto maximum of five years.*

Issue No. 18: Registration of contract

Recommendation proposed by WG:

Registration of contract for such cases may be made simpler and a simple form signed by the establishment and the candidate posted to pre-designated centres shall be accepted for the purpose. In addition, facility to enter details in this regard may also be made available on the web for people who can do so electronically. In such cases, there shall not be any requirement for classroom training if the establishment and the candidate are willing to undergo such training.

The Group has gone through the existing relevant provision of the Act which is reproduced below:

“Section 4- Contract of registration

- (1) No person shall be engaged as an apprentice to undergo apprenticeship training in a designated trade unless such person or, if he is minor, his guardian has entered into a contract of apprenticeship with the employer.
- (2) The apprenticeship training shall be deemed to have commenced on the date on which the contract of apprenticeship has been entered into under sub-section (1).
- (3) Every contract of apprenticeship may contain such terms and conditions as may be agreed to by the parties to the contract:

Provided that no such term or condition shall be inconsistent with any provision of this Act or any rule made thereunder.

- (4) Every contract of apprenticeship entered into under sub-section (1) shall be sent by the employer within such period as may be prescribed to the Apprenticeship Adviser for registration.
- (5) The Apprenticeship Adviser shall not register a contract of apprenticeship unless he is satisfied that the person described as an apprentice in the contract is qualified under this Act for being engaged as an apprentice to undergo apprenticeship training in the designated trade specified in the contract.
- (6) Where the Central Government, after consulting the Central Apprenticeship Council, makes any rule varying the terms and conditions of apprenticeship training of any category of apprentices undergoing such training, then, the terms and conditions of every contract of apprenticeship relating to that category of apprentices and subsisting immediately before the making of such rule shall be deemed to have been modified accordingly.

The Chairman explained to the Group that presently every employer sends the Apprenticeship Adviser the contract of apprenticeship for registration within three months of the date on which it was signed. Apprenticeship Adviser after verifying the documents issue a registration number to the apprentice.

After going through the existing procedure of registration, the Group felt that the procedure for registration of contract should be simplified so that employers from all sectors may be encouraged to join apprenticeship training scheme. Moreover, SMEs cannot afford to hire administrative infrastructure to carry out the registration process. The Group recommended that the process of

registration of contract should be simplified and in case employers intend to engage apprentices in those trades which is determined by him, employers may be given option to inform the apprenticeship adviser through post or e-mail or web-portal and for this purpose a window will be created on the Web-portal. But in other cases where apprentices intend to take final examination conducted by NCVT, in such cases, employers should be required to enter details as prescribed on the web-portal for verification of the details entered by them by the concerned Apprenticeship Adviser and if no communication is received from Apprenticeship Adviser within 30 days of entering the details, it will be presumed as contract is deemed registered. However, the employers will be held responsible for authenticity of data entered by him and Apprenticeship Advisers and Directorate General of Employment & Training, Ministry of Labour and Employment will not be held responsible. In this regard, the Group recommended that relevant rules may be amended.

Section 4 may be amended as per below:

- (1) No person shall be engaged as an apprentice to undergo apprenticeship training in a designated trade and optional trade unless such person has or, if he is minor, his guardian has entered into a contract of apprenticeship with the employer.*
- (2) The apprenticeship training shall be deemed to have commenced on the date on which the contract of apprenticeship has been entered into under sub-section (1).*
- (3) Every contract of apprenticeship may contain such terms and conditions as may be agreed to by the parties to the contract:*

Provided that no such term or condition shall be inconsistent with any provision of this Act or any rule made thereunder.

- (4) In case of designated trades, every contract of apprenticeship entered into under sub-section (1) shall be sent by the employer (or entered into portal, where provided) for within 30 days to the Apprenticeship Adviser for verification and in case no reply is received from Apprenticeship Adviser, it will be presumed as deemed registered. The employer will be responsible for any discrepancies in the data entered by him in contract and Ministry of Labour and Apprenticeship Advisers shall be not held responsible for any discrepancies made by the employers.*

Issue No. 19: Number of apprentices in informal trades

Recommendation proposed by WG:

There would be simplified reporting requirement for such establishments and such establishments need not get the seats notified from State / Centre till the number of apprentices engaged by them remains less than a particular number (say 10).

