

Contract Labour FAQs

What is the object of the Contract Labour Act?:

The object of the Act is to do away with the abuses of the system of employment of contract labour. With the said object the Act regulates the employment of contract labour in certain establishments and provides for its abolition in certain circumstances.

Why the Act has not done away with contract labour altogether?:

There are several fields of employment where it is not otherwise possible to have continuous employment and as such, regard being had to the necessities of the situation, the Act has provided for continuation of contract labour.

Note: See Secretary, Haryana State Electricity Board v. Suresh & Ors., 1999 | CLR 959 (Supreme Court)

Which establishments or contractors are covered by the Act?:

The Act is applicable -

- a. to every establishment employing twenty or more workmen as contract labour;
- b. to every contractor employing twenty or more workmen

The Act empowers the Central Government and the State Government to apply its provisions to any establishment or contractor employing less than twenty workmen {Section 1(4)}

Are there any establishments to which the Act is not applicable?:

The Act is not applicable to establishments performing work only of an intermittent or casual nature {Section 1(5)}

What is meant by work of an intermittent nature?:

Work is deemed to be of an intermittent nature -

- i. if it is of a seasonal character and is performed for not more than 60 days in a year, or
- ii. in other cases if it was performed for not more than 120 days in the preceding 12 months {Section 1(5)}

What is the primary duty of a principal employer or a contractor covered by the Act?:

Every principal employer of an establishment to which the Act applies must get his establishment registered under the Act for the purpose of employing contract labour and every contractor to whom the Act applies must obtain a license under the Act for the purpose of undertaking or executing any work through contract labour {Subsection 7 & 12}

What is the procedure for getting an establishment registered under the Act?:

The procedure for registration of establishment is as follows:

- a. if the Act is applicable to an establishment the principal employer of the establishment has to make an application in the prescribed form accompanied by prescribed fees to the Registering Officer for registration of the establishment under the Act
- b. if the application is complete in all respects the Registering Officer will register the establishment and issue a certificate of registration in the prescribed form to the principal employer {Section 7}

What are the circumstances in which the registration of an establishment can be revoked?:

The Registering Officer can revoke the registration of any establishment if he is satisfied -

- i. that the registration has been obtained by misrepresentation or suppression of any material fact, or
- ii. that the registration has become useless or ineffective for any other reason {Section 8}

What is the effect of not obtaining registration under section 7 or of revocation of registration under section 8?:

The principal employer of an establishment who has not obtained the required registration under section 7 or whose registration has been revoked under section 8 is prohibited from employing any contract labour in his establishment {Section 9}

Can any establishment be prohibited from employing contract labour?:

The Central Government or a State Government can prohibit any establishment from employing contract labour for performing any work after considering -

- a. whether the conditions of work and benefits provided for the contract labour in the establishment are satisfactory;
- b. whether work is incidental to or necessary for the business of the establishment;
- c. whether it is of perennial nature, that is to say, it is of sufficient duration;
- d. whether it is done ordinarily through regular workmen;
- e. whether it is sufficient to employ considerable number of whole-time workmen {Section 10}

Is a notification issued by a State Government under Section 10(1) of the Act prohibiting the employment of contract labour in certain processes in certain establishments applicable to an establishment in respect of which the Central Government is the appropriate Government?:

A State Government has no jurisdiction or authority to issue a notification under Section 10(1) of the Act with respect to an establishment in respect of which the Central Government is the appropriate Government. A State Government notification under Section 10(1) of the Act will have no application to an establishment in respect of which the Central Government is the appropriate Government.

Note: Held in BHEL T. T. Sangam v. Mgt. of BHEL, 2000 | CLR 856 (Mad. High Court)

What are the in-built safeguards provided in section 10 to prevent the appropriate Government from misusing or abusing its power or exercising its power arbitrarily?:

The power vested under section 10 in the appropriate Government to prohibit employment of contract labour in any process, operation or other work in any establishment has to be exercised in the manner indicated in the provisions of subsection (1) and (2) of that section; i.e., after prior consultation with the Advisory Board and after taking into consideration all the relevant factors enumerated under clauses (a) to (d) of subsection (2) of that section.

Note: Held in Zenith Industrial Services v. Union of India, 1989 || CLR 402

Can an Industrial Tribunal decide any dispute regarding abolition of contract labour after the passing of the Contract Labour Act?:

The Contract labour Act is an exclusive legislation for the purpose of regulation or abolition of contract labour. Having regard to the powers given to the Government under section 10 of the Act an Industrial Tribunal has no jurisdiction to decide any dispute regarding abolition of contract labour after passing of the Act.

Note: Held in Vegoils Pvt. Ltd. v. Workmen, 1971 || LLJ 567

Does the Act confer any right on the contract labourers to be absorbed by the principal employer?:

No right flows from the provisions of the Act for the contract labourers to be absorbed by or to become the employees of the principal employer.

Note: Held in R. K. Panda & Ors. v. Steel Authority of India & Ors., 1994 || CLR 402

Is it necessary to give reasons in the notification issued under section 10(1) of the Act?:

The Government need not give reasons in the notification issued under Section 10(1) of the Act prohibiting employment of contract labour in any work in any establishment. Such notification cannot be equated with a judgment of a Court

Note: Held in National Organic Chemical Industries v. State of Maharashtra, 1988 || CLR 612

While issuing any notification under section 10 is it necessary for the Government to specify any particular establishment?: A notification issued under section 10 is in respect of a process, operation or other work and, therefore it need not be in respect of any particular establishment.

