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**GOVERNMENT OF ASSAM
OFFICE OF THE LABOUR COMMISSIONER: ASSAM
GUWAHATI-16**

No. LE. 52/2015/11898

,Dated Guwahati the 1st Nov., 2016.

**From : Sri. T.C. Sarma, IAS,
Labour Commissioner, Assam,
Guwahati-16.**

To,

The Addl. Chief Secy. to the Govt. of Assam,
Labour & Welfare Deptt., Dispur, Ghy-6.

Sub. : EODB Recommendation-Implementation Status

Ref. : GLR 1/2016/L/47, dtd. Dispur 31st Oct., 2016.

Sir,

With reference to the subject cited above, and as per approval received from the Govt. vide Memo No. GLR 1/2016/L/47, dtd. Dispur 31st Oct., 2016 I have the honour to submit two (2) Circulars with regards to the remaining DIPP Recommendation No. 122 & 246 for the Commissionerate of Labour to achieve the objectives of Ease of Doing Business in the State of Assam.

This is for favour of your kind information and necessary action.

Encl.: As stated above.


Yours faithfully,


**Labour Commissioner, Assam,
Guwahati-16.**

Memo No. LE. 52/2015/11899-90/
Copy to:-

,Dated Guwahati the 1st Nov., 2016.

1. The Private Secretary of the Hon'ble Minister of Labour & Employment, Assam, Dispur, Ghy-6 for kind appraisal of the Hon'ble Minister.
2. The Private Secretary of the Principal Secretary to the Govt. of Assam, Industries & Commerce Dept., Dispur, Ghy-6 for kind appraisal of the Principal Secretary.
3. The Secretary to the Govt. of Assam, Labour & Welfare Dept., Dispur, Guwahati-6 for favour of kind information.


**Labour Commissioner, Assam,
Guwahati-16.**



GOVERNMENT OF ASSAM
OFFICE OF THE LABOUR COMMISSIONER: ASSAM
GUWAHATI-16

No. LE. 52/2015/11911

Dated Guwahati the 14th November, 2016.

CIRCULAR

Sub: Enforcement of the Labour Laws (Exemption from Furnishing Returns and maintaining Registers by Certain Establishments) Act, 1988-as amended by Labour Laws (Exemption from Furnishing Returns and maintaining Registers by Certain Establishments) Amendment Act, 2014 (33 of 2014) dated 10.12.2014.


The Labour Laws (Exemption from Furnishing Returns and maintaining Registers by Certain Establishments) Act, 1988 provided for the exemption of employers in relation to Small and Very Small establishments **from furnishing returns and maintaining registers under 9(nine) Labour Laws mentioned in the First Schedule of the Act.** The said Act has been amended vide the Labour Laws (Exemption from Furnishing Returns and maintaining Registers by Certain Establishments) Amendment Act, 2014 (33 of 2014) dated 10.12.2014 and it has come into force with effect from 01.01.2015 vide Gazette of India Notification S.03326 (E) dated 31.12.2014. The main features of the Amendment Act are:-

- 1) **The Coverage of the 9 Scheduled Acts in the Original Act has been increased to 16.**
- 2) The existing method of defining establishment as "Very Small" and "Small" in the Original Act would continue. The exemption enjoyed by the "Very Small" by way of maintaining **only one Register and submitting one Return will also continue.** But, the "Small" establishments would cover the establishments between 10 to 40 workers as against 19 workers in the original Act and "Small" establishments would be required to maintain only two Registers as against three at present and **submit one Return.**
- 3) Registers/Records are allowed to be maintained in computer, floppy, diskette or other Electronic Media and return can be **submitted either physically or through e-mail.**

The original Act 1988, the Amendment Act of 2014 (330 of 2014) dated 10.12.2014 and Gazette of India Notification S.03326, dated 31.12.2014 are enclosed herewith.

It is, therefore directed that all the officials of the Labour Commissionerate shall ensure effective and strict enforcement of the above said Act, as amended in the State of Assam. The particulars of enforcement of this Act shall be included in the existing monthly reporting system on enforcement of Labour Laws as well.

Apparently, the above mentioned subject does not involve amendment in any related Acts & Rules. If it is observed in future that, amendment of any Acts or Rules is required to give effect to the notification, it will be done accordingly. The notification will be modified/cancelled accordingly.



