



Regularization of Casual/ Daily Rated/ Contractual Workers



LABOUR CONTRACT



EMPLOYMENT OF CONTRACT LABOUR

Under the Contract Labour (Regulation and Abolition) Act, 1970 (The Act), every establishment in which 20 or more workmen are employed as contract labour, must apply to the relevant authority and get the establishment registered. In the State of Maharashtra, the rules were amended in the year 2017 to provide that only if 50 or more contract labour are employed, registration is necessary.

The TN Contract Labour (Regulation and Abolition) Rules, 1975 provides as under:

- Rule 17 provides for filing of an application to the registering officer for registration as per Section 7 of the Act, not less than 30 days before the date on which the principal employer proposes to employ contract labour. The application is required to be filed through DISH (Directorate of Industrial Safety and Health) portal. The contract proposed to be entered into between principal employer and licensed contractor should be enclosed to the application. The Certificate of Registration issued would, inter alia, show the number of workmen to be employed as contract labour in the establishment. No doubt, this information will be based on what is being furnished in the application for registration under Section 7 of the Act.
- Rule 25 states that every establishment that ordinarily employs 50 or more contract labour, must provide two rooms of reasonable dimensions for the use of the children (under the age of 6) of contract labour including a play room.
- Certain facilities such as (a) rest rooms; (b) canteens with dining halls and utensils and kitchen equipment; (c) drinking water; (d) latrines, and urinals; (e) washing facilities; and (f) first aid facilities must be provided by the principal employer as a matter of statutory requirement, if the contractor does not provide the same. The rules are very prescriptive in nature and it specifies number of urinals to be provided depending upon the number of contract labour engaged.



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- Certain interesting observations from the TN CLRA Rules are
 - Canteens must be run on “no profit; no loss” basis.
 - Foodstuffs must be in conformity with “normal (eating) habits” of the contract labour.
 - Entrance to toilets and washing facilities for men / women shall display in a conspicuous manner “For Men Only” / “For Women Only” and there shall be a picture of a man / woman accordingly.
 - Nothing other than the item prescribed under Rule 59 shall be kept in the First aid box.
- The presence of a representative of the principal employer is mandatory at the place and time of disbursement of wages by the contractor to workmen.

MINIMUM COMPLIANCES UNDER CONTRACT LABOUR (R&A) ACT,1970.

Forms	Description of Forms	Rules	Time	Submitting Authority	Remarks
Form XII	Register of Contractors.	Rule 74	To be maintained By the Principal Employer.		
Form VI-B	Notice of Commencement/ Completion of contract work by the Principal Employer for each contractor.	Rule 81(3)	Within 15 days of commencement & completion of contract work under each contractor	Inspector appointed under Sec. 28	To be submitted by the Principal Employer
Form XXV (in duplicate)	Annual Return of Principal Employer to be sent to the Registering Officer.	Rule 82(2)	Before 15th February following the end of the year to which it relates.	Registering Officer of the area in which the establishment sought to be registered is located.	No annual Return under this rule is required to be furnished if the Principal Employer files combined annual return in Form No.22 under the TN Factories Rules, 1950

CONTRAVENTION AND PENALTY:

Section 23 of the Act states that if any person contravenes the provisions of this Act, such person shall be punishable with imprisonment for a term which may extend to 3 months or with fine which may extend to Rs.1000/- or with both. In the case of continuing offence, the additional fine may extend to Rs.100/- per day during which the contravention continues.

Section 25 of the Act pertain to offences by companies. Where a company is the defaulter, every person in the management of the affairs of the company and every person with whose consent or connivance any offence has been committed is also liable. If the commission of the offence is attributable to negligence on the part of any director or manager or other officer, such director or manager or officer is also liable.



By virtue of Notification No.SO.562 dated 12th August 1996, the Chief Labour Commissioner (Central) and all Joint Chief Labour Commissioners (Central), Deputy Chief Labour Commissioner (Central) and Assistant Labour Commissioners (Central) and Labour Enforcement Officers (Central) have been designated as Assistant Public Prosecutors within the meaning of the Code of Criminal Procedure, 1973 for prosecuting defaulters, inter alia, under this Act, in addition to a host of other labour welfare laws.

Recently, in the case of K.R.Mohan vs The Labour Enforcement Officer (Central) [2020] LLR 275 (Mad) in the matter of Bharath Heavy Electricals Limited. The question that was decided is, whether an officer of a company could be prosecuted without adding the company as an accused for violation of Section 7 of the Act. The Madras High Court, relying on the decision of the Supreme Court in various cases held that it is settled proposition of law that, without prosecuting the company, the officers or directors of a company cannot be prosecuted. In this case, the labour enforcement officer contended that the company had violated the license granted to the company under the Act for engaging contract labourers.

Though in the above case, the Madras High Court had quashed the complaint by invoking its powers under Section 482 of the Criminal Procedure Code on a technical ground, it may not always be the case every time. It is advisable to be aware of the mandatory requirements of the Act and take care of the compliances.

The Central Government has introduced a Bill, namely, THE CODE ON OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS BILL, 2019 amalgamating 13 labour laws which are in force at present. As per Chapter XII – Offence and Penalties, monetary penalties are prescribed for dealing with contraventions and for compounding of offences.

Section 87 of the Code containing general penalty for offences states the occupier or manager or employer of the establishment, who is guilty of an offence is punishable with imprisonment for a term which may extend to 3 months or with fine which may extend to Rs.1,00,000/-, or with both, and if the contravention is continued after the conviction, then, with further fine which may extend to Rs.2,000/- for each day till the contravention is so continued.

Unlike the provision of the present Act, the proposed Code also provides for compounding of offences. Thus, code is aimed towards ease of doing business.

Ordinarily, when contract labour is employed, it is the principal employer who is required to provide prescribed statutory conveniences. These requirements must be checked at the time of signing of the contract and rates have to be bargained accordingly. It would be profitable for the principal employer to provide such facilities to contract labour almost in the same manner the principal employer would provide to its own workmen.



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