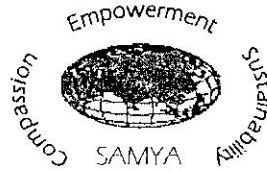


**THE NATIONAL RURAL EMPLOYMENT
GUARANTEE ACT
A PEOPLES MANUAL FOR SOCIAL AUDIT**

**Sponsored by
National Institute of Rural Development**



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1. INTRODUCTION

“To provide for the enhancement of livelihood security of the poor households in rural areas of the country by providing at least one hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled manual work and for matters connected therewith or incidental thereto:” (NREGA 2005)

With the enactment of the National Rural Employment Guarantee Act (NREGA), the Government of India has initiated a process that, if properly administered, could go a long way in mitigating rural poverty, deprivation and starvation.

An analysis of the NREGA and the proposed state-level rural employment guarantee schemes (REGS) suggests that there are various entitlements that the people have under this Act. Many or most of these entitlements are vulnerable to distortions, if the stakeholders were not involved in a meaningful way right from the planning stage.

In order to ensure that such a meaningful involvement of the potential beneficiaries and other stakeholders gets institutionalised, this manual describes the various steps that need to be taken by the people and their groups and organisations to ensure transparency and accountability by the government, the Panchayati Raj institutions and other implementing agencies. The focus is on integrating people’s participation in the planning and auditing process of the NREGA.

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THE NATIONAL RURAL EMPLOYMENT GUARANTEE ACT : A SUMMARY

The National Rural Employment Guarantee Act 2005 is a law whereby any adult who is willing to do unskilled manual work at the minimum wage is entitled to being employed on public works within 15 days of applying. If work is not provided within 15 days, he/she is entitled to an unemployment allowance. The key features of the Act are spelt out below.

DETAILS OF THE GUARANTEE

1. **Eligibility:** Any person who is above the age of 18 and resides in rural areas is entitled to apply for work.
2. **Entitlement:** Any applicant is entitled to work within 15 days, for as many days as he/she has applied, subject to a limit of 100 days per household per year.
3. **Distance:** Work is to be provided within a radius of 5 kilometres of the applicant's residence if possible, and in any case within the Block. If work is provided beyond 5 kilometres, travel allowances have to be paid.
4. **Wages:** Workers are entitled to the statutory minimum wage applicable to agricultural labourers in the state, unless and until the Central Government "notifies" a different wage rate. If the Central Government notifies, the wage rate is subject to a minimum of Rs 60/day.
5. **Timely payment:** Workers are to be paid weekly, or in any case not later than a fortnight. Payment of wages is to be made directly to the person concerned in the presence of independent persons of the community on pre-announced dates.
6. **Unemployment allowance:** If work is not provided within 15 days, applicants are entitled to an unemployment allowance: one third of the wage rate for the first thirty days, and one half thereafter.
7. **Worksite facilities:** Labourers are entitled to various facilities at the worksite such as clean drinking water, shade for periods of rest, emergency health care, and child-minding.

EMPLOYMENT GUARANTEE SCHEME

1. **Employment Guarantee Scheme:** Each state government has to put in place an "Employment Guarantee Scheme" within six months of the Act coming into force.
2. **Permissible works:** A list of permissible works is given in Schedule I of the Act. These are concerned mainly with water conservation, minor irrigation, land development, rural

roads, etc. However, the Schedule also allows “any other work which may be notified by the Central Government in consultation with the State Government”.

3. **Programme Officer:** The Employment Guarantee Scheme is to be coordinated at the Block level by a “Programme Officer”. However, the Act allows some of his/her responsibilities to be delegated to the Gram Panchayats.

4. **Implementing agencies:** EGS works are to be executed by “implementing agencies”. These include, first and foremost, the Gram Panchayats (they are supposed to implement half of the EGS works), but implementing agencies may also include other Panchayati Raj Institutions, line departments such as the Public Works Department or Forest Department, and NGOs.

5. **Contractors:** Private contractors are banned.

6. **Decentralised planning:** A shelf of projects is to be maintained by the Programme Officer, based on proposals from the implementing agencies. Each Gram Panchayat is also supposed to prepare a shelf of works based on the recommendations of the Gram Sabha.

7. **Transparency and accountability:** The Act includes various provisions for transparency and accountability, such as regular social audits by the Gram Sabhas, mandatory disclosure of muster rolls, public accessibility of all EGS documents, regular maintenance of job cards, etc.

OTHER PROVISIONS

1. **Participation of women:** Priority is to be given to women in the allocation of work, “in such a way that at least one-third of the beneficiaries shall be women”.

2. **Penalties:** The Act states that “whoever contravenes the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees”.

3. **State Council:** The implementation of the Act is to be monitored by a “State Employment Guarantee Council”.

4. **Cost sharing:** The Central Government has to pay for labour costs and 75% of the material costs. State governments have to pay the unemployment allowance and 25% of the material costs.

5. **Time frame:** The Act will come into force initially in 200 districts, and is to be extended to the whole of rural India within five years.

For a more detailed explanation of the NREGA, see the Annexure.

3. THE RIGHT TO INFORMATION ACT: A SUMMARY

Coverage

The RTI Act 2005 covers all central, state and local government bodies and, in addition to the executive, it also applies to the judiciary and the legislature. It covers all bodies owned, controlled or substantially financed, either directly or indirectly by the government, and non-governmental organisations and other private bodies substantially funded, directly or indirectly, by the government. This would seem to include private schools, hospitals and other commercial institutions that have got subsidies in the form of land at concessional rates or tax concessions, among others.

Apart from these, the law, interestingly, also covers the private sector as it provides the citizen access to all information that the government can itself access through any other law currently in force.

Definitions

The act gives a detailed definition of the term 'information', and significantly includes "opinions and advices" as subject to disclosure. This clearly means that file notings are also to be disclosed, unless their content falls under one of the exemptions specified in section 8 of the act. The definition of 'information' also includes the right to inspect work, documents and records held by the government, and allows for the extraction of certified samples for verification. Therefore, the act moves beyond the realm of files and documents and enables the public to actually examine the field reality.

Process of Access

The act has set out a relatively simple process for accessing information. Each public authority must appoint a Public Information Officer (PIO), who accepts requisitions and provides information. The PIO must ordinarily respond to a requisition within 30 days, but extensions are allowed in some cases, for example when a third party is involved. Information relating to the life or liberty of a person must, nevertheless, be provided in 48 hours.

Exemptions

The act exempts certain categories of information from disclosure. Included are the obvious exemptions of information, the disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence; or information which has been

expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court. It also exempts information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature.

Information, including commercial confidences, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, or information available to a person in his fiduciary relationship, is also exempt. However, there is a public interest override that specifies that such information can be made public if the competent authority is satisfied that larger public interest warrants the disclosure of such information.

Also exempt is information received in confidence from foreign governments, or information, the disclosure of which would impede the process of investigation or apprehension or prosecution of offenders, or would endanger the life or physical safety of any person or identity the source of information or assistance given in confidence for law enforcement or security purposes.

Though cabinet papers, including records of deliberations of the Council of Ministers, Secretaries and other officers are exempt, the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were made becomes accessible after the decision has been taken, and the matter is complete, or over, unless they are exempt under any other section of this act.

Also exempt is information that might violate copyright, except that of the state, or personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual. However, here also it can be disclosed if larger public interests so warrants.

There are some general clauses qualifying the exemptions. These include a clause that specifies that any information that cannot be denied to the Parliament or a State Legislature cannot be denied to any person. Also, where a part of a document is exempt the whole document cannot be withheld. thus, the section that contains exempt information can be removed, and the remaining part disclosed..

In another clause, it is stated that notwithstanding the exemptions specified in the law or provisions of the Official Secrets Act, 1923, “a public authority may allow access to information, if public interests in disclosure outweighs the harm to the protected interests.” In addition, most of the exempt information becomes accessible after twenty years.

Complaints and Appeals

The act envisages the setting up of independent Information Commissions, one at the centre and one at each state, comprising one Chief Information Commissioner and up to ten Information Commissioners. Complaints against violations of provisions of this act can be made to the Information Commission. The act also provides for two levels of appeals against the PIO, the first to an officer senior to the PIO, and the second to the central or state Information Commission, against delay in supplying, or refusal to supply, information by the PIO. The section on appeals specifies that the onus of proof that the denial of a request was justified would be on the PIO. This necessitates the appellate authorities treating all information as “disclosable” unless proved otherwise. The act also specifies that appeals should be disposed off within 30-45 days.

