

Employment Exchange Act 1959

YASH BHAGAT

Table of Contents

- Introduction
- Objectives of the Act
- Scope & Applicability
- Some definitions
- Notification of Vacancies
- Penalties
- Recent Amendments
- References

Introduction

- An acts enacted by the Government to protect the rights of the people seeking employment.
- It also ensures that there is no partiality involved in provision of jobs to the deserving candidates who are lying unemployed.
- Formulates training and technical education policy.
- Help the unemployed persons to seek appropriate employment.

1952

The Training
Employment Services
Organization
Committee
recommended the need
of the act.

1960

It came into force
with effect from 1st
day of May, 1960.

1959

Recommendations
were passed by the
government.



Objectives of the Act

The main purpose behind the Act is to enable the appropriate authorities-

- to assess the employment potential in various categories of establishments;
- to have a better appreciation of the labour market;

Scope

- The Act extends to the whole of India.
- It shall come into force in a State on such date 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.

Applicability

The Act shall not apply-

- in any employment in agriculture (including horticulture) in any establishment in private sector other than employment as agricultural or farm machinery operatives;
- in any employment in domestic services;
- in any employment the duration of which is less than three months; .
- in any employment to "do unskilled office work (*e.g.*, daftry jamadar, orderly or peon watchmen, sweeper) ;
- in any employment connected with the staff of the Parliament.

Some Definitions

Employee [Sec. 2]-means any person who is employed in an establishment to do any work for remuneration.

Employer [Sec. 2]-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..

Some Definitions

- **Employment Exchange** [Sec. 2]- It means any office or place established and maintained by the Government for the collection and furnishing of information either by keeping of registers.
- **Establishment** [Sec. 2]. It means any Office, or any place where any industry, trade, business or occupation is carried on. Establishment in public sector means an establishment owned, controlled and managed by the Government. Establishment in private sector where ordinarily twenty five or more persons are employed to work for remuneration.

Notification of Vacancies to Employment: [Sec. 4]

(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 public sector* shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed. The employer shall there upon comply with such requisition.

(3) The manner in which the vacancies referred to above 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.

Employment exchanges to which vacancies are to be notified.

The following vacancies, namely :

- vacancies carrying total monthly emoluments of Rs. 200 or more occurring in establishments in respect of which the Central Government is the appropriate Government under the Act, and .
- vacancies which an employer may desire to be circulated to the employment exchanges outside the State or Union Territory in which the establishment is situated shall be notified to the Central Employment Exchange.

Vacancies other than those specified above shall be notified to the Local Employment Exchange concerned.

From and manner of notification of vacancies -The vacancies shall be notified in writing to the appropriate employment exchange and the following particulars shall be fulfilled-

1. Name and address of the employer
2. Telephone number of the employer, if any
3. Name of vacancy ;
 - (a) Type of workers required (Designation)
 - (b) Description of duties
 - (c) Qualifications required -(i) Essential (ii) Desirable
 - (d) Age limits, if any
 - (e) Whether women are eligible
4. Type of vacancies. (a) Regular (b) Temporary
5. Pay and allowances

Cont'd

- 6 Place of work (name of town/village and district in which it is situated).
7. Probable date by which the vacancy will be filled.
8. Particulars regarding test/interview of applicants;
 - (a) Date, time and place of test/interview
 - (b) Designation and address of the person to whom applicants should report.
9. Whether there is any obligation or arrangement for giving preference to any category of persons in filling up the vacancies.
10. Any other relevant information.

Penalties

(1) If any employer fails to notify to the employment exchanges any vacancy in contravention of Sec. 4, he shall be punishable with **fine which may extend to five hundred rupees for the first offence** and **one thousand rupees for every subsequent offence**.

(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 give a false answer to any question :necessary for obtaining any information required to be furnished under Sec. 5
- (b) Hinder the right to access to relevant records or documents or the right of entry conferred by Sec. 6. . he shall be punishable with **fine which may extend to two hundred rupees for the first offence** and **five hundred rupees for every subsequent offence**.

Employment exchange Amendments bill

-
- The definition of ‘employee’ needs to be inclusive to cover all such scenarios where employers look for new ways to solicit employees.
 - Amendment regarding substituting the nomenclature of Employment Exchanges with Employment Guidance and Promotion Centres for improving the services and widening the coverage of the Act in the interest of the large employment seeking population of the country. The Committee has suggested that the Act may be called as ‘National career Service Act’.
 - To curb the exploitation of the poor workers, the revamped Employment Exchanges, may involve themselves in this field.

Provision for regulating the private placement agencies may also be made in the amended Act.

Bill needs to provide an inclusive definition to cover future developments.

The Act has left 'contract farming' out of purview where companies enter into agreement with the cultivators for production and supply of agricultural products.

No provision has been made in the Act for intimation of a vacancy as it is advertised in other media to give equal opportunity to those registered with the employment exchanges.

The Committee are of the view that the Bill seeks to cover establishments employing 10-24 workers only to enhance database thereby losing its focus i.e. providing information about job opportunities to the unemployed youth.

The Committee observe that the Employment Exchanges have lost their significance due to changing trends for e.g. rise in number of contract workers, use of capital intensive techniques, technological developments, outsourcing and emergence of recruitment boards have led to reduced coverage under the Act.

Employment Exchanges should aim to match the requirements of the employers with the skill sets of the employees and for matching them, they should strive to provide short term courses, vocational guidance, training and career counseling by qualified career counselors to the registered candidates.

The Act should aim at making the establishments in both private and public sector transparent in their recruitment policies by displaying the status of vacant posts as and when they arise and those opened for filing on the web portal. But, the present Amendment Bill fails to offer anything in this direction.

References

- <http://www.prsindia.org/billtrack/the-employment-exchanges-compulsory-notification-of-vacancies-amendment-bill-2013-2710>
- <http://dget.nic.in/content/students/employment-exchanges-amendment-bill.php>
- http://business.gov.in/legal_aspects/employment_exch.php