At present there is no demarcation for locating seats in informal trades. The same procedure is followed for locating seats irrespective of trades in formal or informal sector. As per the existing provision of the Act, the number of apprentices to engage by the employer is decided by the ratio prescribed for the trade and the training facilities available in the establishment for the trade. The Group observed that given the fact that there are a large number of small scale establishments in the country and limited number of administrative machinery in the State for implementation of the apprenticeship training, it is not feasible to survey each establishment and fix number of seats as per existing procedure of locating apprenticeship seats. The Group felt that small scale establishments should not be left out from the purview of the apprenticeship training scheme and simple procedure should be evolved. Keeping this in view, the group recommended that:

- (i) Establishment having employees not less than 10 and not more than 25 can hire minimum 1 and maximum 3 numbers of apprentices..
- (ii) Establishment having more than 25 shall not engage less than 5% and not more than 15%.

Issue No. 20: Apprenticeship Training for candidates undergoing the ITI course.

Recommendation proposed by WG:

The Group felt that the present system of apprenticeship divides candidates into strict categories and does not favour apprenticeships to be made a part of various course curriculums. For example, a person who has not taken admission to an ITI is considered a fresher while a person who has passed out from an ITI is given rebate for on-the-job training. However, there is no category identified in the Act for candidates undergoing the ITI course. The Group, therefore, felt that it necessary that suitable amendments be made so that apprenticeship / on-the-job training could be encouraged as a part of different courses also.

The Group felt that apprenticeship training should not be restricted to ITI & Graduate engineer, Technician and Technician (Vocational) Apprentices and the scope of the apprenticeship training should be enhanced in order to bring the internship/on-the-job training of other courses under the ambit of Apprenticeship Training. The Group also recommended that all graduates in various fields such as B.A, B.Com., B.Sc., etc. may be brought under Act to enhance their skills and employability.

Internship/on-the-job training/ITI course which is part of other courses approved by Central Government/State Governments bodies/councils/board under the Act should be covered under the proposed definition of apprentice under the Act which is reproduced below:

Section 2(aa) "apprentice" means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship.

For inclusion of all graduates with qualifications such as B.A, B.Com. B.Sc., B.B.A., B.C.A. etc. under the Act, it is proposed that clause (j) of section 2 of the Act may be substituted by

"graduate or technician apprentice" means an apprentice who holds, or is undergoing training in order that he may hold a degree or diploma in engineering or technology or non-engineering or equivalent qualification granted by any institution recognized by the Government and undergoes apprenticeship training in any such subject field in engineering or technology or non-engineering as may be prescribed or determined by employer;

Issue No. 21: Examination

Recommendation proposed by WG:

The present apprenticeship scheme expects every trainee to undertake a final examination conducted by NCVT. Given that an informal apprenticeship regime is being proposed and also a new facility to get directly assessed on the basis of prior learning has been opened under SDIS, the candidates undergoing informal training may be allowed to undergo tests / exams / assessments conducted by other means like third party assessment under SDIS also. The Group also recommends that the examination process itself be rationalized by clubbing different tests in one examination similar to the recent changes in CTS.

The group has gone through the existing provision of Act relating to Holding of test and grant of certificate and conclusion of training and inferred that there is no compulsion on the part of the apprentice to take final examination. However, for apprentices who wish to get National Apprenticeship Certificate(NAC), they have to appear and pass for a test conducted by the National Council

Generally, , apprentices appear in the examination to get NAC which help them in getting employment and also helps them in other purposes such as getting loans etc.

The Group after going through the recommendation of WG and relevant provision of Act, recommended that sitting in the examination to get NAC after completing the apprenticeship training may be made optional and it should be left to the apprentices to appear in the examination and those apprentices who intend to take examination to get NAC will follow the procedure laid down by the National Council of Vocational Training for conducting examination. Apprentices who wish to undergo examination conducted by other agencies may be allowed to do so.

Accordingly, Section 21 may be amended as per following:

- (1) Trade apprentice who wish to take certificate of proficiency in the designated trade by the National Council has to appear a test to be conducted by the National Council after completion of his period of training.*
- (2) For other category of apprentices, certificate of proficiency shall be issued by the employer after assessment.*

The meeting ended with a vote of thanks to Chair.

