

THE EMPLOYMENT EXCHANGES (COMPULSORY NOTIFICATION OF VACANCIES) ACT, 1959

SYNOPSIS

	Page
<i>Introduction</i>	11.672
Sections	
1. Short title, extent and commencement	11.673
2. Definitions	11.673
3. Act not to apply in relation to certain vacancies	11.675
4. Notification of vacancies to employment exchanges	11.676
5. Employers to furnish information and returns in prescribed form	11.676
6. Right of access to records or documents	11.676
7. Penalties	11.677
8. Cognizance of offences	11.677
9. Protection of action taken in good faith	11.677
10. Power to make rules	11.678

THE EMPLOYMENT EXCHANGES (COMPULSORY NOTIFICATION OF VACANCIES) ACT, 1959

INTRODUCTION

In private sector and in some public sector establishments, the employers used to fill vacancies in their establishment as per their own choice. Persons registered with the employment exchanges were seldom called. Neither the employment exchanges knew the position of vacancies in such establishments and due to this, exchanges could never recommend the names of registered employment seekers. To overcome this problem the Government set up a Training and Employment Services Organization Committee to suggest means and ways so that in private sector as well as in public sector establishments persons registered with the employment exchanges may be absorbed to fill in the vacancies in such establishments. On the recommendations of the said Committee the Employment Exchanges (Compulsory Notification of Vacancies) Bill was introduced in the Parliament.

STATEMENT OF OBJECTS AND REASONS

The Training and Employment Services Organization Committee set up by the Government of India in 1952 had recommended, *inter alia*—

- (a) that employers should be required on a compulsory basis to the Employment Exchanges all vacancies other than vacancies in unskilled categories, vacancies of temporary duration and vacancies proposed to be filled through promotion;
- (b) that employers should also be required on a compulsory basis to render to the employment exchanges staff strength returns at regular intervals.

The Committee had further recommended that the measure of compulsion so suggested may be embodied in suitable legislation. The present Bill seeks to implement those recommendations.

ACT 31 OF 1959

The Employment Exchanges (Compulsory Notification of Vacancies) Bill having been passed by both the Houses of Parliament received the assent of the President on 2nd September, 1959. It came on the Statute Book as THE EMPLOYMENT EXCHANGES (COMPULSORY NOTIFICATION OF VACANCIES) ACT, 1959 (31 of 1959).

LIST OF AMENDING ACTS

1. The Central Labour Laws (Extension to Jammu and Kashmir) Act, 1970 (51 of 1970) (w.e.f. 1-9-1971).
2. The Delegated Legislation Provisions (Amendment) Act, 1985 (4 of 1986) (w.e.f. 15-5-1986).

*THE EMPLOYMENT EXCHANGES (COMPULSORY NOTIFICATION OF VACANCIES) ACT, 1959

(31 of 1959)

[2nd September, 1959]

An Act to provide for the compulsory notification of vacancies to employment exchanges.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959.

(2) It extends to the whole of India ¹[***].

(3) It shall come into force in a State on such date² as the Central Government may, by notification in the Official Gazette, appoint in this behalf for such State and different dates may be appointed for different States or for different areas of a State.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(1) in relation to—

(a) any establishment of any railway, major port, mine or oil-field, or

(b) any establishment owned, controlled or managed by—

(i) the Central Government or a department of the Central Government,

(ii) a company in which not less than fifty-one per cent of the share capital is held by the Central Government or

* Repealed by the Code on Social Security, 2020 (36 of 2020), sec. 164.

