

The ASSAM PRIVATE PLACEMENT AGENCIES FOR RECRUITMENT OF WORKERS (REGULATION) ACT, 2019

ASSAM

India

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Act 10 of 2019

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AN ACT to provide for the regulation of Private Placement Agencies operating their business or willing to commence their business in the State of Assam for recruitment of workers and for matters connected therewith or incidental thereto. Preamble- Whereas it is expedient to provide for the regulation of Private Placement Agencies operating their business or willing to commence their business in the State of Assam for recruitment of workers and for matters connected therewith or incidental thereto; It is hereby enacted in the Seventieth Year of the Republic of India as follows :- Short title, extent and commencement- (1) This Act may be called the Assam Private Placement Agencies for Recruitment of Workers (Regulation) Act, 2019. (2) It extends to the whole of Assam. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint. Definitions-

2.

(1) In this Act, unless the context otherwise requires- (a) "Appellate Authority" means an Officer of the State Labour Welfare Department, Government of Assam not below the rank of Secretary to the Government of Assam to hear appeal under this Act; (b) "Controlling Authority" means Labour Commissioner, Assam or any other Officer of the State Labour Welfare Department, Government of Assam to be notified specifically for the purpose of this Act; "Establishment" means an Establishment as defined under section 2(8) of the Assam Shops And Establishments Act, 1971; (c) "Establishment" means an Establishment as defined under section 2(8) of the Assam Shops And Establishments Act, 1971; (Assam Act No 21 of 1974) (d) "Government" means the Government of Assam; (e) "Inspector" means the Inspector appointed under section 7; (f) "License" means a license granted under section 5; (g) "Notification" means a Notification published in the Official Gazette; (h) "prescribed" means prescribed by rules made under this Act; (i) "Private Placement Agency" means a person or body of persons other than a Government Agency, Department or

Organization engaged in the business of providing / supplying unskilled, semi-skilled, skilled and highly skilled workers to any person, Establishment, Government Department, Semi-Government Department and Government Undertaking and Semi-Government Undertaking within the State of Assam or in any other State of India or outside India;(j)"Women" means a woman as defined under section 10 of the Indian Penal Code, 1860.No. 45 of 1860(k)"Worker" means a person engaged, through Private Placement Agency, to do any unskilled, semiskilled, skilled and highly skilled works, which term shall also include Domestic Workers;(2)The words "unskilled", "semi-skilled", "skilled" and "highly skilled" respectively, used in this Act shall mean and imply the same meanings to the said terms as determined by the Government, by order, from time to time.(3)Words and expressions used in this Act and not defined shall have the same meanings as defined under any other corresponding law for the time being in force.Appointment of the Controlling Authority

3. The State Government shall, by Notification in the Official Gazette appoint the Labour Commissioner, Assam to be the Controlling Authority for the purpose of this Act.

Persons or Private placement Agency not to operate without License

4. No person or Private Placement Agency shall carry out or commence the business of Private Placement Agency, unless he holds a License issued under this Act:

Provided that a Private Placement Agency which came into existence before the commencement of this Act, shall obtain a License as required under this Act within 90 (Ninety) days of the commencement of this Act.Application for Grant of and Renewal of License

5. (J) Every application for Grant of License under section 4 shall be in such form and manner as may be prescribed and shall be accompanied by fee of rupees Two Thousand and Bank Guarantee of rupees Five Lakh only.

(2)Controlling Authority may make such inquiry in respect of

6. Cancellation and Suspension of License

Appointment of Inspectorthe application received under sub-section (1) and for making such inquiry, the Controlling Authority shall follow such procedure as may be prescribed.(3)A License shall be issued on such terms and on such conditions as may be prescribed.(4)A License issued under this section shall remain valid for a period of one year and may be renewed from time to time on payment of such fees and on such condition as may be prescribed.(1)If the Controlling Authority is satisfied either on the reference made to him in this behalf or otherwise, that-(a)a license issued under section 4 has been obtained by misrepresentation or suppression of material facts, or(b)the license holder has, without reasonable cause- failed to comply with the conditions of license or

contravened any of the provisions of this Act or rules made thereunder, then, without prejudice to any other penalty which the holder of the license is liable under this Act, the Controlling Authority may, after giving the holder of the license a reasonable opportunity of being heard by an order, in writing, revoke the license and forfeit the bank guarantee furnished under sub-section Cl) of section 5 by him or any part thereof and communicate the order to the holder of the license provided that where the Controlling Authority considers it necessary so to do for special reasons, he may, pending such revocation or forfeiture, by order, suspend the License for such period as may be specified in the order and serve, by registered post, such order on the holder of the License. Subject to any rules, that may be made in this behalf, the Controlling Authority may vary or amend a License issued under this Act. The State Government shall, by Notification in the Official Gazette,- appoint the Officers of the Labour Welfare Department not below the rank of Labour Officer as Inspector for the purpose of this Act; and define the limit within which an Inspector shall exercise the powers conferred on him by or under this Act. Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code .No.45 of 1986

7.