(Shri Tapan Chandra Sarma, IAS),
Commissioner of Labour, Assam,
Gopinathnagar, Guwahati-16.

S. LE. 52/2015/11912 - 12014

Dated Guwahati the 1st November, 2016.

Copy to:-

1. The Private Secretary of the Hon'ble Minister of Labour & Employment, Assam, Dispur, Ghy-6 for kind appraisal of the Hon'ble Minister.
2. The Private Secretary of the Addl. Chief Secretary to the Govt. of Assam, Labour & Employment, Dispur, Ghy-6 for kind appraisal of the Addl. Chief Secretary.
3. The Private Secretary of the Principal Secretary to the Govt. of Assam, Industries & Commerce Dept., Dispur, Ghy-6 for kind appraisal of the Principal Secretary.
4. Addl. Labour Commissioner, Assam, for information & necessary action.
5. All Deputy Labour Commissioners, Assam, for information & necessary action.
6. All Asst. Labour Commissioners/Labour Officers/Labour Inspectors, for information & necessary action.
7. Office file.


(Shri Tapan Chandra Sarma, IAS),
Commissioner of Labour, Assam,
Gopinathnagar, Guwahati-16.



GOVERNMENT OF ASSAM
OFFICE OF THE LABOUR COMMISSIONER: ASSAM
GUWAHATI-16

No. LE. 52/2015/12015 -

dated Guwahati the 18th November, 2016.

CIRCULAR:

Whereas the Commissionerate of Labour, Assam intends to promote the compliance of the labour laws, at the same time, intends to ease the regulatory business environment in the State, by bringing in more transparency and responsibility;

And whereas the Commissionerate of Labour, Assam intends to take benefit on the internationally accepted norms on social audit and make use of recognized audit firms.

Therefore the Commissionerate of Labour, Assam, hereby introduce the Third Party Audit Scheme for Medium Risk Industries / Establishments in accordance with the norms of Ease of Doing Business as follows:-

THIRD PARTY AUDIT SCHEME

(1) Third Party Auditor Firms.

(A) Eligibility of the Firm:

- i. The Firm should be registered corporate body in India under appropriate legal frame work, such as Companies Act or LLP Act.
- ii . The Firm should be registered with the Commissionerate of Labour Department, under the Assam Shops and Establishment Act, 1971
- iii. The Firm should preferably have experience of undertaking and evaluating establishments for labour regulatory compliance.
- iv. The Firm should have Labour Law Auditor having suitable eligibility on company pay roll.

(B) Eligibility of Labour Law Auditor :

Labour Law Auditor

- 1 (i). Should have passed an Interview conducted by a committee constituted by Commissioner of Labour, Assam.
 - (ii) Should have a minimum of 10 years of experience of dealing with compliance of Labour Laws
- OR
- (iii). Should have served as Labour Officer or above for a minimum period of 10 years.
 2. Should not currently be a part-time / full-time employee in any unit / establishment in the State of Assam or its subsidiaries or branches else where in the country.

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should not be of an age more than 65 years as on 1st April, 2016.

Should be medically fit to carry out inspection procedure.

(C) Duties & responsibilities:

- (i) To conduct audit under all labour laws covered during compliance Inspections by Labour Inspectors when approached by any unit/establishment / employer which comes under medium risk category for third party Audit.
- (ii) To conduct the audit in compliance with relevant provisions and international best practices in social audit such as Business Social Compliance Initiative (BSCI), SA8000 auditor certification and the SMETA (Sedex Members Ethical Trade Audit) standard developed by Sedex.
- (iii) To prepare an Audit report detailing status of compliance based on checklist provided.
- (iv) The Empanelled Third Party Firm should submit copy of the official receipt, issued by the establishment of the fees received for the Audit along with the Audit Report in a sealed Envelope / Online to the concerned authority "CAIU" { the District Head (A.L.Cs/L.Os) of the Labour Department} within 15 days of the last day of audit visit.
- (v) The categorization of Medium Risk establishment / employers is as per Circular issued vide memo No.LE.52/2015/11360 dated 18.10.2016 (online inspection scheme).

