



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE CONTRACT LABOUR
(REGULATION AND ABOLITION)
(GOA AMENDMENT)
BILL, 2004.**

(Bill No. 23 of 2004)

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~~It~~ introduced in the Legislative Assembly of the State of Goa

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
JULY, 2004

**THE CONTRACT LABOUR (REGULATION
AND ABOLITION) (GOA AMENDMENT)
BILL, 2004.**

(Bill No.23 of 2004)

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BILL

to amend the Contract Labour (Regulation and Abolition) Act, 1970, in its application to the State of Goa.

Be it enacted by the Legislative Assembly of Goa
5 in the Fifty fifth 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) (Goa Amendment) Act,
10 2004.

(2) It shall come into force on such date as the State 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 (central Act 37 of 1970) (hereinafter referred to as the "principal Act"), as in force in the State of Goa, in sub-section (1), after clause (d), the following clause shall be inserted namely:—
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20 "(dd) "core activity of an establishment" means any activity for which the establishment

is set up and includes any activity which is essential or necessary to the core activity, but does not include —

- (1) sanitation works, including sweeping, cleaning, dusting, and collection and disposal of all kinds of waste; 5
- (2) watch and ward services including security service;
- (3) canteen and catering services; 10
- (4) loading and un-loading operations;
- (5) running of hospitals, educational and training institutions, guest houses, clubs and the like where they are in the nature of support services of an establishment; 15
- (6) courier services which are in the nature of support services of an establishment;
- (7) civil and other constructional works, including maintenance; 20
- (8) gardening and maintenance of lawns, etc;
- (9) house keeping and laundry services, etc., where they are in the nature of support services of an establishment; 25
- (10) transport services including ambulance services;
- (11) any activity of intermittent nature even if that constitutes a core activity of an establishment; and 30
- (12) any other activity which is incidental to the core activity;

Provided that the above activities by themselves are not the "core activities" of such establishment".

3. Omission of sections 3 to 5. — Section 3, 4, and 5 of the principal Act shall be omitted. 5

4. Substitution of section 10. — For section 10 of the principal Act, the following section shall be substituted, namely :—

"10. Prohibition of employment of contract labour and appointment of designated Authority.— (1) Notwithstanding anything contained in this Act, employment of contract labour in core activities of any establishment shall be prohibited; 10

Provided that the principal employer may engage contract labour or a Contractor to any core activity, if - 15

(a) the normal functioning of the establishment is such that the activity is ordinarily done through contractors; or 20

(b) the activities are such that they do not require full time workers for the major portion of the working hours in a day or for longer periods, as the case may be;

(c) there is any sudden increase of volume of work in the core activity which needs to be accomplished in a specified time. 25

(2) The appropriate Government may by notification in the Official Gazette, appoint a

designated authority to advise them on the question whether any activity of a given establishment is a core activity or otherwise.

(3) If a question arises as to whether any activity of an establishment is a core activity or otherwise, the aggrieved party may make an application in such form and manner as may be prescribed, to the appropriate Government for decision. 5

(4) The appropriate Government may refer any question by itself or on application made to them by any aggrieved party under sub-section (2) to the designated authority, which, on the basis of relevant material in its possession, or after making such enquiry as deemed fit, shall forward the report to the appropriate Government, within a prescribed period and thereafter the appropriate Government shall decide the question within the prescribed period". 10 15

5. Substitution of section 31. — For section 31 of the principal Act, the following section shall be substituted, namely: 20

31. Power to exempt in special cases :— (1) The appropriate Government may, in public interest, direct, by notification in the Official Gazette, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishments or any class of contractors, as the case may be. 25 30

(2) Where, the operation of any of the provisions of this Act, under sub-section(1) of section 31 has been excluded, such exclusion may at any time be revoked by the appropriate Government by subsequent notification in the Official Gazette. 5

6. Amendment of section 35. — In section 35 of the principal Act, in sub-section (2), clauses (a) and (b) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Contract Labour (Regulation and Abolition)(Central Act 37 of 1970), is presently in force in the State of Goa.