Minutes of the 2nd Meeting of Inter Ministerial Group to discuss and recommend amendments to the Apprentices Act, 1961 held under the Chairmanship of Director General of Employment and Training/Joint Secretary on 22nd May, 2014 at 2:00 P.M. in Main Committee Room, C-Wing, Shram Shakti Bhavan, New Delhi

The 2nd meeting of Inter Ministerial Group (IMG) to discuss and recommend amendments to the Apprentices Act, 1961 was held under the Chairmanship of Director General of Employment and Training on 22nd May, 2014 at 2:00 P.M. in Main Committee Room, C-Wing, Shram Shakti Bhavan, New Delhi. List of members who attended the meeting is at Annexure-I.

2. At the outset, Shri Alok Kumar, DG/JS and Chairman of the IMG welcomed the members and proposed that recommendations of the 1st IMG meeting would be reviewed based on the suggestions received from various sources after that meeting. The Chairman informed that ILO and CII have sent suggestions. The IMG also duly considered the recommendations of Central Apprenticeship Council (CAC), National Commission on Labour (NCL) & Indian Labour Conference (ILC). The Chairman also said that many studies and expert opinion suggested that Government should explore the possibilities to provide financial support to those industries under SME Sector which implement Apprenticeship Training. Thereafter, the recommendations of 1st meeting of IMG were deliberated:

Issue No.1: To simplify workflow for establishments while engaging apprentices

The IMG agreed with the recommendation of the CAC and Prime Minister's National Council on Skill Development (PM's NCSD) relating to implementation of Apprenticeship Training Scheme in those organizations which are operating business/ trade in more than four States, will rest with the Central Government.

In order to incorporate above recommendation, the Section 2 of the Apprentices Act, 1961 is required to be amended by adding item (ba) after item (b) under sub-clause (1) of clause (d) of section 2 of the Act which is given below:-

“(ba) any establishment which is operating business or trade from different locations situated in more than four States, or,”

Issue No.2: Change in the definition of “Worker”

The IMG agreed with the recommendation of the CAC and PM's NCSO relating to change in the definition of the worker by including contractual workers, daily workers, agency workers, casual workers, seasonal workers, etc. Presently the section 2 (r) of the Act, states that worker means any person who is employed for wages in any kind of work and who gets his wages directly from the employer but shall not include an apprentice.

In order to utilize the training facilities available in the establishments optimally, existing definition of worker in clause (r) of section 2 of the Apprentices Act, 1961 may be amended by substituting new definition of worker in clause “(r)” of section 2 of the Act, which is given below:

(r) “worker” means any person working in the premises of the employer and who is employed directly or through any agency including a contractor for wages in any kind of work and who gets his wages directly or indirectly from the employer but shall not include an apprentice referred to in clause (aa)”

Issue No.3: To give preference to apprentices for employment.

The IMG has gone through recommendation of CAC relating to reserving direct recruitment posts for trained apprentices who have been trained under the Apprentices Act 1961 in the same establishment and the judgement delivered by Hon'ble Supreme Court in AIR 1995 SC 1115 which stated that “when other things being equal, a trained apprentice should be given preference over direct recruits”. IMG has also gone through the recommendation of the PM's NCSO relating to giving preference to the apprentice in the employment who has completed the period of his apprenticeship training in his establishment or industry when job opportunities open up in that particular industry or firm. The IMG felt that by making it obligatory on part of the establishment to give preference to apprentices at the time of regular recruitment could lead to unwanted litigations. Hence, it recommended that establishments could be directed to formulate their own policies for recruiting trained apprentices. Accordingly, a provision may be made under the Apprentices Act, 1961.

Issue No. 4: Offences & Penalties:

The IMG has gone through the recommendation of CAC for imposing fine in case of unfilled seats and recommended that those establishments which are

not engaging full quota of apprentices will invite penalty at the rate of Rs. 500 per shortfall of Apprenticeship Month. The IMG also recommended that establishments having less than 250 workers and any establishment or industry which is under the Board of Industrial and Financial Reconstruction be not brought under such penalty clause at least to begin with. Non-payment of penalties in time may be allowed with 10% interest and unpaid penalties may be made recoverable as arrear of land revenue.

During further deliberations on the issue, the IMG felt that since the working conditions in terms of occupational safety and health is covered under Factories Act, 1948 and other applicable laws and employing an apprentice on any work which is not connected with his training is also covered under one of the clauses of contract of apprenticeship, therefore both the clauses should be excluded here.