(1)The State Government shall, by Notification in the Official Gazette,(a)appoint the Officers of the Labour Welfare Department not below the rank of Labour Officer as Inspector for the purpose of this Act; and(b)define the limit within which an Inspector shall exercise the powers conferred on him by or under this Act. Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code(2)Every Inspector appointed under this section shall be subject to the control of the Labour Commissioner-cum Controlling Authority.Powers of Inspectors

8. Subject to any rules made in this behalf: an Inspector may, within the local limits for which he is appointed,-

(a)enter at all reasonable hours, with such assistance, if any, of persons in the service of the Government or any local or other public authority as he thinks fit, any premises or office of the Private Placement Agency, for the purpose of examining any register or record or notices required to be kept or exhibited by or WIder this Act, and require the production thereof for inspection;(b)examine any person whom he finds in any such premises or place and whom he has reasonable cause to believe, is a worker employed or engaged by the Agency, therein;(c)seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the Private Placement Agency; and(d)exercise such powers as may be prescribed.Appeal 9. (1) Any person aggrieved by an Order of the Controlling Authority, made under section 5 or 6, may prefer an appeal, in such form and manner as may be prescribed, against the Order to the Appellate Authority within a period of 30(Thirty) days of the date of receipt of such Order:Provided that an appeal may be admitted after the expiry of the said period of 30 (thirty) days if the appellant satisfies the Appellate Authority that he was prevented by sufficient cause from preferring the appeal within the aforesaid period;(2)Before disposing of an Appeal, the Appellate Authority shall give the Appellant a reasonable opportunity of being heard.(3)Every Appeal under this section shall be disposed of within 3 months from the date of its filing.Function and 10. (1) Duties of Private Placement

AgencyThe Private Placement Agency shall furnish the details of employment of worker to the Controlling Authority within 7(Seven) days from the date the worker has been employed within or beyond the boundaries of the State of Assam in the form and manner as may be prescribed.(2)No Private Placement Agency shall employ, engage or deploy any worker, if he / she is below 18(Eighteen) years of age.(3)Every Private Placement Agency shall display a signboard outside its office showing the name of Private Placement Agency and its License Number.(4)Every Private Placement Agency shall maintain a register containing the names, sex, permanent and corresponding address, photos, nature of work and other details of workers, who are engaged by it, as may be specified through Government notifications from time to time and also names and addresses of person and establishment and other details, where the workers have been employed in the form and manner as may be prescribed.(5)Every Private Placement Agency shall ensure safe travel to and from place of work to the residence of the worker.(6)Every Private Placement Agency shall ensure payment of Government notified minimum wages vis-a-vis the scheduled employment applicable in the State where the worker IS deployed through individual bank account of the worker.(7)Other functions and duties' of Private Placement Agencies shall be such, as may be prescribed from time to time by the Government.

11. Punishment for contravention of certain provisions

(1)Every Private Placement Agency shall ensure safe travel to and from place of work to the residence of the worker. Every Private Placement Agency shall ensure payment of Government notified minimum wages vis-a-vis the scheduled employment applicable in the State where the worker IS deployed through individual bank account of the worker. Other functions and duties' of Private Placement Agencies shall be such, as may be prescribed from time to time by the Government. Any person who contravenes the provisions of section 4 of this Act shall be punishable with imprisonment for a term which may extend to 7(seven) years or fine which may extend to one lakh or both.(2)Any person who contravenes the provisions of section 10 or any of the rules made under this Act or any of the condition of License, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to fifty thousand rupees or with both;(3)No court shall take cognizance of any offence punishable under this Act except on a complaint -(i)made by the Controlling Authority appointed under this Act, or(ii)made by an Inspector appointed under this Act;(4)No court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act;Limitation 12. No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within 3 (three) months from the date on which the alleged commission of the offence came to the knowledge of the Controlling Authority or (he Inspector, as the case may be.Application of Code of Criminal ~, 1973

13. The provisions of the Code of Criminal Procedure, 1973 relating to any search or seizure shall be applicable to any search or seizure made under this Act.

No.2of 1974Act in addition to 14. any other LawsThis Act shall be in addition to and not in derogation to any other Jaw for the time being in force.Powers to make 15. (I) RulesThe State

Government may, by notification to be published in the Official Gazette, make rules for carrying out the provisions of this Act.(2)In particular and without prejudice to the generally of the foregoing power, such rules may provide for all or any of the following matters, namely:-(a)the form and manner in which the License is to be issued under sub-section (1) of section 5; the inquiry to be conducted under sub-section (2) of section 5; terms and conditions subject to which such License is to be issued under sub-section (3) of section 5; fees and conditions of renewal under sub-section (4) of section 5;(e)cancellation and suspension of License under section 6;(f)the form and manner of appeal under sub-section (IXa) of section 9;(b)the inquiry to be conducted under sub-section (2) of section 5;(c)terms and conditions subject to which such License is to be issued under sub-section (3) of section 5(d)fees and conditions of renewal under sub-section (4) of section 5(g)functions & duties of the Inspectors appointed under section 7the form and manner of appeal under sub-section (IXa) of section 9; functions & duties of the Inspectors appointed under section 7 ; other functions and duties of Private Placement Agencies under section 10;and any other matter which may be necessary to achieve the objects of this Act.(h)other functions and duties of Private Placement Agenciesunder section 10; and(i)any other matter which may be necessary to achieve theobjects of this Act.Suit and ProceedingsOffences to be cognizable and non-bailable.Power of interpretation and removal of difficulties.

16. No suit, prosecution or other legal proceeding shall lie against Controlling Authority, Inspector or any other authority under this Act in respect of anything done or intended to be done in good faith, under the Act.

17. All the offences under this Act shall be cognizable and non- bailable.

18. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may be necessary for removing the difficulty:

Provided that no such order shall be made after expiry of a period of two y~ from the commencement of this Act.S. M. BUZAR BARUAH, Commissioner & Secretary to the Government of Assam,Legislative Department, Dispur, Guwahati-6Guwahati :- Printed and Published by the Dy. Director, Directorate of Printing & Stationery, Assam, Guwahati-21. Ex. Gazette No. 761 - 300 + 10 - 04 - 09 - 2919. (visit at--dpns.assam.gov.in)