Consequent upon globalization there has been substantial increase in the contract labour. The contract labour has also made its entry in the manufacturing processes. The menace of contract labour cannot be tackled within the framework of the existing provisions of the said Act, 1970. The processes of referring the issues to the State Advisory Contract Labour Board, appointment of committees/sub-committees, submission of the reports by the committees are time consuming. The plight of contract labour is worsening day by day in the absence of job security and regulations of service conditions.

It is, therefore, necessary that an amendment is carried out to said Act, 1970 to curb the expansion of the contract labour. The proposed Bill defines the "core activities" of an establishment where contract labour shall be prohibited. The amendments may go in long way to secure relief to the workers and check un-warranted use of contract labour in core activities where jobs on perennial basis are carried out. Extensive use of contract labour unleashed by the employers shall be effectively curbed and controlled by the proposed amendment. The proposed amendment shall confer the powers on the enforcement machinery to prohibit contract labour in core activities especially in the un-organised sector where there is no protection to the contract labour.

The proposed amendment shall also set at rest the ambiguities about the processing operations which are incidental or of perennial nature in an industry, trade, business, manufacture or occupation that is carried out in the establishment.

This Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

No financial implications are involved in this Bill

MEMORANDUM REGARDING DELEGATED LEGISLATION

Proposed sub-section (2) of substitution of section 10 empowers the Government to appoint designated authority to advise the Government on the question whether any activity of a given establishment is a core activity or otherwise.

Proposed sub-section (3) of section 10 empowers the Government to frame rules specifying the form and manner in which the aggrieved party may make an application to the Government

Proposed sub-section (4) of section 10 empowers the Government to frame rules specifying the period within which the designated authority shall forward report to the Government and the period within which the Government shall decide the question.

Proposed sub-section (1) of section 31 empowers the Government in public interest to direct by

notification that all or any of the provisions of the said Act, 1970, shall not apply to any establishment or class of establishments or any class of Contractors for such period or periods as may be specified in the notification. Sub-section (2) of section 31 empowers the Government to revoke the notification issued under sub-section (1) by subsequent notification in the Official Gazette. 5

These delegations are of normal character.

Assembly Hall,
Porvorim Goa,

DR. SURESH AMONKAR
Minister for Labour.

Dated : 27th July, 2004

Assembly Hall,
Porvorim - Goa.

SUDHIR NARVENKAR
Secretary (Legislature)

Dated : 29th July, 2004

ANNEXURE

Extract of the Contract Labour (Regulation and Abolition) Act, 1970

Section 1

1. Short title, extent, commencement and application.— (1) This Act may be called the Contract Labour (Regulation and Abolition) Act, 1970.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

(4) It applies –

(a) to every establishment in which twenty or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;

(b) to every contractor who employs or who employed on any day of the preceding twelve months twenty or more workmen;

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment or contractor employing such number of workmen less than twenty as may be specified in the notification.

(5) (a) It shall not apply to establishments in which work only of an intermittent or casual nature is performed.

(b) If a question arises whether work performed in an establishment is of an intermittent or casual nature, the appropriate Government shall decide that question after

consultation with the Central Board or, as the case may be, a State Board, and its decision shall be final.

Explanation. — For the purpose of this sub-section, work performed in an establishment shall not be deemed to be of an intermittent nature —

(i) if it was performed for more than one hundred and twenty days in the preceding twelve months, or

(ii) if it is of a seasonal character and is performed for more than sixty days in a year.

Section 2:- Definition.— (1) In this Act, unless the context otherwise requires, —

(a) "appropriate Government" means, —

(i) in relation to an establishment in respect of which the appropriate Government under the Industrial Disputes Act, 1947 (14 of 1947), is the Central Government, Central Government;

(ii) in relation to any other establishment, the Government of the State in which that other establishment is situated;

(b) a workman shall be deemed to be employed as "contract labour" in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer;

(c) "contractor", in relation to an establishment, means a person who under-takes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and includes a sub-contractor;

(d) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;

(e) "establishment" means —

(i) any office of department of the Government or a local authority, or

(ii) any place where any industry, trade, business, manufacture or occupation is carried on;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "principal employer" means —

(i) in relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or the local authority, as the case may be, may specify in this behalf,

(ii) in a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948 (63 of 1948), the person so named.