Penalties

The act stipulates penalties for PIOs found to be in violation of the act. For unreasonable delay, the Information Commission can impose penalties at Rs. 250 per day, and also penalise for refusal to accept requests, for malafide destruction of information, knowingly giving false information etc., with an upper limit of Rs. 25,000. However, PIOs are given immunity for actions done in good faith.

Universal Access

The act also has provisions to ensure that all categories of people, especially the rural and urban poor, can access information,. Towards this end, the act specifies that fees would be reasonable, and must be waived for persons below the poverty line. There is no need to give reasons for requisitioning information, nor for providing information about yourself beyond your contact details. The government is also obliged to assist all requisitioners to formulate requests, especially in the case of sensorily challenged individuals.

Suo Moto Disclosures

Public authorities are obliged to publish a great deal of information *suo moto*, including relevant facts while formulating policies and making policy decisions. They are also bound to explain quasi-judicial decisions to affected persons and to raise awareness and educate the public about the law.

4. PRINCIPLES OF A SOCIAL AUDIT

Definition and Objective

A social audit is an ongoing process by which the potential beneficiaries and other stakeholders of an activity or project are involved from the planning to the monitoring and evaluation of that activity or project. It thereby tries to ensure that the activity or project is designed and implemented in a manner that is most suited for the prevailing (local) conditions, appropriately reflects the priorities and preferences of those affected by it, and most effectively serves public interest.

Principles

The basic principles of social audit include:

- Complete transparency in the process of administration and decision-making, with an obligation on the government to *suo moto* give the people full access to all relevant information.
- A right based entitlement for all the affected persons (and not just their representatives) to participate in the process of decision making and validation;
- In those rare cases where options are pre-determined out of necessity, the right of the affected persons to give informed consent, as a group or as individuals, as appropriate.
- Immediate and public answerability of elected representatives and government functionaries, to all the concerned and affected people, on relevant actions or inactions.

Methods

Keeping in mind the objective and principles, the process of social audit can involve various types of activities including making information public through notice boards or other forms of communication, to public hearings, public decision making and participatory monitoring and evaluation.

5. INTEGRATING SOCIAL AUDITING INTO NREGA

The REGA provides to the people certain entitlements. These are:

1. The entitlement to register one's family.
2. The entitlement to a job card.
3. The entitlement to apply for work.
4. The entitlement to participate in the process of preparation of shelf of projects/ selection of sites.
5. The entitlement to participate in the development & approval of technical estimates/issuance of work order.
6. The entitlement to get work allotted within fifteen days of applying for it.
7. The entitlement to participate in the supervision of works.
8. The entitlement to receive full wages for the work done, as per the prescribed rates.
9. The entitlement to receive unemployment allowance, if work is not allotted in the stipulated fifteen days.
10. The entitlement to be involved in the evaluation of the works undertaken under this act.

In order to ensure that each individual has the opportunity to get all that he/she is entitled to, the process of social audits has been integrated and institutionalised in the process of implementing this act and certain measures have been provided for to ensure full transparency and participation of all stakeholders. These measures, as they correspond to each specific entitlement, are listed below. Also listed are the dangers that confront the potential beneficiary, as they try and get what they are entitled to. What each individual needs to do, in order to ensure that these measures are effective, has also been indicated.

Sn.	ENTITLEMENT	DANGERS	TRANSPARENCY AND SOCIAL AUDIT MEASURES TO BE INITIATED BY THE GOVERNMENT (<i>With suggested action by the people in bold italics</i>)
1.	<p>The entitlement to register one's family as Potential Beneficiaries In The Rural Employment Guarantee Scheme</p> <p>[Responsibility to register: Gram Sewak/ GP Secretary]</p>	<ol style="list-style-type: none"> 1. Absence of the concerned functionary. 2. Denial of registration to persons applying to the scheme 3. Incomplete list of adults in each household 4. Registration of bogus families/individuals 5. Rejection of "incomplete" registration forms. 6. Asking for money for registering names/ families. 	<ol style="list-style-type: none"> 1. The process of registration is required to be transparent. As per the rules, it must be carried out publicly with facilities for people to verify their own details, or those of others. 2. Initial registration would be carried out in a special gram sabha convened for the purpose. <p><i>The people must attend all such gram Sabhas in large numbers and be vigilant. They must carefully observe the process to ensure that no outsiders or ineligible people are being registered, but they must also watch the entries that are being made and check from time to time that only eligible persons are being registered.</i></p> <p><i>Where an eligible person or family is being denied registration, the people must always be ready to intercede on their behalf and question the concerned functionaries on why these eligible persons are being denied registration Where the concerned functionaries are not co-operative, the people must jointly complain to the relevant authority.</i></p> <ol style="list-style-type: none"> 3. A prior survey has to be conducted by the gram panchayat to enumerate all the families and their adult members who are eligible to register. This is supposed to be the basis for ensuring that all persons who are eligible and wish to be included in the scheme, are accounted for.

			<p>4. This enumeration is also supposed to help in preventing the registration of fictitious/ineligible names, but is not to be used to exclude the eligible who might not have been listed.</p> <p><i>Where there is any doubt about any family, the people should insist on consulting this survey. They should also demand to see the enumeration to ensure that no eligible person has been left out.</i></p> <p>5. Subsequent to the initial registration, there must be a public reading in the Ward & Gram Sabha of:</p> <ul style="list-style-type: none"> • Lists of all households registered under the scheme • Lists of adults in each household registered under the scheme <p>6. A form, with a tear away receipt at the bottom, must be used for registration, and the receipt given to the registered person/family</p> <p>7. If a form is incomplete in any way, it would be the responsibility of the concerned functionary to have it completed there and then.</p> <p>8. The final list of registered families/adults must be verified, and complaints of exclusion settled.</p> <p><i>Again, the people must attend all such ward and gram Sabhas in large numbers and be vigilant. They must carefully listen to the names, as they are being read out, and be ready to raise objections if any ineligible or fictitious names have been included.</i></p> <p><i>Where an eligible person or family has been denied registration, the people must demand their inclusion.</i></p>
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			<p><i>If this is denied, then they must collectively complain to the relevant authority.</i></p> <p><i>They must also examine the lists that are being read out, in order to ensure that what is being read out is not different to what is on the list.</i></p> <p>9. The final list must be put up for public display at the Gram Panchayat office and updated every three months.</p> <p><i>The people must ensure that this list is put up and regularly updated, and also that it is authentic and does not contain any fictitious/ ineligible names.</i></p> <p>10. Subsequent to the initial registration, the process of registration must remain perpetually open at the gram panchayat.</p> <p><i>The people must also monitor this and if there is any problem in eligible people registering their names subsequent to the initial registration, this must be taken up with the concerned functionary and, if necessary, with higher authorities.</i></p>
2.	<p>The entitlement to a job card</p> <p>[Responsibility for timely distribution: Gram Sewak/ GP Secretary]</p>	<ol style="list-style-type: none"> 1. Delay in receiving job cards 2. Issuance of false cards 3. Issuance of cards to ineligible persons <ol style="list-style-type: none"> a. To non-residents b. To minors c. To those not members of the listed family 4. Non-issuance of a job card 5. Asking for money for 	<ol style="list-style-type: none"> 1. There is a one month time limit for the supply of job cards, from the date of registration. 2. The list of job card holders must be updated every month, and be available for inspection at the Gram Panchayat office 3. A file containing photocopies of all job cards issued must be open for inspection at the Gram Panchayat office. <p><i>The people must ask the concerned functionaries to explain the reasons for any delay in distributing job cards over and above the prescribed time limit. If necessary, the RTI Act can be used to get this</i></p>

		issuing job card.	<p><i>information. Where the reasons for delay are not justifiable, or where there is a very long delay, the matter must be taken up by the people with the higher authorities.</i></p> <p><i>The people must also examine the list and file on a regular basis to monitor whether the distribution of job cards is on schedule and being done in a fair manner.</i></p>
3.	<p>The entitlement to apply for work</p> <p>[Responsibility to receive and acknowledge applications: Sarpanch]</p>	<ol style="list-style-type: none"> 1. Non-acceptance of work application by the relevant functionary 2. The wrong date or no date recorded on the work application. 3. Rejection of “incomplete” forms 	<ol style="list-style-type: none"> 1. Individuals are entitled to send applications for work by post or to deliver by hand. 2. They have a right to an immediate, written, signed and dated receipt. <p><i>Insist on a written and dated receipt.</i></p> <ol style="list-style-type: none"> 3. A date wise list, that is updated weekly, must be displayed at the Gram Panchayat office, along with a register detailing the applications received. <p><i>The people must regularly check this list and ensure that the information is correct.</i></p> <ol style="list-style-type: none"> 4. If an application is incomplete in any way, it is the responsibility of the concerned functionary to have it completed. Applications cannot be rejected just because they are incomplete. <p><i>The people should insist on this.</i></p>
4.	<p>The entitlement to participate in the process of preparation of shelf of projects/ selection of sites to be taken up in a particular Ward</p>	<ol style="list-style-type: none"> 1. Selection of a low priority or inappropriate work. 2. Selection of work that serves a vested interest. 3. Lack of public participation/ consultation for 	<ol style="list-style-type: none"> 1. The shelf of projects/ works/sites to be taken up must be determined by the gram sabha. 2. They must also be assessed for relevance and priority by the gram sabha 3. A list of the finally selected projects, works, and sites, in their order of priority, must be publicly displayed at the Gram Panchayat office.