(D) Security Deposit:

- (I) The empanelled third party auditor shall submit the refundable Security Deposit for two(2) years in the Commissionerate of Labour from a scheduled / Nationalized bank through DD drawn in favour of the Commissioner of Labour, Assam for an amount of Rs.2.00 Lakh (Rupees two lakh) only.
- (II) The full security deposit shall be forfeited if any observations or non-compliance are found false or misleading in the Audit Report.
- (III) The Security deposit shall be refundable on completion of tenure of two (2) years of empanelment of Auditor firm, without any observations by the Departmental Inspectors or as per the performance evaluation by the Standing Committee formed by Commissioner of Labour, Assam. The same may also be adjusted towards security deposits payable for renewal of empanelment. No interest will be payable on the security deposit.

(E) Duration of Empanelment, Performance evaluation and extension of tenure:

- (i) The empanelment of the Third Party Auditor Firm shall be done by the Commissioner of Labour, Assam after referring the application for empanelment to the standing committee and obtaining its report and will be valid for the duration of two (2) years from the date of empanelment.
- (ii) Any Audit report submitted by the empanelled Third Party Auditor Firm beyond the empanelment period will not be accepted.
- (iii) The subsequent extension of empanelment will be decided by Commissioner of Labour, Assam on the basis of evaluation by the Standing Committee depending on the history of performance.
- (iv). The Standing Committee will evaluate the performance of the empanelled Third Party Audit Firms in the last quarter of the second year or whenever there are any compliance issues observed or whenever the Commissioner of Labour, Assam has reason to evaluate, to be recorded in writing, due to reasons such as:
 1. Contradiction or discrepancies observed in report filed by third party auditors;
 2. Firm charging more than the reasonable fees for audit; and/or
 3. Firm involved in act of bribery; and/or
 4. Firm not submitting audit report within prescribed time-limit without assigning a satisfactory reason; and/or

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firm revealing any manufacturing or commercial secrets or working processes which may come to their knowledge in the course of their duties;

6. If found guilty, in case of complaint(s)

- (i) For the purpose of performance evaluation, the standing committee constituted by Commissioner of Labour, Assam will analyse the reports submitted by the audit firm and submit its report to the Commissioner of Labour within 15 working days from the date of submission of request(if any) by the firm for extension of tenure for another term of 2 years or otherwise.
- (ii) After the review of standing committee's report, if the empanelled Third Party is found to be non-compliant in delivering the services or misrepresenting fact(s) in the audit report, the Commissioner of Labour, Assam may, on his discretion, cancel the empanelment of third party audit firm and forfeit the Security Deposit submitted. Further the individual Auditor involved will be blacklisted.
- (iii) This procedure and penalty shall be in addition to other judicial recourse available under the laws of the state/country.
- (iv) If the performance evaluation by the standing committee is found to be satisfactory in its report to the Commissioner of Labour, Assam, the Commissioner will grant extension of tenure for 2 years.
- (v) If the Third party Auditor firm wishes to discontinue from the empanelment before expiry of the empanelment period the security deposit will be refunded duly imposing a cut of 10 % provided the performance evaluation by the standing committee is found to be satisfactory.

(F) Standing committee:

Standing Committee shall be constituted with the following members, for empanelment of third party audit firms and subsequent evaluation of their performance.

- (1) Labour Commissioner, Assam - (Chairman)
- (2) Representative of Labour & Employment Dept. not below the rank of Joint Secretary.- (Member)
- (3) Chief Inspector of Factories, Assam or his representative. - (Member)
- (4) Addl. Labour Commissioner, Assam- (Member Secy.)
- (5) F.A of the Labour & Employment Dept.- (Member)
- (6) Two Deputy Labour Commissioners, Head Office. - (Member)
- (7) F.A.O. of the Commissionerate of Labour, Assam.- (Member)
- (8) Two Assistant Commissioner of Labour from field. -(Member)

