

The Goa Employment (Conditions of Service) and Retirement Benefit Act, 2001

GOA

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Act 35 of 2001

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The Goa Employment (Conditions of Service) and Retirement Benefit Act, 2001(Goa Act 35 of 2001)[Dated 8-5-2001]An Act 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 be deemed to have come into force with effect from 19-9-2001:[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 [as deemed fit, and from such dates as may be specified therein] [Inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].].](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 anything 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 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: - (i) ["[an] [Original clause (a) to (h) re-numbered as (i) to (viii) and new clause (ix) inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].] establishment" defined under the Goa, Daman and Diu Shops and Establishments Act, 1973 (Act 13 of 1974); (ii) a motor transport undertaking as defined under the Motor Transport Workers Act, 1961 (Central Act 27 of 1961); (iii) a plantation as defined under the Plantations Labour Act, 1951 (Central Act 69 of 1951); (iv) an inland vessel mechanically propelled including a barge; (v) a mine, quarry or oilfield, or a minor port; (vi) a workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale; (vii) 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;(viii)any other establishment or class of establishment 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;(ix)a factory as defined under the provisions of the Factories Act, 1948 (Central Act 63 of 1948);(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 Establishment 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;(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;] [Inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].](q)"wage" 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 date of commencement of this Act have to be registered by his employer with such registering officer notified in this behalf by the Government.[(1-A) Every employer shall ensure that every workman employed by him in any industrial establishment to which this Act applies, is issued an identity card by the authorized agency containing such details as may be notified by the Government in this behalf and the cost of the identity card shall borne by the employer. The employer, after issue of such identity card to the workman, shall, at no time dispossess the workman of the same either during employment or otherwise.] [Inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2003 [Act No. 27 of 2003].](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:[Provided that the Government may by notification, authorize any agency to issue such identity card to such person and the expenses towards the issuance of such identity card shall be borne by such person] [Inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2003 [Act No. 27 of 2003].];(3)[A workman who loses the identity card issued to him under [sub-section (1-A) or sub-section (2) as the case may be] [Inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act,

2002 [Act No. 2 of 2002].], shall immediately make a report about the loss of the identity card to the [authorized agency or the competent authority, as case may be] [Substituted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2003 [Act No. 27 of 2003].], as well as to the employer and shall apply for a duplicate card on payment of prescribed charges.]

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 of contribution. [Section 6 substituted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].]

- 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 establishments, operation or process or in any public undertaking [or if his monthly wages exceed rupees six thousand five hundred or he has completed the age of fifty years].]

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 21 days from the pay day] [Substituted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].] as employers 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 [and such employer shall also furnish to the competent authority and to such other agency as may be notified by the Government, monthly returns showing details of contribution in respect of individual workman in the prescribed form] [Inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2003 [Act No. 27 of 2003].]: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 the workman who has completed the age of fifty years [or whose monthly wages exceed rupees six thousand five hundred] [Inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2003 [Act No. 27 of 2003].].

9. [Payment of Benefit.] [Title substituted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].]

- 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.[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.] [Added by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].]

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. [Mode of Recovery] [Title substituted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].]

(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.(3)[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.] [Title of original section 12 was omitted and section re-numbered as sub-section 3 of section 11 by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].]

12. [Penalty. [Original section 13 re-numbered as section 12 and there after a new section 13 inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].]

- An employer who engages any workman without his possessing an identity card, for a wage period exceeding one such wages period shall constitute an offence under this Act punishable with a fine which may extend to rupees five thousand.

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.]

13A. [Cognizance of offences. [Inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2002 [Act No. 2 of 2002].]

- 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.]

13B. [Compounding of certain offence. [Inserted by Goa Employment (Conditions of Service) and Retirement Benefit (Amendment) Act, 2003 [Act No. 27 of 2003].]

(1)Any offence punishable under section 12 or section 13 and committed after the commencement of this Act, may, either before or after the institution of the prosecution, be compounded by such officer or authority and for such amount as the Government may, by notification in the Official Gazette, specify in this behalf.(2)Where an offence is compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded.]

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. Powers 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.