	Sabha and/or Gram sabha. [Responsibility to facilitate this: Sarpanch]	selecting work/sites.	<i>The people must insist on deciding the projects and sites that are to be taken up. They should participate fully and actively in the process and ensure that the final list contains only those project sand sites, and in the order of priority, decided by them.</i>
5.	The entitlement to participate in the development & approval of technical estimates/issuance of work order [Responsibility to facilitate: Junior Engineer/ Sarpanch]	<ol style="list-style-type: none"> 1. Exaggerated/ inaccurate technical estimates. 2. Inclusion, in estimate, of unnecessary expenditure. 3. Excessive rates and material. 4. Unclear work order that does not make the details of the work clear/leaves scope for mis-interpretation. 	<ol style="list-style-type: none"> 1. Technical estimate has to be done with the involvement of the local people, and has to be approved by the gram sabha. <p><i>The people must participate in this exercise and ensure that the estimates are realistic, that the rates being quoted are as per local availability and that no unnecessary items of expenditure are being included.</i></p> <ol style="list-style-type: none"> 2. The format for the technical estimate must be simple and understandable by the people. 3. Similarly, the sanction and work order format must be people friendly. 4. This format must be put on public display so that people can access this information and understand the details of the work. <p><i>The people need to remain vigilant and check the final estimate and work order to ensure that they are in accordance with what was collectively decided.</i></p>
6.	The entitlement to get work allotted within fifteen days of applying for it [Responsibility: Sarpanch]	<ol style="list-style-type: none"> 1. Giving out-of-turn allotments. 2. Favouring or discriminating against people in allotting type/location of work. 3. Not respecting the gender quota. 4. Not informing the 	<ol style="list-style-type: none"> 1. All work allocation registers have to be maintained for public scrutiny at the gram panchayat office. 2. It is the duty of the concerned functionaries to ensure that the public is informed through notice boards and through other measures (like drum beating) every time a new batch of work is allotted. The date up to which work has been allocated must also be made public every time

		<p>applicant and then showing him/her as absent.</p> <p>5. Demanding money for allotting work</p>	<p>work is allocated.</p> <p>3. A specific day (typically Sunday – as it is a holiday) and a specific time and place (typically at the gram panchayat office) will be fixed to disburse information about the EGA.</p> <p>4. On that day, the public will be informed of the work allotted or ready to be allotted, along with the names of allottees, their date of application, location and type of work, and other relevant information, including explanation of how the job card works.</p> <p>5. At these meetings, for each of the work allotted, the wage norms will be explained to the people and put up on the notice board. The questions that must be answered include:</p> <ul style="list-style-type: none"> a. What is the wage? b. What is the wage norm (How much per day/how many of what will constitute a full days work). <p><i>It is very important that as many people as possible attend these weekly meetings, on the designated day. They must be vigilant and ensure that all the stipulated information is given to them and must also verify the fairness and authenticity of the list of allotted work.</i></p> <p>6. There will be individual measurements of each persons work, unless a group collectively decides to have joint measurements.</p> <p><i>This is a right, and must be insisted upon by the people.</i></p>
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7.	<p>The entitlement to participate in the supervision of works.</p> <p>[Responsibility to facilitate: Gram Sewak]</p>	<ol style="list-style-type: none"> 1. Recording of non-existent (ghost) workers. 2. Recording of fictitious (Ghost) works. 3. Work not conforming to work specifications/prescribed standards 4. Supply of less than sanctioned/poor quality materials and tools. 	<ol style="list-style-type: none"> 1. A board with details of work – estimates and running costs – material, labour and funds, will be put up at every site, and updated regularly. The format will be user friendly. 2. The muster rolls will be accessible upon demand. <p><i>The people must periodically verify the information on the board and in the muster rolls.</i></p> <ol style="list-style-type: none"> 3. Every week five randomly selected workers will have to verify and certify all of bills/vouchers of their work site, before they are passed. <p><i>The people must ensure that the five workers selected are all reliable and independent of the authorities. These five workers must verify all the documents after carefully checking them.</i></p> <ol style="list-style-type: none"> 4. A copy of the sanction/work order will also be available for public inspection orders at the work site. 5. There would also be provisions for access to samples of works, to be taken as per the procedure developed for the RTI Act. <p><i>The people must also periodically ensure that the work is going as per the sanction/work order. They must also take random samples of the material as this would put pressure on the authorities to ensure that standards are maintained.</i></p> <ol style="list-style-type: none"> 6. A daily materials-register must be kept, and verified by five randomly selected workers every day. <p><i>The people must ensure that the five workers selected are all reliable and independent of the authorities. These five workers must verify the daily materials</i></p>
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			<p><i>register after carefully checking the relevant facts.</i></p> <p>7. The daily/individual measurement records for each work and worker must be available for public inspection.</p> <p><i>This will only be an effective check if people regularly inspect these records and ensure that they are accurate.</i></p>
8.	<p>The entitlement to receive full wages for the work done, as per the prescribed rates.</p> <p>[Responsibility: An independent functionary]</p>	<ol style="list-style-type: none"> 1. Non-payment of wages 2. Late payment of wages. 3. Under payment of wages. 4. Payment of wages to the wrong person. 5. Payment of wages in the name of non-existent (Ghost) workers. 6. Payment of wages for non-existent projects. 	<ol style="list-style-type: none"> 1. Payments will be made in a Public place on fixed days (like in the weekly Sunday meetings) to ensure that there can be no ambiguity regarding payments 2. All recipients and amounts of payment will be read aloud to ensure that the illiterate are not cheated, and also to check ghost payments. 3. A list detailing all payments to be made will be put up in a public and easily accessible place prior to the reading aloud of the list. <p><i>The people must attend, as already stressed before, these meetings and must remain vigilant, carefully listening to the list, as it is read out. They should also verify the authenticity of the list that is pasted.</i></p> <ol style="list-style-type: none"> 4. Provisions will be made to facilitate payments through the post office and other financial institutions. 5. Payments will be made, as far as possible, by an agency independent of the implementing agency. 6. Disclosure of piece rate measurement will be made individually, and not en masse so as to provide each worker with his/her due exactly. This would prevent division of the wage earned by ghost workers etc.