(G) Establishments / Employers

1. Enrolment under Third Party Audit Scheme:

- (i) All the Medium Risk Establishments /employers, as defined in Circular issued vide memo No.LE.52/2015/11360 dated 18.10.2016 (online inspection scheme) shall be eligible for application under the scheme.
- (ii) The scheme shall cover compliance and audit requirements as applicable for all the Inspections under various Labour Laws as specified in Circular issued vide memo No.LE.52/2015/11360 dated 18.10.2016 (online inspection scheme) amended from time to time.
- (iii) Under the above Scheme, the application for inclusion under the Scheme shall be made in triplicate or ONLINE as per Annexure-I addressed to the authorized authority of concerned area with a copy to the Labour Commissioner, Assam.
- (iv) On successful submission of Application, the establishment will be deemed to be enrolled under the scheme. The Third Party Audit Report shall be submitted within 45 days, failing which the establishment will be unenrolled from the scheme. Further they will be debarred for opting for this scheme for a period of 2 years. The responsibility for submission of Third party audit report lies on the establishment / employer.
- (b) Audit report submitted by the Third party Auditors will be treated as preliminary compliance of inspection procedure. In case of non-compliance with any Labour Law as per the Audit Report, department will issue a notice stating to comply within 10 days' time.

The employer will be required to take corrective action and upload compliance report within 10 days. The Jurisdictional Authorized Officer (CAIU) will scrutinize the compliance report to see if compliance is made. Immediate follow up action on the violations / irregularities shall be ensured if the employer fails to comply even after providing opportunity as at (b).

- (d) It is emphasized that this third party audit cannot be considered as a substitute to regular inspection by the Labour Inspectors or any authorized inspection and the department reserves the right to inspect any establishment / employer whenever there are any compliance issues observed or whenever the CAIU has reason to evaluate, to be informed in writing.

A random inspection and verification of the audited establishment/employer will be conducted as per the list prepared by the CAIU from 45 days of submission of audited report.


- (e) If any establishment / employer is found to be non-compliance with Labour Laws during inspection or evaluation of compliance report, such firm will be put in the non-compliance establishments list along with a penalty of Rs.1.00 lac and will continue to remain so till it is found to be in full compliance after the conduct of next compliance inspection by the Department.

This procedure and penalty shall be in addition to other judicial recourse available under the laws of the state/country.

- (f) If on scrutiny of the audit report, the establishment / employer is found to be in-compliance of the labour laws, the establishment / employer will be exempted from compliance inspection by the department for a period of 2 years from the date of enrolment.

- (g) The establishment / employer can opt to continue under the scheme by renewing the enrolment before the expiry of enrolment period. The period of enrolment will start from the next day after the 2 years period of the previous enrolment and the audit report will be required to be submitted within (45) days of the date of renewal of enrolment.

Apparently, the above mentioned subject does not involve amendment in any related Acts & Rules. If it is observed in future that, amendment of any Acts or Rules is required to give effect to the notification, it will be done accordingly. The notification will be modified/cancelled accordingly.



(Shri Tapan Chandra Sarma, IAS),
Commissioner of Labour, Assam,
Gopinathnagar, Guwahati-16.

Memo No. LE. 52/2015/12016-12117

Dated Guwahati the 1st November, 2016.

Copy to:-


- 1) The Private Secretary of the Hon'ble Minister of Labour & Employment, Assam, Dispur, Ghy-6 for kind appraisal of the Hon'ble Minister.
- 2) The Private Secretary of the Addl. Chief Secretary to the Govt. of Assam, Labour & Employment, Dispur, Ghy-6 for kind appraisal of the Addl. Chief Secretary.
- 3) The Private Secretary of the Principal Secretary to the Govt. of Assam, Industries & Commerce Dept., Dispur, Ghy-6 for kind appraisal of the Principal Secretary.
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(Shri Tapan Chandra Sarma, IAS),
Commissioner of Labour, Assam,
Gopinathnagar, Guwahati-16.

ANNEXURE-IOPTION FOR ENROLLING UNDER THIRD PARTY AUDIT SCHEME

1. Name of the Establishment/Unit :
2. Name of the Employer :
3. Applicable Act :
4. Registration number under the applicable Act:
5. Number of workers :
6. Category based on Risk Assessment :
7. Details of previous inspection :

I hereby undertake to state that I am the employer of _____ and wish to opt for third party audit scheme for my establishment.


 (Shri Tapan Chandra Sarma, IAS),
 Commissioner of Labour, Assam,
 Gopinathnagar, Guwahati-16.