

F. No. S-16011/10/2016-LW(A)
Government of India
Ministry of Labour and Employment

Shram Shakti Bhawan, Rafi Marg,
New Delhi dated, the 28th September, 2017.

Subject: Amendment in the Contract Labour (Regulation and Abolition) Act, 1970- reg.


Ministry of Labour & Employment has decided to amend the Contract Labour (Regulation and Abolition) Act, 1970. A copy of the Preliminary Draft of THE CONTRACT LABOUR (REGULATION AND ABOLITION) AMENDMENT BILL, 2017 is attached.

2. As a part of pre-legislative consultative process, the suggestions/comments/inputs of all concerned stakeholders/other members of the public are invited on the preliminary Draft of THE CONTRACT LABOUR (REGULATION AND ABOLITION) AMENDMENT BILL, 2017 for consideration in the Ministry. The suggestions/comments/inputs must be submitted, within one month time from the date of issuance or latest by 27th October, 2017, by post to Ms. Anita Tripathi, Deputy Secretary, Ministry of Labour & Employment, Room No-301-A, Shram Shakti Bhawan, New Delhi or through email at anita.tripathi76@gov.in.

3. In order to facilitate proper consideration, the comments/suggestions on the amendment Bill must be in following format:

Format				
Section / Sub-Section / Clause / Proviso of the Amendment Bill	Issue / Problem identified in the Section / Sub-Section / Clause / Proviso of the Amendment Bill	Proposed Change that should be made	Reason for proposed change	Remarks, if any

Encl:- THE CONTRACT LABOUR AMENDMENT BILL, 2017


28/9/17
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Revised Dated: 28.09.2017

THE CONTRACT LABOUR (REGULATION AND ABOLITION) AMENDMENT BILL, 2017

**A
BILL**

Further to amend the Contract Labour (Regulation and Abolition) Act, 1970.

BE it enacted by the Parliament in the Sixty- Eighth Year of the Republic of India as follows:-

1. Short title and Commencement.- (1) This Act may be called the Contract Labour (Regulation and Abolition) Amendment Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2.-In section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970) (hereinafter referred to as the Principal Act), in sub-section (1),-

(i) in clause (b), the following Explanation shall be inserted, namely:-

‘Explanation.-For removal of doubt, it is clarified that where in or in connection with the work of an establishment a workman, who is regularly employed in an establishment of a contractor, is hired in or in connection with such work of the first said establishment by or through the contractor, with or without the knowledge of the principal employer, shall not be deemed as “contract labour” for the purposes of this clause;’;

(ii) for clause (c), the following clause shall be substituted, namely:-

‘(c) “contractor”, in relation to an establishment, means a person, who –

- (i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment; or
- (ii) supplies contract labour for any work of the establishment as mere human resource;

and includes a sub-contractor;’;

(iii) in clause (i), in sub-clause (B), for the words “five hundred rupees”, the words “the amount as notified by the appropriate Government in the official Gazette” shall be substituted.

3. Substitution of new section for section 12.- For section 12 of the Principal Act, the following section shall be substituted, namely:-

“12. Licensing of contractors.- (1) No contractor to whom this Act applies shall –

- (a) supply or engage contract labours in any establishment; or
- (b) undertake or execute the work through contract labour;

except under and in accordance with a licence issued by a licensing officer after satisfying that the contractor fulfils such requisite qualifications as may be prescribed.

(2) If a contractor does not satisfies the requisite qualifications referred to in sub-section(1), the licensing officer may issue him the licence for a limited period specified in the licence for undertaking or executing such work only and subject to the condition as may be specified in the licence and such licence shall be renewable under sub-section (3) of section 13.

(3) Subject to the provisions of this Act,-

(a) a licence under sub-section (1) may contain such conditions including, in particular, conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as the appropriate Government may deem fit to impose in accordance with the rules, if any, made under section 35 and shall be issued on payment of such fees and on the deposit of bank guarantee, as security for the due performance of the conditions as may be prescribed:

Provided that the conditions under this clause shall not include any limitation for doing the work of a particular nature in an establishment and the licence granted under sub-section (1) to undertake or execute any work through contract labour shall be construed to include any kind of work irrespective of its nature;

(b) every contractor who provides or intends to provide contract labour in an establishment for which the appropriate Government is a State Government shall obtain the licence from the licensing officer appointed by that State Government:

Provided that in case a contractor provides or intends to provide contract labour in an establishment for which the appropriate Government is a Central Government or the contractor undertakes or executes the work under the licence issued under sub-section (1) or sub-section (2) in more than one establishment situated in different states, then, he shall obtain the licence from the licensing officer appointed by the Central Government."

4. Amendment of section 13.-In section 13 of the principal Act,-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Every application for issuing a licence under sub-section (1) or sub-section (2) of section 12 shall be made in the prescribed form and shall contain the particulars regarding the nature of work for which contract labour is to be employed and such other particulars as may be prescribed.";

(ii) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) The licence issued under sub-section (1) of section 12 shall be valid for three years and shall be renewed thereafter in the prescribed manner and in case only the number of contract labours to be supplied are increased, then, the licence shall be renewed for the limited purpose of security deposits."

5. Insertion of new section 13A.-After section 13 of the principal Act, the following section shall be inserted, namely:-

"13A. Information regarding work order to be given to the appropriate Government.-

When a contractor receives work order from an establishment –

(i) for supply or engagement of contract labour in the establishment; or

(ii) by which he undertakes or executes work through contract labour in the establishment;

he shall, within such time and in such manner as may be prescribed, intimate the appropriate Government and if he fails to give such intimation within the time and manner so prescribed, then, his licence may be cancelled in the prescribed manner."