1. The words “except the State of Jammu and Kashmir” omitted by Act 51 of 1970, sec. 2 and Sch. (w.e.f. 1-9-1971).

2. Came into force on 1-5-1960 in all the States and the Union territories of Delhi, Himachal Pradesh, Manipur and Tripura, see G.S.R. 382, dated 1st April, 1960, Gazette of India, Extra., Pt. II, Sec. 3(i), p. 145 and in the Union territories of Andaman and Nicobar Islands and Lakshadweep on 1-7-1978, vide G.S.R. 803, dated 17th May, 1978. Extended to the State of Sikkim, vide S.O. 1103(E), dated 5th August, 2005, subject to modifications—

“(i) any reference in the said Act to a law not in force or to a functionary not in existence in the State of Sikkim shall be construed as a reference to the corresponding law in force, or to the corresponding functionary in existence, in that State:

Provided that if any question arises as to who such corresponding functionary is, or if there is no such corresponding functionary, the Central Government shall decide as to who such functionary shall be and the decision of the Central Government in that regard shall be final;

(ii) the provisions of the said Act shall come into force in the State of Sikkim on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of the said Act and for different areas in the State of Sikkim and any reference in any such provision to the commencement of the Act shall be construed as a reference to the coming into force of that provision in the area where it has been brought into force.”

partly by the Central Government and partly by one or more State Governments,

- (iii) a corporation (including a co-operative society) established by or under a Central Act which is owned, controlled or managed by the Central Government,

the Central Government;

- (2) in relation to any other establishment, the Government of the State in which that other establishment is situate;
- (b) "employee" means any person who is employed in an establishment to do any work for remuneration;
- (c) "employer" means any person who employs one or more other persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment;
- (d) "employment exchange" means any office or place established and maintained by the Government for the collection and furnishing of information, either by the keeping of registers or otherwise, respecting—
- (i) persons who seek to engage employees,
 - (ii) persons who seek employment, and
 - (iii) vacancies to which persons seeking employment may be appointed;
- (e) "establishment" means—
- (a) any office, or
 - (b) any place where any industry, trade, business or occupation is carried on;
- (f) "establishment in public sector" means an establishment owned, controlled or managed by—
- (1) the Government or a department of the Government;
 - (2) a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956);
 - (3) a corporation (including a co-operative society) established by or under a Central, provincial or State Act, which is owned, controlled or managed by the Government;
 - (4) a local authority;
- (g) "establishment in private sector" means an establishment which is not an establishment in public sector and where ordinarily twenty-five or more persons are employed to work for remuneration;
- (h) "prescribed" means prescribed by rules made under this Act;

- (i) "unskilled office work" means work done in an establishment by any of the following categories of employees, namely:—
- (1) daftri;
 - (2) Jemadar, orderly and peon;
 - (3) dusting man or farash;
 - (4) bundel or record lifter;
 - (5) process server;
 - (6) watchman;
 - (7) sweeper;
 - (8) any other employees doing any routine or unskilled work which the Central Government may, by notification in the Official Gazette, declare to be unskilled office work.

3. Act not to apply in relation to certain vacancies.—(1) This Act shall not apply in relation to vacancies—

- (a) in any employment in agriculture (including horticulture) in any establishment in private sector other than employment as agricultural or farm machinery operatives;
- (b) in any employment in domestic service;
- (c) in any employment the total duration of which is less than three months;
- (d) in any employment to do unskilled office work;
- (e) in any employment connected with the staff of Parliament.

(2) Unless the Central Government otherwise directs by notification in the Official Gazette in this behalf, this Act shall not also apply in relation to—

- (a) vacancies which are proposed to be filled through promotion or by absorption of surplus staff of any branch or department of the same establishment or on the result of any examination conducted or interview held by, or on the recommendation of, any independent agency, such as the Union or a State Public Service Commission and the like;
- (b) vacancies in an employment which carries a remuneration of less than sixty rupees in a month.

COMMENTS

This Act does not apply in relation to vacancies in any employment—

- (i) in agriculture and horticulture in any establishment in private sector;
- (ii) in domestic service;
- (iii) where the period of employment is less than three months;
- (iv) to do unskilled office work;
- (v) connected with the staff of Parliament;
- (vi) proposed to fill through promotion or by absorption of surplus staff;
- (vii) which carries a remuneration of less than sixty rupees a month.

4. Notification of vacancies to employment exchanges.—(1) After the commencement of this Act in any State or area thereof, the employer in every establishment in public sector in that State or area shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed.

(2) The appropriate Government may, by notification in the Official Gazette, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed, and the employer shall thereupon comply with such requisition.

