



Legislative Assembly of the State of Goa

The Goa employment (conditions of
service) and retirement benefit
(Amendment) Bill, 2002

(Bill No. 2 of 2002)

^{AS}
~~(To be)~~ introduced in the Legislative Assembly of the
State of Goa

GOA LEGISLATURE SECRETARIAT

PORVORIM - GOA

JANUARY, 2002.

**THE GOA EMPLOYMENT (CONDITIONS OF
SERVICE) AND RETIREMENT BENEFIT
(AMENDMENT) BILL 2002.**

(BILL NO. 2 OF 2002)

A

BILL

further to amend the Goa Employment (Conditions of Service) and Retirement Benefit Act, 2001 (Act 35 of 2001).

Be it enacted by the Legislative Assembly of Goa, in the Fifty-second Year of the Republic of India as follows :-

1. Short title and commencement.— (1) This Act may be called the Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002.

(2) It shall be deemed to have come into force with effect from 19.9.2001.

2. Amendment of section 1.— In section 1 of the Goa Employment (Conditions of Service) and Retirement Benefit Act, 2001 (Goa Act 35 of 2001) (hereinafter referred to as the "principal Act"), in sub-section (3), the following provisos shall be inserted, namely :—

"Provided that the Government may, by notification, appoint different dates for different types of industrial establishments :

Provided further that if the Government considers it necessary or expedient to do so, it may postpone or relax to such extent as may be mentioned

in the notification, the operation of all or any of the provisions of this Act for such period not exceeding beyond one year from the date on which this Act shall come into force”.

3. Amendment of section 2.— In section 2 of the principal Act, -

(i) in clause (n), sub-clauses (a) to (h) shall be re-numbered as sub-clauses (i) to (viii) thereof and after sub-clause (viii) as so re-numbered, the following sub-clause shall be inserted, namely :-

“(ix) a factory as defined under the provisions of the Factories Act, 1948 (Central Act 63 of 1948),”;

(ii) after clause (p), the following clause shall be inserted, namely :-

“(pp) “registering officer” means any officer as may be notified by the Government in this regard for the purpose of sub-section (1) of section 3 of this Act,”.

4. Amendment of section 3.— In section 3 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

“(3) A workman who loses the identity card issued to him under sub-section (2) shall immediately make a report about the loss of the identity card to the competent authority as well as to the employer and shall apply for a duplicate card on payment of prescribed charges”.

5. Substitution of section 6.— For section 6 of the principal Act, the following section shall be substituted, namely :—

“6. Cessation of contribution.— No contribution by an employer shall be required to be made in accordance with the provisions of section 8 in respect of a workman who has been registered under this Act and issued such identity card after he secures a job of permanent nature having completed 240 days of work as continuous service in any factory or industrial establishment, operation or process or in any public undertaking”.

6. Amendment of section 8.— In section 8 of the principal Act, for the expression “within 3 days from the pay day”, the expression “within 21 days from the pay day” shall be substituted.

7. Amendment of section 9.— In section 9 of the principal Act, the title of the section shall be substituted as “Payment of benefit” and the following paragraph shall be added at the end, namely :-

“Any workman eligible for the above payment shall apply in the prescribed manner to the competent authority and the competent authority shall, after having satisfied itself about the claim, effect the payment, in such manner as may be prescribed,”.

8. Amendment of section 11. — In section 11 of the principal Act, for the existing title “Offences”, the title “Mode of recovery” shall be substituted.

9. Amendment of section 12.— In section 12 of the principal Act, the title thereof shall be omitted and said section 12 shall be re-numbered as sub-section (3) of section 11.

10. Amendment of section 13. — Section 13 of the principal Act shall be re-numbered as section

12 thereof and after section 12 as so re-numbered, the following sections shall be inserted, namely :—

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

13-A. Cognizance of offences.— No court shall take cognizance of a complaint against an employer under the Act, except on a complaint made by or with the previous sanction in writing of an Inspector under this Act within six months from the date on which the offence or contravention is alleged to have been committed".