(h) "wages" shall have the meaning assigned to it in clause (vi) of Section 2 of the Payment of Wages Act, 1936 (4 of 1936);

(i) "workman" means any person employed in or in connection with the work of any establishment to do any skilled, semi-skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person—

(A) who is employed mainly in a managerial or administrative capacity; or

(B) who, being employed in a supervisory capacity draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature; or

(C) who is an out-worker, that is to say, a person to whom any articles and materials are given out by or on behalf of the principal employer and the process is to be carried out either in the home of the out-workers or in some other premises, not being premises under the control and management of the principal employer.

(2) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

Section 3:- Central Advisory Board. — (1) The Central Government shall, as soon as may be, constitute a Board to be called the Central Advisory Contract Labour Board (hereinafter referred to as the Central Board) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The Central Board shall consist of—

(a) a Chairman to be appointed by the Central Government;

(b) the Chief Labour Commissioner (Central), ex officio;

(c) such number of members, not exceeding seventeen but not less than eleven, as the Central Government may nominate to represent that

Government, the Railways, the coal industry, the mining industry, the contractors, the workmen and any other interests which, in the opinion of the Central Government, ought to be represented on the Central Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the Central Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

Section 4 :- State Advisory Board.— (1) The State Government may constitute a Board to be called the State Advisory Contract Labour Board (hereinafter referred to as the State Board) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it and to carry out other functions assigned to it under this Act.

(2) The State Board shall consist of—

(a) a Chairman to be appointed by the State Government;

(b) the Labour Commissioner, ex-officio, or in his absence any other officer nominated by the State Government in that behalf;

(c) such number of members, not exceeding eleven but not less than nine, as the State Government may nominate to represent that Government, the industry, the contractors, the workmen and any other interests

which, in the opinion of the State Government, ought to be represented on the State Board.

(3) The number of persons to be appointed as members from each of the categories specified in sub-section (2), the term of office and other conditions of service of, the procedure to be followed in the discharge of their functions by, and the manner of filling vacancies among, the members of the State Board shall be such as may be prescribed:

Provided that the number of members nominated to represent the workmen shall not be less than the number of members nominated to represent the principal employers and the contractors.

Section 5:- Power to constitute committees.- (1) The Central Board or the State Board, as the case may be, may constitute such committees and for such purpose or purposes as it may think fit.

(2) The committee constituted under sub-section (1) shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(3) The members of a committee shall be paid such fees and allowances for attending its meetings as may be prescribed:

Provided that no fees shall be payable to a member who is an officer of Government or of any corporation established by any law for the time being in force.

Section 10 :- Prohibition of employment of contract labour. — (1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as —

(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;

(b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupations carried on in that establishment;

(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(d) whether it is sufficient to employ considerable number of whole-time workmen.

Explanation.- If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final.

Section 31: Power to exempt in special cases. — The appropriate Government may in the case of an emergency, direct, by notification in the Official Gazette, that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, all or any of the provisions of this Act or the rules made thereunder shall not apply to any establishment or class of establishments or an class of contractors.

Section 35:- Power to make rules. — (1) The appropriate Government may, subject to the condition of previous publication, make rules 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 number of persons to be appointed members representing various interests on the Central Board and the State Board, the term of their office and other conditions of service, the procedure to be followed in the discharge of their functions and the manner of filling vacancies;

(b) the times and places of the meetings of any committee constituted under this Act, the procedure to be followed at such meetings including the quorum necessary for the transaction of business, and the fees and allowances that may be paid to the members of a committee;

Assembly Hall,
Provorum – Goa.

(SUDHIR A. NARVENKAR)
Secretary (Legislature)

Dated : 27th July, 2004.