6. Amendment of section 14.- In section 14 of the principal Act, in sub-section (1), for the words "forfeit the sum, if any, or any portion thereof deposited as security", the words "forfeit the bank guarantee, if any, or any portion thereof deposited as security" shall be substituted.

7. Amendment of section 16.-In section 16 of the principal Act,the following sub-section shall be inserted, namely:-

“(3) The provisions of sub-section (1) and sub-section (2), shall not apply to an establishment, in respect of a contract labour, referred to in sub-clause (ii) of clause (c) of sub-section (1) of section 2, supplied therein and such contract labour shall be entitled for the same facilities,in respect of the facilities specified in sub-section (1) and sub-section (2), to be provided by the principal employer as the principal employer provides to his regular employees.”.

8. Amendment of section 17.-In section 17 of the principal Act,the following sub-section shall be inserted, namely:-

“(3) The provisions of sub-section (1) and sub-section (2), shall not apply to an establishment, in respect of a contract labour, referred to in sub-clause (ii) of clause (c) of sub-section (1) of section 2, supplied therein and such contract labour shall be entitled for the same facilities, in respect of the facilities specified in sub-section (1) and sub-section (2), to be provided by the principal employer as the principal employer provides to his regular employees.”.

9. Amendment of section 18.- Section 18 of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) so numbered,the following sub-section shall be inserted, namely:-

“(2) The provisions of sub-section (1), shall not apply to an establishment, in respect of a contract labour, referred to in sub-clause (ii) of clause (c) of sub-section (1) of section 2, supplied therein and such contract labour shall be entitled for the same facilities, in respect of the facilities specified in sub-section (1), to be provided by the principal employer as the principal employer provides to his regular employees.”.

10. Amendment of section 21.-In section 21 of the principal Act,-

(i) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) Every contractor shall,as may be practicable, make the disbursement of wages in a mode otherwise than in cash and inform the principal employer electronically the amounts so paid by such mode:

Provided that where it is not practicable to disburse such payment otherwise than in cash, then, it shall be disbursed in the presence of a representative duly authorised by the principal employer and it shall be the duty of such representative to certify the amounts so paid as wages in such manner as may be prescribed.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:-

“(3) It shall be the duty of every contractor to ensure the disbursement of wages under sub-section (2), primarily by electronic mode and if not so practicable, then, in cash in presence of the authorised representative of the principal employer.”.

11. Amendment of section 22.-In section 22 of the principal Act,-

(i) in sub-section (1), for the words “five hundred”, the words “five thousand” shall be substituted; and

(ii) in sub-section (2), for the words “five hundred”, the words “five thousand” shall be substituted.

12. Substitution of new section for section 23.- For section 23 of the principal Act, the following section shall be substituted, namely:-

"23. Contravention of provisions regarding employment of contract labour.— Whoever contravenes any provision of the notification, issued under section 10, prohibiting the employment of contract labour shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

13. Insertion of new section 23A.-After section 23 of the principal Act, the following section shall be inserted, namely:-

"23A. Contravention of section 13A.- Whoever contravenes any provision of section 13A or any rules made there under, shall be punishable with fine which may extend to ten thousand rupees."

14. Substitution of new section for section 24.- For section 24 of the principal Act, the following section shall be substituted, namely:-

"24. Other offences.- If any person contravenes any of the provisions of this Act or any rule made thereunder for which no other penalty is elsewhere provided, he shall be punishable with fine which may extend to ten thousand rupees:

Provided that where such person commits an offence under this section for first time, then, the inspector having jurisdiction shall give him notice specifying therein the contravention made by him and requiring him to rectify such contravention within such time as mentioned in the notice and if the person rectifies the contravention within the time so mentioned, then, no complaint shall be made against him for taking cognizance under section 26."

15. Amendment of section 27.- In section 27 of the principal Act, after the first proviso, the following proviso shall be inserted, namely:-

"Provided further that in computing the period of three months in this section, the time period mentioned in the notice given under the proviso to section 24 to the person against whom the complaint is made under this section for taking cognizance shall be excluded."

16. Insertion of new section 27A.-After section 27 of the principal Act, the following section shall be inserted, namely:-

"27A. Composition of offences.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted officer, as the appropriate Government may, by notification, specify, for a sum of fifty per cent. of the maximum fine provided for such offence, in the manner as may be prescribed.

(2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date-

(i) of commission of a similar offence which was earlier compounded; or

- (ii) of commission of similar offence for which such person was earlier convicted.
- (3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the appropriate Government.
- (4) Every application for the compounding of an offence shall be made in such manner as may be prescribed.
- (5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.
- (6) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (1) in writing, to the notice of the Court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.
- (7) Any person who fails to comply with an order made by the officer referred to in sub-section (1), shall be punishable with a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.
- (8) No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section."

17. Amendment of section 35.-In section 35 of the principal Act, in sub-section(2),-

- (i) after clause (f), the following clause shall be inserted, namely:-
“(ff) the requisite qualifications under sub-section (1) of section 12;
(fff) the manner of renewal of licence under sub-section (3) of section 13;
(ffff) the time within which and the manner in which the appropriate Government shall be intimated under section 13A;
(fffff) the manner of cancelling licence under section 13A;”;
- (ii) after clause (o), the following clauses shall be, inserted, namely:-
“(oo) the manner of the composition of offence under sub-section (1) of section 27A;
(ooo) the manner of making application under sub-section (4) of section 27A;”.