9.	<p>The entitlement to receive unemployment allowance, if work is not allotted in the stipulated fifteen days</p> <p>[Responsibility: Project Officer/Gram Sewak]</p>	<ol style="list-style-type: none"> 1. Denial of unemployment allowance by wrongly accusing a person for not reporting to work 2. Late payment of unemployment allowance 3. Payment of unemployment allowance to the wrong person 4. Payment of unemployment allowance to non-existent (ghost) persons. 5. Demand of bribe for paying allowance. 	<ol style="list-style-type: none"> 1. A weekly public announcement of work allocation will be made, and work allocation orders will be displayed publicly (see 6 above). 2. Payments will be made in a Public place on fixed days (the fixed Sunday) to ensure that there can be no ambiguity regarding payments 3. All recipients and amounts of payment will be read aloud to ensure that the illiterate are not cheated, and also to check ghost payments. 4. A list detailing all payments to be made will be put up in a public and easily accessible place prior to the reading aloud of the list. 5. Provisions will be made to facilitate payments through the post office and other financial institutions. 6. The Gram Panchayat will automatically generate, each week, in advance of the weekly meeting, a list of those eligible for receiving the allowance. <p><i>The people must attend, as already stressed before, these meetings and must remain vigilant, carefully listening to the list, as it is read out. They should also verify the authenticity of the list that is generated by the Gram Panchayat.</i></p>
10.	<p>The entitlement to be involved in the evaluation of the works undertaken under this act</p> <p>[Responsibility: Gram Sewak/</p>	<ol style="list-style-type: none"> 1. Taking and/or recording of improper measurements 2. Not consolidating the information regarding the works in one place. 3. Issuing of false completion certificates 	<ol style="list-style-type: none"> 1. Verification of works, for conformity with work order in terms of specifications and quality, will be carried out by a Ward/Gram Sabha. 2. An assessment of relevance of new works, along with appropriateness, will also be carried out by a Ward/ Gram Sabha. <p><i>The people must participate in the verification and</i></p>

	EG Officer]	<ol style="list-style-type: none"> 4. Works not conforming to specifications/ standards. 5. Data recorded in a confusing/ Incomprehensible manner. 	<p><i>assessment exercise, and ensure that the work done conforms with what was commissioned and is of use to the people.</i></p> <ol style="list-style-type: none"> 3. Completion data will be made public in a people friendly format.
11.	<p>The entitlement to participate in a People's Audit Meeting (Jan Audit Manch) , where all the projects and activities related to the NREGA are assessed and publicly verified.</p> <p>[Responsibility: Gram Sewak/ EG Officer</p>	<ol style="list-style-type: none"> 1. No public hearing actually takes place, but is shown on paper to have taken place. 2. The public hearing is manipulated so that only those interested in one point of view are allowed to attend. 3. People are prevented from fully participating or from speaking the truth. 4. The hearing is disrupted by rowdy elements. 	<ol style="list-style-type: none"> 1. Comprehensive public hearings will be held, relating to works and individual entitlements, bi annually at the Ward/Gram Sabha level for all works completed in that period. The details of the requirements for this public hearing are given in the next section. 2. On a random sampling basis, these hearings will be attended by state/central observers and also by independent research groups. 3. Wherever possible, audio-visual records of the public hearing will be maintained. <p><i>This peoples audit meeting (Jan Audit Manch) is perhaps the most important element of the social audit and people must participate fully in this and raise issues, without fear or favour, in order to ensure that the NREGA is being properly implemented.</i></p>

Institutional Structures

Though the main responsibility of ensuring that all these measures are properly and faithfully implemented would be primarily of the panchayati raj institutions, with the gram sabha being involved in all decision making and in planning, monitoring and evaluation, the people will have to ensure that the PRIs do what is necessary. The sarpanch, the gram sewak, and the gram panchayat secretary will be the critical functionaries. The junior engineer, the project officer and the EG officer (as and when he/she is appointed), would also share some of the responsibility.

State and Central Monitoring

As per the obligations under the NREGA, the over all responsibility for monitoring the implementation of the NREGA rests with the Central and the State Governments. In order to fulfil this obligation, the state and central governments will designate a sufficient number of state and central observers who would, on a random sampling basis, attend the bi-annual public hearings and determine the state of implementation. It would be important for the people to ensure that these observers are made aware of the true nature of things and that all problems and complaints are brought to their notice.

In addition, both the state and the central governments will also sponsor independent surveys through reputed institutions that can, at a community and household level, collect information about the functioning of the REGS. A related exercise can also assess, in retrospect – say after two years, the durability, maintenance and public utility of the assets created. Again, the people must assist in the carrying out of these surveys and ensure that all critical facts are made available to the surveyors.

Capacity Development

If the process of social audit has to be effectively used, the capacities of the people and people's organisations will be developed and they would be familiarised with the method and oriented towards the philosophy. For this, a network of institutions is being identified and a cadre of trainers are being trained.

Complaints and Grievance Redressal Mechanism

If the social audit process is to be successful, there has to be an effective institutional mechanism that can deal with complaints and grievances, and functions transparently, while providing some protection to vulnerable individuals and families. The functioning of this mechanism would be within time bound norms and it would be answerable to the affected people for its actions and inaction.

6. METHOD OF ORGANISING A PEOPLES AUDIT MEETING (JAN AUDIT MANCH)

Mandatory Social Audits in the Gram Sabha

Apart from the ongoing process of social audit enumerated above, there will be a mandatory periodic review of all aspects of social audit in ward sabhas (where they exist) and in the Gram Sabha meetings to be held at least once every six months for this purpose (To be called “Jan Audit Manch”). These will not only give people an opportunity to review compliance with the ongoing requirements of transparency and social audit, they will also serve as an institutional forum where people can conduct a detailed public audit of all NREGA work that has been carried out in their area in the preceding six months. The importance of this platform is not only the independent value of publicly auditing a particular work, but also that it provides an opportunity to review the functioning of all the transparency provisions at various points in the implementation of the act with beneficiaries and all the stakeholders residing in the area. The social audit compliments the financial audit, and facilitates examination aspects of the programme by the people. This is beyond the scope of the financial audit. It provides an institutional platform for people to seek and obtain information, verify financial expenditure, examine the provision of entitlements, the reflection of priorities through choices made, quality of work, and quality of services of programme staff. While the social audit must be seen as an ongoing process, the ward/gram sabha Jan audit manch is a crucial platform for ensuring peoples participation in all aspects of the NREGA. Because of the requirement **to read information out aloud**, the manch facilitates the participation of people who don’t have the literacy skills to understand documents. It is therefore mandatory that such social audits be conducted on a bi-annual basis, and that programme officers be made responsible for ensuring they take place.

There are three essential aspects regarding the bi-annual Jan Audit manch: The Publicity and preparation before the social audit takes place; Organisational and procedural aspects of the social audit; and the mandatory agenda for all aspects of an EGA social audit.

The Preparatory Phase

The success of a social audit is dependent on the open and fearless participation of all the people- particularly the potential beneficiaries of the programme. Effective public participation is dependent on adequate publicity about the meeting as well as informed public opinion, dependent on prior information provided to people in a demystified form.

Publicity

It must be ensured that sufficient publicity be given to the date, time, importance and sanctity of the social audit, so that maximum participation is ensured. This must be facilitated through:

- People should be aware of the months when the Jan Audit Manch is to be held so that it becomes a regular event that people are aware of. State Governments should therefore issue instructions about the time of year when it is convenient for people to attend such meetings
- Announcement of the specific date, time and location of the Janta Audit Manch” atleast one month in advance
- Use of traditional modes of publicity like informing people through beating of drums, and modern means like mike announcements,
- Notices on the notice board, in newspapers, and through pamphlets etc
- Conducting these audits in a campaign mode so that the entire administration gears up to meet the institutional requirements of the manch, and the campaign encourages people to attend

Preparation of Documents

The full and efficient participation of people in the social audit manch is dependent on full information. This is not only facilitated through easy access to all documents and information while the works are in progress, but preparing for the social audit by collating information and demystifying the information so that people can look at summaries, of information before the social audit, and these summaries can be read out aloud during the Jan Audit Manch. In this connection it is essential that:

- All the relevant documents, including complete files of the works or copies of them be made available for inspection at the gram panchayat office atleast fifteen days in advance of the jan audit. There should be free and easy access to all residents of the

panchayat to these documents during this period, and no fees should be charged for inspection. During this period, if anyone wants copies of the documents, they should be provided at cost price as soon as possible, but no later than five days of the request being made.