(3) The manner in which the vacancies referred to in sub-section (1) or sub-section (2) shall be notified to the employment exchanges and the particulars of employments in which such vacancies have occurred or are about to occur shall be such as may be prescribed.

(4) Nothing in sub-sections (1) and (2) shall be deemed to impose any obligation upon any employer to recruit any person through the employment exchange to fill any vacancy merely because that vacancy has been notified under any of those sub-sections.

COMMENTS

A reading of plain language of section 4 of the Act would make it clear that even though employer is required to notify vacancies to employment exchanges, it is not obliged to recruit only those who are sponsored by employment exchanges; *Union of India v. Pritilata Nanda*, AIR 2010 SC 2821; JT 2010 (7) SC 360: (2010) 7 SCALE 269.

5. Employers to furnish information and returns in prescribed form.—(1) After the commencement of this Act in any State or area thereof, the employer in every establishment in public sector in that State or area shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment, to such employment exchanges as may be prescribed.

(2) The appropriate Government may, by notification in the Official Gazette, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment to such employment exchanges as may be prescribed, and the employer shall thereupon comply with such requisition.

(3) The form in which, and the intervals of time at which, such information or return shall be furnished and the particulars which they shall contain shall be such as may be prescribed.

6. Right of access to records or documents.—Such officer of Government as may be prescribed in this behalf, or any person authorised by him in writing,

shall have access to any relevant record or document in the possession of any employer required to furnish any information or returns under section 5 and may enter at any reasonable time any premises where he believes such record or document to be and inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required under that section.

7. Penalties.—(1) If any employer fails to notify to the employment exchanges prescribed for the purpose any vacancy in contravention of sub-section (1) or sub-section (2) of section 4, he shall be punishable for the first offence with fine which may extend to five hundred rupees and for every subsequent offence with fine which may extend to one thousand rupees.

(2) If any person—

(a) required to furnish any information or return—

- (i) refuses or neglects to furnish such information or return, or
- (ii) furnishes or causes to be furnished any information or return which he knows to be false, or
- (iii) refuses to answer, or gives a false answer to, any question necessary for obtaining any information required to be furnished under section 5; or

(b) impedes the right of access to relevant records or documents or the right of entry conferred by section 6;

he shall be punishable for the first offence with fine which may extend to two hundred and fifty rupees and for every subsequent offence with fine which may extend to five hundred rupees.

COMMENTS

If any employer fails to notify to the employment exchanges any vacancy, he is punishable for the first offence with fine upto five hundred rupees, and for every subsequent offence with fine upto one thousand rupees. If any person—

(a) required to furnish any information or return—

- (i) refuses or neglects to do so, or
- (ii) knowingly furnishes or causes to be furnished any false information or return, or
- (iii) refuses to answer, or gives any false answer; or

(b) impedes the right of access to relevant records or documents;

he shall be punishable for the first offence with fine upto two hundred and fifty rupees, and for every subsequent offence with fine upto five hundred rupees.

8. Cognizance of offences.—No prosecution for an offence under this Act shall be instituted except by, or with the sanction of, such officer of Government as may be prescribed in this behalf or any person authorised by that officer in writing.

9. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

10. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules¹ for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide, for all or any of the following matters, namely:—

- (a) the employment exchange or exchanges to which, the form and manner in which, and the time within which, vacancies shall be notified, and the particulars of employments in which such vacancies have occurred or are about to occur;
- (b) the form and manner in which, and the intervals at which, information and returns required under section 5 shall be furnished, and the particulars which they shall contain;
- (c) the officers by whom and the manner in which the right of access to documents and the right of entry conferred by section 6 may be exercised;
- (d) any other matter which is to be, or may be, prescribed under this Act.

²[(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. See The Employment Exchanges (Compulsory Notification of Vacancies) Rules, 1960 Gazette of India, 1960, Extra., Pt. II, Sec. 3(i), p. 181.

2. Subs. by Act 4 of 1986, sec. 2 and Sch., for sub-section (3) (w.e.f. 15-5-1986).