Further, it may be clarified that the penalty for the defaulter should be at the rate of rupees one thousand for every occurrence of the offence(s) other than the engagement of full quota of apprentices.

Therefore, Section 30 (1) & (2) of the Act, may be substituted by:

“30. Offences and penalties. --- (1) If any employer contravenes the provisions of this Act relating to the number of apprentices which he is required to engage under the provisions of the Act, he shall be served with a notice, by an officer duly authorised in this behalf by the appropriate Government, for explaining the reasons for such contravention with in a period of thirty days from the date of receipt of such notice.

In case the employer fails to reply the notice with in the period specified under sub-section (1), or the authorised officer is not satisfied with the reasons put forth, the employer, after affording an opportunity of being heard in person, shall be liable to pay a penalty at the rate of rupees five hundred per shortfall of apprenticeship month till such number of seats are filled up:

Provided that any establishment or industry which is under the Board of Industrial and Financial Reconstruction and any establishment or industry having less than two hundred and fifty workers shall not be liable for such penalty.

- (2) *If any employer or any other person -*
 - (a) *required to furnish any information or return -*
 - (i) *refuses or neglects to furnish such information or return, or*

- (ii) *furnishes or causes to be furnished any information or return which is false and which he either knows or believes to be false or does not believe to be true, or*
- (b) *fails to carry out the terms and conditions of a contract of apprenticeship, or*
- (c) *requires an apprentice to work overtime without the approval of the Apprenticeship Adviser, or*
- (d) *requires an apprentice to take part in any output bonus or incentive scheme, or*
- (e) *refuses or wilfully neglects to afford the Central or the State Apprenticeship Adviser or such other person, not below the rank of an Assistant Apprenticeship Adviser, as may be authorized by the Central or the State Apprenticeship Adviser in writing in this behalf any reasonable facility for making any entry, inspection, examination or inquiry authorized by or under this Act,*

he shall be liable to pay a penalty at the rate of rupees one thousand every occurrence of the offence(s) other than the engagement of full quota of apprentices.

Issue No.5: Trade-wise and Unit-wise regulation of Apprentices

The members of IMG after deliberations recommended that within a financial year each establishment should not engage apprentices less than 2.5% and not more than 10% of the total worker instead of 15% as recommended in first meeting of IMG. Further the establishments may be given flexibility to take of seasonality in operation.

Therefore, to include above recommendation, Section 8 of the Act may be substituted as:

“Number of apprentices for a designated trade may be such as may be prescribed.”.

Apprenticeship Rules could be as follows:

- *Number of apprentices to be engaged in a designated trade shall not be less than 2.5% and not more than 10%*
- *Establishment may engage apprentices as per apprenticeship months within the above limits, the numbers being counted for a financial year.*

- *Subject to these limits, there will not be any requirement of survey of establishments for fixing the number of seats.*

Issue No.6: Government regulation on addition of new trades

The Chairman informed IMG that some inputs regarding duration and syllabi of Optional Trades had been received from O/o ILO in India. It had suggested that establishments must inform about the duration and syllabi to be followed for such trades. Further, the duration of these trades should be capped to 1 or 1 ½ years.

IMG considered the suggestions and recommended that it may be obligatory for the establishment to disclose the duration and syllabi of the Optional Trades on the web-portal to check the quality of training. The IMG also recommended that employers who wish to get the trades notified under the Apprentices Act, 1961 from retrospective date (where training has started) may also be allowed to do so.

It is therefore proposed after clause (l), the following clause shall be inserted; namely:-

‘(la) “optional trade” means a trade or an occupation or a subject field or an vocational course in engineering or technology, not being a designated trade, determined by employer as such for the purposes of apprenticeship training; ’ ;

After section 7 of the principal Act, the following section shall be inserted; namely:-

“7A-The optional trade shall be regulated in such manner as may be prescribed.”.

The Apprenticeship Rules will be framed after consulting the Central Apprenticeship Council.

In section 37 of the principal Act, for sub-section (2), the following sub-section shall be substituted; namely:-

“(2) The power to make rules this section shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act received the assent of the President, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.”.