- Summaries of muster rolls and of Bills must be prepared (see format) in advance for presentation in the Jan Audit. If possible, these summaries should be put onto charts for public display on the day of the jan audit, and to put up at the panchayat office during the fifteen day pre-audit phase
- The original files should be available on the day of the jan audit, so that any information can be cross checked
- The works to be taken up for audit, should be listed in advance, and the list should be put up on the notice boards, along with the other items on the agenda

Requirements for the jan Audit manch

The Jan Audit Manch is a platform where the independence and facilitating nature of the institutional arrangements will contribute directly to its credibility. It is essential to ensure that proceedings are conducted in a transparent and non-partisan manner, where the poorest and most marginalized can participate and speak out in confidence and without fear. Care has to be taken that the manch not be manipulated by vested interests. Towards this end:

- The time of year for the manch meetings must be such that it is convenient for as many residents to attend- in particular, those who are EGA workers, and all marginalized communities
- The timings must similarly be convenient so that women can also attend
- The quorum of the manch must be the same as for all gram sabhas, and the quorum must be maintained as per separate categories (see format) Social audit objections must however be recorded at all times, and lack of a quorum should not be taken as a reason for not recording objections
- The social audit Manch must be chaired by an individual independent of the implementing agencies in the panchayat. The ward panch/ panchayat president must not chair this meeting
- The secretary of the manch must also be an official from outside the panchayat
- The person responsible for presenting the information should not be a person responsible for implementing the work. The vigilance committee, or a school teacher

for instance could be considered for the purpose of reading aloud the information as per the required format

- All officials responsible for implementation must be required to be present at the jan audit manch and be required to answer queries from members of the gram sabhaa
- Decisions and resolutions must be made by vote, but dissenting opinion must be recorded.
- Minutes must be recorded as per the format (see format), by a person from outside the implementing agencies, and the minute register must be signed by people at the beginning and end of the meeting (after the minutes are written)
- The agenda (given below) must be gone through including the transparency checklist, and all objections recorded as per format (see format)
- The action taken report of the last social audit must be read out at the beginning of each jan audit manch.
- In addition, every district should also have a team of technical people from outside the district (engineers and accountants) who will help in the preparation of information for dissemination, who will attend selected jan audits, take detailed notes, and immediately after the jan audit, visit all the sites and conduct detailed enquiries where people have testified that there is corruption.
 - The report of these sample jan audits and the reports of the technical team should be submitted to the district employment guarantee council in a specified time frame for necessary action.
 - During the jan audits, right to information provisions, ward sabha social audit manuals, should be publicized so that this serves as an ongoing training for the public vigilance process.

The Agenda for the Gram Sabha Social Audit

The Agenda for the social audit in the Gram sabha must include the following:

A checklist must be prepared to review whether norms and provisions in the act, rules and guidelines are being followed:

- a) Whether the process of registration was conducted in a transparent manner

- Was a list prepared by the panchayat of all the possible households who might seek registration.
 - Was the first registration done in a special ward sabha/gram sabha conducted for the purpose
 - Was the list of registered persons read out for verification in the Gram sabha
 - Is Registration Open in the panchayat on an ongoing basis
 - Is the registration list regularly updated and put up on the Panchayat notice board
 - Is there anyone remaining who wants to register, but who has not yet been registered
- b) Whether Job cards were prepared, issued, and updated in a transparent manner
- Were job cards issued within one month of registration
 - Is the list of job cards regularly updated, and put up on the panchayat notice board?
 - Is a file containing photocopies of all job cards available for inspection in the panchayat office
 - Was the job card issued free of cost, or was there a charge imposed for issuing the job card
 - Is there anyone who has not received a job card, or is there any other pending complaint
- c) Whether the applications for work are being treated as per norms
- Are workers receiving dated receipts for their application for work
 - Are people being given work on time
 - Is the allotment of work being done in a transparent manner, with lists of work allotments being put up on the panchayat notice board for public notice and display
 - Are those who have not been given work on time, received unemployment allowance? How many people have outstanding payments of unemployment allowance, and are they being compensated for late payments as per the guidelines?
 - There must be a reading aloud of a list of workers who have received unemployment allowance (if any) in the last six months, along with the amounts disbursed, and the basis for calculation of the amounts
 - Are there any pending complaints about the receipt of work applications, the allotment of work, and the payment of unemployment allowance
 - Is the gender quota being satisfied in the allotment of work
 - Is the roster based on date of application received being followed for the allocation of work

- Are those who are allocated work outside the five km radius being given extra payment equal to 10 % of the minimum wage
- d) Transparency in the sanction of work
- Was the shelf of projects prepared in the Gram sabha
 - Was the technical estimate prepared by the Junior Engineer along with the residents of the village
 - Were the works sanctioned from the shelf of projects as per norms?
 - A list of all the EGA works sanctioned in the six month period must be read out aloud, along with amount sanctioned, and amount spent on the works. This list must include works sanctioned from both the panchayat/ and non panchayat list which were undertaken within the ward/ gram panchayat
 - Has the Panchayat board been updated with the list of works painted on it (see format)
- e) Transparency in the implementation of work
- Was there a board on the work site giving details of sanctioned amount, work dimensions, and other requisite details (see format)
 - Was an open transparency meeting held **before** commencement of the work to explain the work requirements to the workers, including the labour and material estimates as per the technical sanction (see simplified format)
 - Were the muster rolls available for public scrutiny at all times at the work site
 - Was there a work site material register (see format) maintained, along with verification by at least five workers whenever material came to the site
 - Was a daily individual measurement of work conducted in a transparent manner where piece rate norms were in force
 - Was the measurement of the work done by the junior engineer in the presence of a group of workers
 - Did members of the vigilance committee make regular visits to the work site, and monitor the implementation of various aspects of the work
 - Were any complaints made? Were they addressed within seven days by the grievance redressal authority as specified in the guidelines
 - Was an open transparency meeting held **within seven days of the completion** of the work, where all those who worked on the site, and residents of the village where the work took place are invited to look at the entire records. Compliance of the

requirement to hold this meeting must be made necessary before the completion certificate is issued

f) Making of wage Payments

- Were wages paid within seven days
- Were wages paid at a designated public place at a designated time
- Were all payment details available for public scrutiny before the payments were made (through putting up muster roll copies on notice boards etc)
- Were payment details read out aloud in public while making payments
- Were payments made by an agency other than the one implementing the work
- Was a record maintained of payments made beyond the specified time limit
- Was compensation given as per the provision of the payment of wages act for late payments
- Are there any wage payments which are still due

g) Post Facto auditing of the records and accounts of each work undertaken

- Does the file have all the documents required (see file check list and format)
- Were all the documents available for scrutiny atleast 15 days before the social audit meeting
- Were charts prepared of the summary sheets for public display and scrutiny before and during the social audit
- The muster roll summary must be read out aloud to check for discrepancies(see format)
- The summary of the bills must be read out aloud to check for discrepancies (see format)
- The measurement book summary (see format) must be read out aloud
- The photographs taken, before, during, and after the work must be available for public display and scrutiny during the social audit
- Was the vigilance committee formed as per norms
- Has the vigilance committee submitted its report (see format)
- The report of at least the following aspects of the vigilance committee and its findings should be read out and form the basis of discussion in the ward/gram sabha- a) quality of work b) work dimensions c) selection of location d) were minimum wages paid e) were wages paid on time f) have all bill payments been made g) were there any complaints made to them during the work h) what redressal took place for complaints

or grievances. i) were the work site facilities made available j) what are the maintenance requirements of the project

h) Other general issues connected with EGA works

- There must be an action taken report prepared by the programme office on the resolutions and findings of the last social audit read out aloud at the beginning of each meeting
- Are there any general maintenance issues to be looked at related to development works in the panchayat
- Has the last financial audit report been submitted? It should be made available to the social audit manch, and audit objections if any should be read out aloud
- Any UCs or CCs issued since the last social audit should be read out aloud
- Are there any persons with outstanding wages or unemployment allowance to be paid? These should be listed and reported to the programme office for necessary action
- Are all the boards in the panchayat updated as per requirements.
- The services of the EGA staff like the Panchayat Rozgar sevak, and the junior engineer, and any other staff, need to be audited for quality of service.
- The timely flow of funds from the programme office to the gram panchayat needs to be monitored

The procedure for conducting a model social audit

Notice

Publicising

Quorum (category wise)

Minutes (as per format)

Chairing the session

Presenting the information

Keeping minutes

Mode of decision making- vote, consensus, dissent

7. ANNEXURE

The National Rural Employment Guarantee Act 2005

This annexure discusses the basic features of the National Rural Employment Guarantee Act 2005, hereafter NREGA 2005 or “Employment Guarantee Act” for short. The relevant sections of the Act are mentioned in square brackets.

A. GENERAL QUESTIONS

1. What is the basic idea of an Employment Guarantee Act?

The idea is to give a legal guarantee of employment to anyone who is willing to do casual manual labour at the statutory minimum wage. Any adult who applies for work under the Act is entitled to being employed on public works without delay. Thus, an Employment Guarantee Act provides a universal and enforceable legal right to the most basic form of employment. It is a step towards legal enforcement of the right to work, as an aspect of the fundamental right to live with dignity.

