



LEGISLATIVE ASSEMBLY OF GOA

**THE GOA EMPLOYMENT (CONDITIONS OF
SERVICE) AND RETIREMENT BENEFIT
BILL, 2001.**

(Bill No. 47 of 2001)

^{DS}
(To be introduced in the Legislative Assembly of Goa)

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM-GOA
MARCH, 2001.**

THE GOA EMPLOYMENT (CONDITIONS OF SERVICE) AND RETIREMENT BENEFIT BILL, 2001.

(Bill No. 47 of 2001)

A

BILL

to provide for retirement benefits to certain
classes of workmen in various employments

Whereas it is considered expedient to provide for certain retirement benefits to certain classes of workmen in various employment after they cease to be in employment on the grounds of retirement, ill-health, non-availability of employment/unemployed and in absence of any guarantee of any social security benefits because of casual or temporary nature of work and interrupted service:

Be it enacted by the Legislative Assembly of Goa in the Fifty Second year of the Republic of India as follows :—

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

(2) It shall extend to the whole of the State of Goa.

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

(4) It shall apply to persons employed in any factory, either directly or through a contractor, and to persons in any industrial or other establishments including employed by any employer in any scheduled employment under the Minimum Wages Act, 1948 (Central Act XI of 1948).

2. Interpretation.— In this Act, unless there is any thing repugnant in the subject or context,—

(a) “adolescent” means a person who has completed fourteen years of age but has not completed eighteen years;

(b) “adult” means a person who has completed eighteen years of age;

(c) “beneficiary” means a workman registered under section 3(1) of this Act;

(d) “Commissioner” means the Commissioner of Labour, of the Government or such other Officer not below the rank of Assistant Labour Commissioner as may be notified by the Government;

(e) “competent authority” means any authority as may be notified by the Government in this regard or a Board that may be constituted by the Government by notification in the Official Gazette;

(f) “continuous service” shall have the same meaning as assigned to it and defined under the Industrial Disputes Act, 1947 (Central Act 14 of 1947);

(g) “contribution” means any sum of money payable by an employer as employers' contribution for retirement benefits payable to any workman to be deposited with the Government in the manner notified by the Government;

(h) “department” means any department of the Government and includes divisions and sections of such department;

(i) “dependent” means the dependent of a workman who is a beneficiary under this Act and shall include a dependent as defined under the Workmen's Compensation Act, 1923 (Central Act 8 of 1923);

(j) “employer” means, in relation to establishment, the owner thereof and includes :-

(i) in relation to any work carried on, by or under the authority of any department of the Government directly with or without contractor, the head of such department or division or the authorities as may be specified by such head of department;

(ii) in relation to any work carried on, by or on behalf of a local authority, the Chief executive of such local authority;

(iii) in relation to work carried on by a contractor, such contractor;

(iv) in relation to any other establishment, a person having charge of or owing or having ultimate control over the affairs of such establishment and

includes the manager, agent or other person acting in the general management or control of such establishment, and shall include in relation to a factory, the owner or the occupier of the factory including his managerial agent;

(v) in relation to any other establishment, the person responsible for the supervision and control of the establishment including one who employs a person for any services to be rendered and includes any person defined as employer under section 2(e) of the Minimum Wages Act, 1948 (Central Act XI of 1948);

(k) "employed person" means a workman and includes the legal representative of the deceased workman;

(l) "factory" means a factory as defined under the provisions of Factories Act, 1948 (Central Act 63 of 1948);

(m) "Government" means the Government of Goa;

(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);

(b) a motor transport undertaking as defined under the Motor Transport Workers Act, 1961 (Central Act 27 of 1961);

(c) a plantation as defined under the Plantations Labour Act, 1951 (Central Act 69 of 1951);

(d) an inland vessel mechanically propelled including a barge;

(e) a mine, quarry, oilfield, or a minor port;

(f) a workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

(g) an establishment in which any work relating to the construction, development or maintenance of building, roads, bridges or canals, or relating to operations connected with navigation, irrigation or the supply of water, or relating to the generation, transmission and distribution of electricity or any other form of power is being carried on;

(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;

(o) "inspector" means an inspector notified under this Act and includes a person vested with powers of inspector under Goa, Daman and Diu Shops and Establishments Act, 1973 (Act 13 of 1974) and also includes an inspector appointed under the provisions of the Minimum Wages Act, 1948 (Central Act 11 of 1948);