Issue No.7: Expanding the scope of Apprenticeship

Given the size of the country and its economy, that there are just 3.59 lakh seats located and 2.11 lakh seats utilized. 28,500 numbers of establishment engaging apprentices, the IMG opined that scope of the apprenticeship training should be enhanced in order to bring more categories of persons/trades/vocations under ambit of Apprenticeship framework. Keeping this aspect in mind, the IMG recommended that all Undergraduates including non- engineering, modules under Skill Development Initiative Scheme (SDI) and other courses run by Skill Development Centres (SDCs) of States, approved by National Skill Development Agency (NSDA) should be recognized under the ambit of Act. The IMG also recommended that in order to include modules under SDI and other courses run by SDCs of States, approved by NSDA, provision of rebate in the apprenticeship training period should be allowed for the persons undergone such training while preparing course curricula under Apprenticeship Training Scheme. All such courses will be covered under section 2(aa) of the Act which is reproduced below:

Section 2(aa) "apprentice" means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship.

Issue No. 8: Deployment of apprentices in the service sector.

The IMG felt that as compared to the size of the country and its economy number of seats located and seats utilized are very low and procedure of location of seats should be made liberal so that large numbers of seats are located. Keeping this in view the IMG recommended that each establishment in the services sector should also engage at least 2.5% of the overall workforce as decided in Issue no. 5.

Issue No. 9 :Formal Training v/s On-the-job Training

The IMG was informed that since the apprenticeship training itself is on-the-job training the IMG recommended that there is no need to amend the Act.

Issue No. 10: In-house training infrastructure

After deliberations on the need to facilitate participation of Micro, Small and Medium Enterprises (MSMEs) in the Apprenticeship Training Scheme by permitting pooling of resources & facilities, the IMG proposed that a Third Party may be permitted to be engaged who will be training providers and having basic training facilities. They will engage apprentices and will arrange practical training in various establishments covered under the MSME Act. The Central/State

Apprenticeship Advisors may approve such Third Parties with infrastructure and facilities for training apprentices.

A draft formulation on Third Party in this regard will be prepared & circulated to all the members along with minutes for comments.

Issue No.11: Payment of stipend to apprentices

Ministry of Railways gave fresh inputs in the meeting which were considered. The IMG recommended that stipend rates should be 70% to 90% of the minimum wages for semi skilled workers applicable in the States/UTs from Year1 to Year3 respectively.

The IMG also recommended that 50% of the stipend paid for the first year may be reimbursed by the Government for establishments under the MSME Act, in order to encourage MSMEs to participate in the nation's endeavour to scale up vocational training for youth.

Issue No.12: Duration of Apprenticeship

The IMG recommended that duration of apprenticeship training should be fixed as minimum six months and maximum three years because it is not possible for one to acquire enough skill in less than six months which will enable him to get reasonably good employment. In addition, suitable rebate in these durations would be given to apprentices based on their other training prior to Apprenticeship. However, there should be flexibility for an apprentice to complete the period of training of apprenticeship in duration of upto maximum of five year so as to permit sandwich pattern of learning and work. Different phases of such apprenticeship would need approval of Central/State Apprenticeship Adviser.

Issue No. 13: Web based Portal for Apprenticeship Training

The IMG felt that a mechanism should be developed which should be easily accessible to the people at large. The IMG recommended that all the establishments be required shall enter detail of their trade-wise requirement in respect of apprenticeship training on the web-portal for apprenticeship training.

In order to make the employers to compulsory to fill the details of apprentices as well trade wise requirement in respect of apprenticeship training, following section will be substituted:

- Section 4 (5) (i) *Every employers shall enter the details of apprentices on the web portal as may be prescribed at the time of registering person for apprenticeship training:*
- (iii) *Every establishment shall also give trade-wise requirement in respect of apprenticeship training on portal as may be prescribed.*

Issue No. 14: Apprentices from Outside the States

The IMG recommended that in order to fill up the vacant seats of apprentices and give opportunities to persons other state to avail the apprenticeship training, the IMG recommended that explicit provision should be made in Act clearly stating that persons can undergo apprenticeship training in States other than his home State.

Issue No.15: Regulations with regard to holidays, leaves, shift working, hours of deployment

The IMG agreed with the recommendation that there is no need for different rules for apprentices in this regard and these should be the same as those for regular workers except coverage in ESI Act which is separate dispensation for regular workers.