11. Repeal and saving.— (1) The Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Ordinance, 2001 (Ordinance No.4 of 2001), is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Statement of Objects and Reasons

After the Goa Employment (conditions of Service) and Retirement Benefit Act, 2001 (Act 35 of 2001) was passed, certain practical difficulties were faced in the implementation of the Act and which are required to be removed, so also it was felt necessary to carry out certain amendments for better clarity. Matters having been discussed with the employers and workers, the Government was convinced that the Act will have to be brought into force in a phased manner. Taking into consideration all such aspects and not to further delay the enforcement, the Governor of Goa promulgated the Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Ordinance, 2001 (Ordinance No.4 of 2001) on 19.9.2001.

This Bill seeks to replace the said Ordinance.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation.

Proposed proviso to sub-section (3) of section 1 of the Act, 2001, empowers the Government to issue a notification appointing different dates for bringing into force the provisions of the act in respect of different types of industrial establishments.

Proposed new clause (pp) to section 2 of the Act empowers the Government to notify any officer as a registering officer.

Proposed new paragraph to section 9 of the Act empowers the Government to frame rules to specify the form of application and the manner of payment.

These delegations are of normal character.

Assembly Hall,
7th January, 2002

DR. SURESH AMONKAR
Minister for Labour

(R. KOTHANDARAMAN)
Secretary, legislature.

A N N E X U R

**Extracts of Goa Employment (Conditions of Service)
and Retirement Benefit Act, 2001.**

1. **Short title, extent, commencement and application** – (1) This Act may be called the Goa Employment (Conditions of Service) and Retirement Benefit Act, 2001.

(3) It shall come into force on such date as the Government may by notification in the official Gazette, appoint

2. **Interpretations:-** In this Act, unless there is any thing repugnant in the subject or Context-

(n) "industrial establishment" means any establishment, operation or process, belonging to or under the control of the Government, local authority, any body corporate or firm, an individual or association or other body of individuals and includes:-

(a) a shop or commercial establishment defined under the Goa, Daman and Diu Shops and Establishments Act, 1973 (Act 13 of 1974);

(h) any other establishment or class of establishments which the State Government may, having regard to the nature thereof, the need for protection of persons employed therein and other relevant circumstances, specify, by notification in the official Gazette but shall not include an establishment in employment in agriculture or a self employed professional in establishment;

(p) "prescribed" means prescribed by rules made under this Act,

3. **Registration of workman:-** (2) Any person seeking employment in any establishment, operation

or process or in any such employment in the State of Goa shall have to get himself registered with competent authority and shall be issued an identity card giving such details as may be notified by the Government in this behalf indicating the specimen of such identity card.

6. **Cessation as a Beneficiary:-** A workman who has been registered under this Act and issued such identity card shall cease to be a beneficiary after he secures a job of permanent nature having completed 240 days of work as continuous service in any factory or industrial establishment, operation or process or in any public undertaking.
8. **Contribution:-** Every employer engaging workman with such identity card shall Deposit in the Government Treasury an amount equivalent to 5% of the total gross wages of the workman every month within 3 days from the pay day as employer's contribution towards retirement benefit and such deposits shall be made in the Government Treasury under such head of account as may be notified by the Government in the official Gazette.
9. **Mode of Payment:-** The contribution made by such employer in respect of a Workman in such workman's account and deposited with the Government shall become payable alongwith the accrued interest to such workman on his attaining the age of fifty years; or his dependent, heirs, as the case may be, in case of death of the workman before he attains the age of fifty years whichever is earlier.
11. **Offences-** (1) An amount payable under the provisions of section 8 of this Act to be deposited with the Government, if not deposited by an employer, the same shall be recovered by the competent authority, from such employer as arrears of land revenue alongwith additional amount equivalent to the amount payable.

- (2) Any amount which has not been so deposited as required under the provisions of this Act, shall be recovered upon issuance of recovery certificate to be issued by the Commissioner or such other officer notified to be a Commissioner under section 2(d) of this Act.
12. **Recovery:-** If a contractor engaging any workman fails to make a deposit within the prescribed period or makes short payments, then the principle employer shall be liable to deposit such amount in the Government treasury in full or the unpaid balance, as the case may be, and shall be entitled to recover the amount from the s a i d contractor, either by deductions from any amount payable to the contractor under any contract or as a debt payable by the contractor.
13. **Penalty:-** An employer who engages any workman without his possessing an identity card, for a wage period exceeding one such wage period shall constitute an offence under this Act punishable with a fine which may extend to rupees five thousand.