2. What are the potential benefits of an Employment Guarantee Act?

There are many. To start with, an effective Employment Guarantee Act (EGA) would help to protect rural households from poverty and hunger. In fact, a “full-fledged” EGA (with an unlimited individual guarantee of work, not restricted to “100 days per households per year”) would enable most poor households in rural India to cross the poverty line. Secondly, it would lead to a dramatic reduction of rural-urban migration: if work is available in the village, many families will stay in place instead of heading for the cities. Thirdly, guaranteed employment can be a major source of empowerment for women. Based on past experience, women are likely to account for a large proportion of labourers employed under the Act, and guaranteed employment will give them some economic independence. Fourthly, the Employment Guarantee Act is an opportunity to create useful assets in rural areas. Fifthly, guaranteed employment is likely to change power equations in the rural society, and to foster a more equitable social order.

Last but not least, the Employment Guarantee Act is a means of strengthening the bargaining power of unorganized workers. This, in turn, could help them to struggle for other important entitlements, such as minimum wages and social security. The process of mobilising for effective implementation of the Act also has much value in itself. It is a unique opportunity for “unorganised workers” to organise, which could give a new lease a life to the labour movement in large parts of India.

3. Who is entitled to work under the Employment Guarantee Act?

The work guarantee is a “universal” entitlement - any adult is entitled to apply. The Act is based on the principle of self-selection: anyone who is willing to do unskilled manual labour at the minimum wage is presumed to be in need of public support, and must be provided employment on demand. If anyone tells you that the work guarantee is only for households with a “BPL card”, do not believe it!

4. Is there a limit on the number of days of guaranteed employment over the year?

Yes. As mentioned earlier, the employment guarantee is restricted to “100 days per household per year”. Note that “year” here refers to the financial year, which starts on 1 April. In other words, on 1 April each household gets a new “quota” of 100 days for the next twelve months. Note that the quota of 100 days can be “shared” between adult members of the household: different persons can work on different days, or even on the same day, as long as their combined days of employment do not exceed 100 days in the financial year.

B. THE EMPLOYMENT GUARANTEE SCHEME

The Employment Guarantee Act directs every State Government to prepare an Employment Guarantee Scheme within six months, in order to implement the work guarantee.

5. What kinds of work can be taken up under the Employment Guarantee Scheme?

Schedule I of the Act lists eight categories of works that are supposed to be “the focus of the Scheme”. Briefly, these include (1) “water conservation and water harvesting”; (2) “drought proofing” (including afforestation); (3) “irrigation canals including micro and minor irrigation works”; (4) “provision of irrigation facility” to land owned by households belonging to the Scheduled Castes and Scheduled Tribes, beneficiaries of land reforms, or beneficiaries of Indira Awas Yojana; (5) “renovation of traditional water bodies” including desilting of tanks; (6) “land development”; (7) “flood control and protection works” including drainage in water logged areas; and (8) “rural connectivity to provide all-weather access”. In addition, there is a residual ninth category: “any other work which may be notified by the Central Government in consultation with the State Government”.

This list is quite restrictive, and in this respect NREGA 2005 contrasts sharply with the “citizens’ draft”, where permissible works were broadly defined as works that contribute (directly or indirectly) to “the increase of production, the creation of durable assets, the preservation of the environment, or the improvement of the quality of life”. Short of modifying Schedule I, the only way of expanding the list of permissible works within the framework of the Act is to add further works under the residual category.

The Act also states that a list of “preferred works”, to be taken up on a priority basis, is to be drawn by the State Employment Guarantee Council. The preferred works are to be identified “based on their ability to create durable assets”, and may differ between different areas.

6. Can works under EGS be taken up in urban areas?

In principle, no. The Act states that “the works taken up under the Scheme shall be in rural areas” [Schedule I, Para 3].

7. Are there any other important restrictions on EGS works?

“New works” can be initiated only if (1) at least fifty labourers become available for such work, and (2) the labourers cannot be absorbed in the ongoing works. However, this restriction can be waived by the State Government “in hilly areas and in respect of afforestation”. [Schedule II, Para 13]

8. Who will be responsible for implementing the Employment Guarantee Scheme?

The Employment Guarantee Scheme will be implemented by the State Government, with funding from the Central Government. According to Section 13, the “principal authorities” for planning and implementation of the Scheme are the Panchayats at the District, Intermediate and village levels. However, the division of responsibilities between different authorities is actually quite complex, as we shall see further on.

The basic unit of implementation is the Block. In each Block, a “Programme Officer” will be in charge. The Programme Officer is supposed to be an officer of rank no less than the Block Development Officer (BDO), paid by the Central Government, and with the implementation of EGS as his or her sole responsibility. The Programme Officer is accountable to the “Intermediate Panchayat” as well as to the District Coordinator. We shall return to this in Section E, after discussing the entitlements of the labourers under EGS.

C. WORKERS' ENTITLEMENTS

9. How are labourers expected to apply for work under the Employment Guarantee Scheme?

It is basically a “two-step” procedure. The first step is to “register” with the Gram Panchayat. The second step is to apply for work. Registration is required only once every five years, but applications for work have to be submitted each time work is required.

The main purpose of the registration process is to facilitate advance planning of works. If a household applies for registration, it is the duty of the Gram Panchayat to register it and issue a “job card”. The job card will ensure that labourers are in possession of a written record of the number of days they have worked, wages paid, unemployment allowances received, and so on, instead of depending on government officials for this purpose. A job card is supposed to be valid for five years at least.

Applications for work may be submitted at any time, either through the Gram Panchayat or directly to the Programme Officer. Both have a duty to accept valid applications and to issue a dated receipt to the applicant [Schedule II, Para 10]. Applications must be for at least 14 days of continuous work [Schedule II, Para 7]. The Act provides for group applications, advance applications, and multiple applications over time [Schedule II, Paras 10, 18 and 19]. Applicants are supposed to be told where and when to report for work within 15 days, by means of a letter as well as of a public notice displayed on the notice board of the Gram Panchayat and at the office of the Programme Officer [Schedule II, Paras 11 and 22].

Note that the unit of registration is the “household”, while applications for work are individual applications.

10. How is a “household” defined in the Act?

The Act defines a household as “the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card” [Section 2(D)]. The problem with this definition is that members of a “joint family” who live together and share a ration card may be treated as a single household, even if the household is quite large. This will be unfair to large households, because they will be entitled to the same 100 days of work per year as small households, even if their needs are much larger. Ideally, every nuclear family should be considered as a separate household.

11. How much are labourers going to be paid under the Employment Guarantee Scheme?

Labourers are entitled to the statutory minimum wage applicable to agricultural workers in the State, *unless* the Central Government “overrides” this by notifying a different wage rate. If the Central Government notifies a wage rate, it is subject to a minimum of Rs 60 per day. [Section 6]

12. What will be the mode of payment – daily wages or piece rates?

Both are permitted under the Act. In both cases, the minimum wage defined in Section 6 applies. If wages are paid on a piece-rate basis, the schedule of rates has to be such that a person working for seven hours would normally earn the minimum wage. [Schedule I, Paras 6 to 8]

13. Will wages be paid in cash or in kind?

Wages may be paid in cash or in kind or both. Payment in kind would usually mean part payment in foodgrain. The cash component has to account for at least 25 per cent of the total wage. [Schedule II, Para 31]

14. What about the regularity of wage payments?

Wages are to be paid every week, or in any case “not later than a fortnight after the date on which such work was done” [Section 3(3)]. Further the State Government “may prescribe” that a proportion of the wages in cash should be paid on a daily basis [Schedule II, Para 32].

15. What if wages are not paid on time?

In such cases, labourers are entitled to compensation as per the provisions of the Payment of Wages Act 1936 [Schedule II, Para 30].

16. Can different wages be paid to men and women?

Certainly not. Men and women are entitled to the same wages. In fact, any form of gender discrimination is prohibited. [Schedule II, Para 34]

17. Are labourers entitled to any specific facilities at the worksite?

Yes. The following facilities are supposed to be available at the worksite: “safe drinking water, shade for children and periods of rest, first-aid box with adequate material for emergency treatment for minor injuries and other health hazards connected with the work” [Schedule II, Para 27]. This is not very much, but even these basic facilities are often missing at the worksites – it is important to insist that they should be in place.

18. What about facilities for the care of young children?

The Act states that “in case the number of children below the age of six years accompanying the women working at any site are five or more, provisions shall be made to depute one of such women workers to look after such children” [Schedule II, Para 28]. Further, the person who is deputed to look after young children is entitled to the same minimum wage as other labourers [Schedule II, Para 28].