To include above recommendation, sub-section 3 of Section 15 of the Act shall be substituted as:

- (3) *An apprentice shall be entitled to such leave and holidays as are observed in the establishment in which he is undergoing training.*

Issue No.16: Powers of inspection

The IMG felt that open ended powers of inspection may discourage employers to engage apprentices because of fear of harassment at the hands of inspector. The IMG also felt that it is also not appropriate to do away with the clause altogether as there might be serious complaints warranting inquiry, but number of inspection of one establishment may be restricted and, that too with the written prior permission of apprenticeship adviser.

Apprenticeship Rules will be framed after consulting Central Apprenticeship Council which may be as follows:

“Officer, not below the rank of an Assistant Apprenticeship Adviser will inspect a establishment and such a inspection shall be after prior approval of Central or State Apprenticeship Adviser.”.

Issue No. 17: Qualification and age requirement

The IMG noted that with the existing provision relating to qualification and age requirement made in the Act is for designated trade & it may not be feasible to bring employers/ establishment in the informal sectors under the ambit of apprenticeship training scheme. Therefore, the IMG recommended that in case of apprenticeship training in informal sector (optional trade), the qualification, physical fitness etc. may be decided by the employer, subject to minimum age as per law of the land.

To include above recommendation new definition ‘Optional Trade’ will be added as explained earlier. Apprenticeship Rules will also be framed in consultation with Central Apprenticeship Council to provide that:

- *is not less than fourteen years of age and not less than 18 years in trades related to hazardous industries ;*
- *satisfies such standards of education and physical fitness as decided by employer*

Provided that

- *duration of training shall not be less than 6 months and not more than 03 years. However, there shall be flexibility for an apprentice to complete the training of apprenticeship upto maximum of five years.*

Issue No. 18: Registration of contract

The IMG recommended that the process of registration of contract should be simplified and in case employers intend to engage apprentices in those trades which is determined by him, employers may be given option to inform the apprenticeship adviser through post or e-mail or web-portal and for this purpose a window will be created on the Web-portal. But in other cases where apprentices intend to take final examination conducted by NCVT, in such cases, employers must be required to enter details as prescribed on the web-portal for verification of the details entered by them by the concerned Apprenticeship Adviser and if no communication is received from Apprenticeship Adviser within 30 days of entering the details, it will be presumed as contract is deemed registered. However, the employers will be held responsible for authenticity of data entered by him and Apprenticeship Advisers and Directorate General of

Employment & Training, Ministry of Labour and Employment will not be held responsible. In this regard, the IMG recommended that relevant rules may be amended.

Section 4 may be amended as per below:

- (3) *No person shall be engaged as an apprentice to undergo apprenticeship training in a designated trade and optional trade unless such person has or, if he is minor, his guardian has entered into a contract of apprenticeship with the employer.*
- (4) *The apprenticeship training shall be deemed to have commenced on the date on which the contract of apprenticeship has been entered into under sub-section (1).*
- (3) *Every contract of apprenticeship may contain such terms and conditions as may be agreed to by the parties to the contract:*

Provided that no such term or condition shall be inconsistent with any provision of this Act or any rule made thereunder.

- (4) *In case of designated trades, every contract of apprenticeship entered into under sub-section (1) shall be sent by the employer (or entered into portal, where provided) for within 30 days to the Apprenticeship Adviser for verification and in case no reply is received from Apprenticeship Adviser, it will be presumed as deemed registered. The employer will be responsible for any discrepancies in the data entered by him in contract and Ministry of Labour and Apprenticeship Advisers shall be not held responsible for any discrepancies made by the employers.*

Issue No. 19: Number of apprentices in informal trades

The IMG observed that given the fact that there are a large number of small scale establishments in the country and limited number of administrative machinery in the State for implementation of the apprenticeship training, it is not feasible to survey each establishment and fix number of seats as per existing procedure of locating apprenticeship seats. The IMG felt that small scale establishments should not be left out from the purview of the apprenticeship training scheme and simple procedure should be evolved. Keeping this in view, the group recommended that:

- (iii) Establishment having employees not less than 10 and not more than 25 can hire minimum 1 and maximum 3 numbers of apprentices..
- (iv) Establishment having more than 25 shall not engage less than 2.5% and not more than 10%.

Issue No. 20: Apprenticeship Training for candidates undergoing the ITI course.