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

(q) "wages" means all remuneration paid or payable, in cash and in kind to an employed person, if the terms of the contract of employment, express or implied, were fulfilled and includes any payment to an employed person in respect of any period of authorised leave, lock-out, strike which is not illegal or lay-off and other additional remuneration, if any, paid at intervals not exceeding two months;

(r) "wage period" in relation to an employee, means the period in respect of which wages are ordinarily payable to him, whether in terms of the contract of employment, express or implied or otherwise;

(s) "work permit" means the identity card issued under section 4 of this Act;

(t) "workman" means any person including a trainee employed in any industrial establishment to do any work for wages or for hire or reward but shall not include an agricultural labourer;

3. Registration of workman. — (1) Every workman already in employment, on the date on which this Act comes into force, in any industrial establishment, operation or process to which this Act applies, shall, within a period of ninety days from the date of commencement of this Act have to be registered by his employer with such registering officer notified in this behalf by the Government.

(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.

4. Identity Card.— Every workman seeking temporary or permanent employment in the State of Goa and employed in any industrial establishment for any type of job irrespective of the nature of work or employed in any scheduled employment under the Minimum Wages Act, 1948 (Central Act 11 of 1948) or in any construction activity or any project for jobs of

temporary and casual nature shall be issued identity card by the competent authority giving such details as may be notified by the Government under sub-section (2) of section 3 of this Act which shall be considered as a work permit which such workman shall produce on demand to the inspector appointed or any such authority appointed under this Act, provided, however, that in case of person or persons employed on temporary basis for a period less than eight days, such persons shall be required to apply for and secure a temporary work permit to be granted by the competent authority in lieu of the identity card.

5. Effect of non-registration.— (1) No employer of an establishment to which this Act applies shall employ and engage a workman without such workman having been registered under this Act and possessing the Identity Card or permit as provided for under this Act.

(2) Every workman seeking any employment in any establishment shall produce his identity card before the said employer for enabling the employer to enter the details of the Identity Card in the register of workman.

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.

7. Register of workers. — Every employer shall maintain a register of workman employed giving the details of his name and code number of his identity card showing the details of employer's contribution, wage period-wise and this register shall be produced on demand by an inspector.

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:

Provided that no such employer shall be liable to deposit such amount after the workman is absorbed as a regular employee after he has put in 240 days of continuous service:

Provided further that no employer shall be liable to make contribution in respect of a workman who has completed the age of fifty years.

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.

10. *Rate of interest.* — The amount deposited by the employer in the Government's treasury in favour of the workman who has been issued identity card shall bear interest at the rate of 6% or at such increased or decreased rates as may be notified by the Government from time to time.

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 along-with 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 said 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.

14 *Exemption.*— The Government may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions as it may impose, any class of industrial premises, or establishments or class of employers or employees from all or any of the provisions of this Act or of any rules made thereunder.

15. *Powers to remove difficulties.*— If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulties.

16. *Power to make rules.*— (1) The Government may make rules for carrying out the purpose of this Act as may be required.

(2) Every rule made under this Act shall, immediately after it is made, be laid before the Legislative Assembly of Goa if it is in session and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiration of the session in which it is so laid or

the session immediately following, the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall thereafter have effect only in such modified form or shall stand annulled, 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.

Statement of Objects and Reasons

Government has observed that in all mines, factories and other industrial establishments, the workers are being employed on Temporary and Casual basis and these workers are given breaks in their service. However, in their place other batch of workmen are employed after giving similar breaks in their service. Thus, a substantial number of workmen in industrial establishments remain permanently as temporary/casual and badlies who are being deprived of social security benefits.

In the existing laws in force there are no provisions where such situation can be dealt with in the interest of benefit to the workmen and such workmen continue their livelihood with interrupted services finally to be left unemployed without guarantee of any retiring benefit, etc.

It is, therefore, proposed to ensure that such workmen, at the end of their service tenure are ensured of certain monetary benefit.

This Bill seeks to achieve the above objects.

Financial Memorandum

There is no financial liability for the present that will have to be borne by the Government towards enforcement of this Act. Government proposes to enforce the same within the available infrastructure in the Labour Department.

Memorandum Regarding Delegated Legislation

Clause 16 of the Bill empowers the Government to make rules for carrying out the purposes of the Act. This delegation is of normal character.

Panaji-Goa.
20 March, 2001.

DR. SURESH AMONKAR
Minister for Labour

Assembly Hall,
Porvorim - Goa.

R. KOTHANDARAMAN
Secretary (Legislature)

21 March, 2001.