19. Where will the work be provided?

“As far as possible”, work must be provided within 5 km of the applicant’s residence. If it is provided beyond that radius, work must be provided within the Block, and workers must be paid daily transport and living allowances equivalent to 10 per cent of the wage rate. [Schedule II, Paras 12 and 14]

20. Is there any provision in the Act for the employment of persons with disabilities?

No. The “citizens’ draft” included a special clause on this, but it was removed in the final version of the Act. However, it may be possible to reinstate special provisions for disabled persons under the “Rules” of the Employment Guarantee Scheme, to be framed by the State Government. Such provisions might include, for instance: (1) recording of any disabilities at the time of registration; (2) provision of special work opportunities to persons with disabilities; (3) mandatory provision of special employment facilities to households where no-one is able to take up ordinary employment opportunities due to disability or related reasons (e.g. need to take care of a disabled person); and (4) ear-marking of 3% of the EGS funds for employing persons with disabilities. Note that the last suggestion is based on the Persons with Disabilities Act 1995, which states that “the appropriate

Governments and local authorities shall reserve not less than three per cent in all poverty alleviation schemes for the benefit of persons with disabilities.”

21. What happens if there is an accident at an EGS worksite?

If a labourer is injured “by accident arising out of and in the course of his employment” under the Employment Guarantee Scheme, he or she is entitled to “such medical treatment as is admissible under the Scheme”, free of charge. If hospitalisation is required, he or she is entitled to accommodation, treatment, medicines and a daily allowance “not less than half the wage rate”. There are similar provisions for children who may be accompanying labourers employed under the Scheme. In case of death or permanent disability, an ex gratia payment of Rs 25,000 (“or such amount as may be specified by the Central Government”) is to be paid to the victim or his or her family. [Schedule II, Paras 24, 25, 26 and 33]

22. Can labourers exercise any choice regarding the type of work that is given to them?

No. They have to accept whatever employment is given to them by the Gram Panchayat or Programme Officer [Schedule I, Para 10]. At best, they have some indirect say in the matter in so far as they participate in the process of planning the works, through Gram Sabhas and other means (see Section E below).

23. What happens if someone applies for work but does not report for work when employment is provided?

If an applicant fails to report for work within 15 days of being informed that work is available, he or she stands debarred from receiving the unemployment allowance for a period of three months.

C. UNEMPLOYMENT ALLOWANCE

24. Who is entitled to an unemployment allowance under the Employment Guarantee Act?

Anyone who has not been provided with work within 15 days of applying (or within 15 days of the date for which employment is sought, in the case of “advance applications”). [Section 7(1)]

25. In such circumstances, is the State Government obliged to pay the unemployment allowance?

This is certainly the intention. In the “citizens’ draft”, the payment of the unemployment allowance was mandatory. However, NREGA 2005 is a little ambiguous on this. Section 7(1) suggests that labourers who have not been provided with work have an unconditional right to the unemployment allowance. However, Section 7(2) suggests that the payment of the allowance is “subject to such terms and conditions of eligibility as may be prescribed by the State Government and subject to the provisions of this Act and the Schemes and the economic capacity of the State Government”. It is important to insist on the payment of the unemployment allowance in all cases where labourers have not been provided with work.

26. What is the role of the unemployment allowance?

The unemployment allowance has several roles. First, it provides a limited form of unemployment assistance to those who are waiting for work. Second, it provides a clear “signal” that the responsible authorities are failing to provide employment to all applicants. Third, it acts as a “penalty” on the State Government for this failure, since the payment of unemployment allowances is the responsibility of the State Government.

This penalty creates a strong incentive for the State Government to provide work. This is because employment costs are borne overwhelmingly by the Central Government, while the unemployment allowance is paid by the State Government. Therefore, State Governments can “save money” by providing employment instead of paying the allowance. However, for this incentive to work, the unemployment allowance must be actually paid, and not remain “on paper” as has happened in Maharashtra (where the unemployment allowance has never been paid). This is why the actual payment of the unemployment allowance is so important.

27. What is the level of the unemployment allowance?

The unemployment allowance is to be fixed by the State Government. However, it must be “no less than one-fourth of the wage rate” for the first thirty days, and “not less than one-half of the wage rate” after that. [Section 7(2)]

28. What is the time frame for the payment of the unemployment allowance?

The unemployment allowance is to be paid “not later than fifteen days from the date on which it became due for payment” [Section 7(5)].

29. When does someone who is receiving the unemployment allowance cease to be eligible for it?

The payment of the unemployment allowance can be discontinued in the following circumstances: (1) the recipient has been directed to report for work by the Gram Panchayat or the Programme Officer; (2) the period for which employment is sought has come to an end; (3) the recipient’s household has exhausted its “quota” of 100 days of work (within the financial year); (4) the household has earned as much as the wages of one hundred days of work, from the unemployment allowance and wage employment combined, within the financial year. [Section 7(3)]

E. IMPLEMENTATION AND MONITORING AUTHORITIES

Note: The National Rural Employment Guarantee Act 2005 is a complex plot with many actors. The main actors are: the State Council, the District Coordinator, the Programme Officer, the Intermediate Panchayat, the Gram Panchayat and the Gram Sabha, aside from “implementing agencies” other than the Panchayats. There is an elaborate division of responsibilities between these different authorities, and the details are not always clear from the Act. An attempt is made below to present a simplified account of the facts.

30. What are the responsibilities of the “Programme Officer” in the Employment Guarantee Scheme?

The Programme Officer essentially acts as a “coordinator” for the Employment Guarantee Scheme at the Block level. Remember, the Block is the basic unit of implementation. Within the Block, two separate processes take place simultaneously. On one side, people are applying for work through the Gram Panchayat, or directly to the Programme Officer – in both cases the applications eventually reach his or her office. On the other side, proposals for works to be taken up under EGS (“projects” for short) are being prepared by the “implementing agencies”: the Intermediate Panchayat, the Gram Panchayats, line departments, NGOs, and so on. The Programme Officer stands at the intersection of these two processes: he or she receives the applications for work as well as the project proposals, and is supposed to “match” the two. This involves sanctioning projects in such a way that all those who have applied for work can be employed within 15 days.

Aside from this “planning” role, the Programme Officer has a “monitoring” role. He or she is supposed to monitor the implementation of the works sanctioned, ensure that wages are paid on time, deal with any complaints that may arise, enforce all the transparency provisions, and so on. The list

of responsibilities is quite long and hard to summarise – the main duties of the Programme Officer are listed in Box 1.

Ultimately, the chief responsibility of the Programme Officer is to ensure that anyone who applies for work gets employment within 15 days, or in other words, to safeguard the basic entitlement of labourers under the Act. When this is not possible, he or she has to sanction and disburse the unemployment allowance, and explain in his or her annual report why employment could not be provided. The Programme Officer is accountable to the Intermediate Panchayat and the District Coordinator.

BOX 1:
MAIN RESPONSIBILITIES OF VARIOUS ACTORS AT THE BLOCK LEVEL

A. RESPONSIBILITIES OF THE BLOCK OFFICER

- 1. Ensure that every applicant is provided unskilled manual work in accordance with the provisions of the Scheme within fifteen days.**
2. Prepare a plan for the Block by consolidating the project proposals prepared by the Gram Panchayats and other implementing agencies.
3. Match the demand for employment with the employment opportunities available in the Block.
4. Receive applications for work and issue a dated receipt to the applicant. (This responsibility is shared with the Gram Panchayat.)
5. Notify applicants to report for work. (This responsibility is also shared with the Gram Panchayat.)
6. Ensure prompt and fair payment of wages to all labourers employed under EGS.
7. Sanction and disburse the unemployment allowance.
8. Sanction projects to be taken up by the Gram Panchayats.
- 9. Monitor the projects taken up by the Gram Panchayats and other implementing agencies within the Block.**
10. Keep a copy of the muster rolls available for inspection “by any person interested”.
11. Ensure that regular social audits of all works are carried out by the Gram Sabha.
- 12. Deal promptly (within seven days) with any complaint that may arise in connection with the implementation of the Scheme.**
- 13. Prepare an annual report on the implementation of EGS in the Block.**
- 14. Assist the “Intermediate Panchayat” in discharging its functions under this Act.**
15. Any other work that may be assigned to the Programme Officer by the District Programme Coordinator or the State Government.

Note: “All or any” of the functions of the Programme Office can be delegated to the Gram Panchayat by the State Government (see text).

BOX 1 (CONT'D)

B. RESPONSIBILITIES OF THE INTERMEDIATE PANCHAYAT

1. Send "proposals" of works to be taken up under EGS to the Programme Officer.
2. **Implement projects that have been sanctioned by the Programme Officer.**
3. Approve the Block Plan and forward it to the District Panchayat for final approval.
4. Supervise and monitor the projects taken up at the Gram Panchayat and Block level.
5. Any other duties that may be assigned to the Intermediate Panchayat by the State Council.