The IMG recommended that all graduates also in various fields such as B.A, B.Com., B.Sc., etc. may be brought under Act to enhance their skills and employability.

Internship/on-the-job training/ITI course which is part of other courses approved by Central Government/State Governments bodies/councils/board under the Act should be covered under the proposed definition of apprentice under the Act which is reproduced below:

Section 2(aa) "apprentice" means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship.

For inclusion of all graduates with qualifications such as B.A, B.Com. B.Sc., B.B.A., B.C.A. etc. under the Act, it is proposed that clause (j) of section 2 of the Act may be substituted by

"graduate or technician apprentice" means an apprentice who holds, or is undergoing training in order that he may hold a degree or diploma in engineering or technology or non-engineering or equivalent qualification granted by any institution recognized by the Government and undergoes apprenticeship training in any such subject field in engineering or technology or non-engineering as may be prescribed or determined by employer;

Issue No. 21: Examination

The IMG after going through the recommendation of Working Group and relevant provision of Act, recommended that sitting in the examination to get NAC after completing the apprenticeship training may be made optional and it should be left to the apprentices to appear in the examination and those apprentices who intend to take examination to get NAC will follow the procedure laid down by the National Council of Vocational Training for conducting examination. Apprentices who wish to undergo examination conducted by other agencies may be allowed to do so.

Accordingly, Section 21 may be amended as per following:

- (3) Trade apprentice who wish to take certificate of proficiency in the designated trade by the National Council has to appear a test to be*

conducted by the National Council after completion of his period of training.

- (4) *For other category of apprentices, certificate of proficiency shall be issued by the employer after assessment.*

The meeting ended with a vote of thanks to Chair.

Minutes of the 3rd and final Meeting of the Inter Ministerial Group to discuss and recommend amendments to the Apprentices Act, 1961 held under the Chairmanship of Director General of Employment and Training/Joint Secretary on 6th June, 2014 at 2:00 p.m. in Mini Committee Room, Shram Shakti Bhavan, New Delhi

The 3rd & final meeting of the Inter Ministerial Group (IMG) to discuss and recommend amendments to the Apprentices Act, 1961 was held under the Chairmanship of Director General of Employment and Training on 6th June, 2014 at 2:00 p.m. in Mini Committee Room, B-Wing, Shram Shakti Bhavan, New Delhi. List of members who attended the meeting is at Annexure-I.

2. At the outset, Shri Alok Kumar, DG/JS and Chairman of the IMG welcomed the members and said that recommendations of the IMG as evolved after deliberations in the 1st and 2nd meetings were recorded in the minutes of the last meeting which were circulated to all the members. A suggested formulation on the proposed Third Party Agencies was also circulated. After discussions, recommendations finalized in the 2nd meeting of the IMG were confirmed by the members with following modifications:-

(i) The matter of providing stipend to the apprentices in the Micro, Small and Medium Enterprises (MSME) sector was deliberated upon and it was recommended that stipend will be shared by the Government equally during the first year of the training only with those establishments which are having turn over less than Rs. 100 crore and are covered under the MSMED Act. It is expected that the productivity in 2nd year onwards will be such so as to compensate for the stipend paid. Initially such establishments will pay the prescribed stipend to the apprentices undergoing apprenticeship training in their establishments and subsequently, such establishments will submit claims to Government for reimbursement of 50% stipend for which Ministry of Labour and Employment will need to make budget provision. This support may be initially given only for

apprentices in designated trades but may be considered subsequently for optional trades also keeping in view the response of the scheme and the financial implications. Ministry of HRD made it clear that it would continue to give stipend only to the Graduates, Technician & Technician (Vocational) apprentices under engineering trades only. The IMG recommended that stipend for graduate apprentices other than engineering graduates will also be shared equally by the Government in the proposed new scheme for MSMEs.

(ii) On the issue of Third Party Agencies (TPAs) recruiting apprentices, the IMG recommended that to begin with, all the MSMEs may be required to engage apprentices as per their obligation and requirement and if need is arisen, MSMEs may identify competent training providers themselves for providing basic training to their apprentices. The IMG also recommended that suitable enabling provisions may be made in the Act to permit approved TPAs engaging apprentices (for basic training with them and on-the-job training with partnering establishments as proposed in the formulation circulated) in future, whenever Government feels appropriate.

The meeting ended with a vote of thanks to Chair.