C. RESPONSIBILITIES OF THE GRAM PANCHAYAT

1. **Prepare a development plan and maintain a shelf of possible works to be taken up under the Scheme, taking into account the recommendations of the Gram Sabha.**
2. **"Register" those who are willing to work under EGS and issue a job card to them.**
3. **Receive applications for work and issue a dated receipt to the applicant.**
4. Allocate work opportunities among the applicants and ask them to report for work.
5. **Display a list of persons who are being provided with work on its notice board.**
6. **Implement works that have been sanctioned by the Programme Officer.**
7. **Make all relevant documents available to the Gram Sabha for the purpose of social audits.**
8. **Keep a copy of the muster rolls available for public scrutiny at the Panchayat office.**
9. **Prepare an annual report on the implementation of the Scheme.**

D. RESPONSIBILITIES OF THE GRAM SABHA

1. Recommend "projects" to the Gram Panchayat and make recommendations to the GP for the "development plan" and "shelf of possible works".
2. Monitor the execution of works within the Gram Panchayat.
3. Conduct regular social audits of all the projects taken up within the Gram Panchayat.

31. Can you clarify what is meant by “implementing agencies”?

Implementing agencies include any agency that is “authorized by the Central Government or the State Government to undertake the implementation of any work” taken up under EGS [Section 2(g)]. The main implementing agencies are the Gram Panchayats: at least 50 per cent of the works (in terms of share of the EGS funds) have to be implemented through the Gram Panchayats [Section 16(5)]. Other implementing agencies include the Intermediate Panchayats, the District Panchayats, and “line departments” such as the Public Works Department, the Forest Department, the Irrigation Department, and so on. The Employment Guarantee Act also allows NGOs to act as implementing agencies.

32. Can private contractors act as implementing agencies?

No. The Act clearly states: “The [Employment Guarantee] Scheme shall not permit engaging any contractor for implementation of the projects under it” [Schedule I, Para 11]. In short, contractors are banned.

33. What is the role of the Gram Panchayat in the Employment Guarantee Scheme?

To start with, the Gram Panchayat has to process applications for “registration” and employment. This involves registering potential workers, issuing job cards to them, receiving their applications for work, forwarding these to the Programme Officer, and informing the applicants as and when work is available. Applications for registration and employment can also be submitted directly to the Programme Officer, but normally they are expected to be submitted at the Gram Panchayat level.

As we saw, the Gram Panchayat is also the main “implementing agency”. It is expected to prepare a “development plan” for the village and maintain a shelf of projects to be taken up under EGS, based on the recommendations of the Gram Sabha. The Gram Panchayat also executes these projects, as and when they are sanctioned by the Programme Officer. All the relevant documents, including the muster rolls, are to be made available to the Gram Sabha for the purpose of “social audits”. Monitoring of EGS works implemented by the Gram Panchayat is the responsibility of the Gram Sabha and the Programme Officer.

34. What is the role of the Gram Sabha in the Employment Guarantee Scheme?

The Gram Sabha is expected to monitor the work of the Gram Panchayat, and also to participate in the planning process. In particular, the Gram Sabha will discuss and prioritise the works to be taken up, conduct regular social audits of all works carried out in the Panchayat, and verify that all the relevant norms are being observed. Resolutions of the Gram Sabha will be given priority in the planning of EGS works by the Gram Panchayat and the Programme Officer.

35. What happens above the Block level, say at the District and State levels?

At the District level, the supervision of the Employment Guarantee Scheme is the responsibility of the “District Coordinator”. The District Coordinator is expected to “coordinate” the work of the Programme Officers, for instance by consolidating their respective “plans” into a District-level shelf of projects [Section 14(3)(b)]. The District Coordinator is also expected to prepare a “labour budget” every year during the month of December, for the next financial year. Other responsibilities of the District Coordinator include conducting regular inspections of the works in the District, sanctioning works that are not within the jurisdiction of Programme Officers, assisting the District Panchayats, and preparing an annual report to the State Council.

At the State level, the Employment Guarantee Scheme is to be monitored by a State Employment Guarantee Council (or “State Council” for short). The State Council is essentially an advisory body

for the State Government. For instance, the State Council is expected to advise the State Government on the “schedule of rates” (payment rates for piece-rate work), the level of the unemployment allowance, and monitoring arrangements. Other key responsibilities of the State Council include preparing a list of “preferred works” to be taken up on a priority basis, conducting evaluations of EGS, and preparing an annual report to be laid before the State Legislature.

Finally, the Act calls for the creation of a National Employment Guarantee Council (or “National Council” for short). The functions of the National Council are similar to those of the State Council, at the national level. The National Council monitors the implementation of the Act country-wide, advises the Central Government, and prepares an annual report to be laid before Parliament.

F. TRANSPARENCY AND ACCOUNTABILITY

36. Have any safeguards against corruption been included in the Employment Guarantee Act?

Yes, the Act includes various provisions for transparency and accountability. For instance, job cards are to be issued to all labourers; wages are to be paid “directly to the person concerned and in presence of independent persons of the community on pre-announced dates”; muster rolls and other relevant documents are to be made available for public scrutiny; regular social audits of all EGS works are to be conducted by the Gram Sabhas; and so on. Further, the Employment Guarantee Act goes hand in hand with the Right to Information Act (also enacted in mid-2005). The right to information is an important tool for fighting corruption and is essential for the success of the Employment Guarantee Act. The NREGA 2005 includes an “anti-corruption clause”.

37. What is this “anti-corruption clause”?

This clause essentially states that in the event where the Central Government receives any complaint of “improper utilization of funds” and is “*prima facie* satisfied” that there is a case, it can “order stoppage of release of funds to the Scheme” [Section 27(2)].

38. What does the Act say regarding the accessibility of EGS accounts and records to the public?

There are three basic provisions for this. First, the Act clearly states that “all accounts and records relating to the Scheme shall be made available for public scrutiny”, and that anyone is entitled to a copy of these documents after paying “such fee as may be specified in the Scheme” [Schedule I, Para 16]. Second, a copy of the muster rolls is to be made available for inspection at the offices of the Gram Panchayat and Programme Officer, against payment of “such fee as may be specified in the Scheme” [Schedule I, Para 17]. Third, the Gram Panchayat is supposed to provide all relevant documents (including “the muster rolls, bills, vouchers, measurement books, copies of the sanction orders and other connected books of accounts and papers”) to the Gram Sabha for the purpose of conducting social audits [Section 17(3)].

Access to all these documents can also be sought under the Right to Information Act 2005. The provisions of this Act are very strong, and go much beyond the transparency provisions of the NREGA 2005 in many respects. For instance, there is a cap on the fees that can be charged for supplying photocopies of public documents. The Right to Information Act also has extensive provisions for “mandatory disclosure” of public documents (i.e. making these documents available in convenient form for public scrutiny without waiting for anyone to ask for them). Last but not least, the Right to Information Act provides for stiff “penalties” against officers who fail to supply information as prescribed. Thus, the Right to Information Act powerfully supplements the transparency provisions of the NREGA 2005. Skilful use of the Right to Information Act is an essential tool of effective implementation of the Employment Guarantee Act.

G. OTHER QUESTIONS

39. Are women likely to get a fair share of employment under the Employment Guarantee Scheme?

The Act states that “priority” should be given to women in the allocation of work, “in such a way that at least one-third of the beneficiaries shall be women” [Schedule II, Para 6]. What is not very clear is how this “quota” is to be implemented in the event where the proportion of women among all applicants is less than one third. The best thing to do is to encourage women to apply, and facilitate their applications, to ensure that this situation does not arise. In areas with a strong tradition of women’s employment outside the household, it is likely that women will account for more than one third of all applicants. In other areas, however, this may require pro-active steps to facilitate their participation in the Employment Guarantee Scheme.

40. What happens if the responsible officers (e.g. the Programme Officer) fail to perform their duty under the Act?

Ideally, there should be explicit penalties against responsible officers in the event where they fail to perform their duty under the Act. And there should be stiff penalties for gross violations of the Act, such as refusal to register someone’s application for work, or failure to pay the unemployment allowance. Unfortunately, the Act is quite weak in this respect. All it says is that “whoever contravenes the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees”. It may be possible to ensure that the Rules to be framed by State Governments include stronger penalties.