Note: Held in *United Labour Union v. Union of India*, 1990 | CLR 363

Is it permissible for the appropriate Government having once issued a notification under Section 10(1) of the Act prohibiting employment of contract labour in any establishment, to suspend the operation of the notification on the establishment making a representation against the notification?: Once a notification prohibiting employment of contract labour in any establishment is issued under Section 10(1) of the Act by the appropriate Government, it denudes itself of its power under section 10(1) of the Act and, therefore it is not permissible for the appropriate Government to suspend the operation of the notification.

Note: Held in *Steel Authority of India & Anr. v. State of West Bengal*, 1998 || CLR 707 (Calcutta)

Can a notification issued by the Government under Section 10(1) of the Act be quashed on the ground that the Government had not complied with the provisions of Section 10(2) of the Act?: High Courts have quashed notifications issued under Section 10(1) of the Act on the ground that before issuing them the provisions of Section 10(2) were not complied with.

Note: See *Tractors and Farm Equipment Ltd., Karnataka v. State of Karnataka*, 2003 (3) LLN 1110 (Karn. HC); *Indian Iron & Steel Co. Ltd. v. Union of India*, 2002 ||| LLJ, 603 (Jhar HC)

Can the Supreme Court or a High Court direct the Central Government or a State Government, as the case may be, to prohibit employment of contract labour in any work in any establishment?:

The Supreme Court or a High Court is entitled to issue a mandate upon the Central Government or a State Government, as the case may be, to discharge its statutory obligation in the matter of prohibition of employment of contract labour in any work in any establishment as required under section 10 of the Act.

Note: Held in *Catering Cleaners of Southern Railway v. Union of India*, 1987 | CLR 369 and *Adhir Kumar Chowdhury v. State of West Bengal*, 1987 | CLR 418

What is the procedure for obtaining a license under the Act?:

The procedure for obtaining a license is as follows:

- a. A contractor to whom the act is applicable has to make an application in the prescribed form accompanied by the necessary fees and security deposit to the Licensing Officer for grant of a license under the Act
- b. The Licensing Officer after making the necessary investigation may issue a license in the prescribed form containing the conditions subject to which the same is granted
- c. The license will be valid for the period specified therein and will have to be renewed from time to time {Section 13}

What is meant by security deposit?:

Security deposit is the amount to be deposited by a contractor for due performance of the conditions of the license and compliance with the provisions of the Act and the rules made thereunder. Security deposit is refundable {Rules 24 & 31}

What is the provision about renewal of a license?: A license will remain in force unto 31st December of the year for which the license is granted. It should be renewed every year. The application for renewal should be made not less than 60 days before the date on which the license expires {Rule 27 & 29}

What should be done if a certificate of registration or a license is lost?:

If a certificate of registration or a license has been lost, defaced or accidentally destroyed, a duplicate should be obtained from the registering officer or the licensing officer as the case may be, on payment of the prescribed fee {Rule 30}

What are the circumstances in which a license can be revoked or suspended?:

The Licensing Officer can revoke or suspend a license or forfeit the security deposit if he is satisfied -

- i. that the license has been obtained by misrepresentation or suppression of any material fact, or
- ii. that the holder of the license has failed to comply with the conditions specified therein, or
- iii. that the holder of the license has contravened any provision of the Act or the rule made thereunder {Section 14}

What is the effect of not having a license under the Act?:

If a contractor to whom the Act is applicable does not have a license under the Act, he is prohibited from undertaking or executing any work through contract labour {Section 12}

What is the effect of a principal employer employing contract labour without holding a certificate of registration and a contractor also not holding a license?:

Every worker who works for a principal employer to whom the provisions of the Contract Labour Act are attracted is to be treated as the worker of the principal employer unless it is satisfied that the establishment has secured a certificate of registration for the relevant period under section 7 and it had employed contract labour through a licensed contractor under section 12

Note: Held in Food Corporation of India v. Central Government Industrial Tribunal, 1988 | CLR 144 and Food Corporation of India Workers' Union v. Food Corporation of India & Ors., 1990 | CLR 829

What is the effect of a principal employer holding a certificate of registration and employing contract labour, but a contractor not holding a license?:

There is no provision in the Contract Labour Act whereby it can be construed that the failure of the contractor to register his contract under section 12 of the Act, the employees employed by the contractor would become the direct employees of the principal employer.

Note: Held in General Labour Union v. K. M. Desai & Ors., 1990 | CLR 22

Are the orders of the Registering Officer and the Licensing Officer appealable?:

Any person aggrieved by the order of the Registering Officer or the Licensing Officer can prefer an appeal to the Appellate Officer. Such appeal must be filed within 30 days from the date of communication of the order {Section 15}

What are the amenities to be provided by a contractor for the maintenance of health and welfare of contract labour?:

A contractor is required to provide canteens, rest-rooms, latrines, urinals, drinking water, washing facilities and first aid boxes for the use of contract labour. He also required making prompt and proper payment of wages to contract labour. The contractor has to do all these things in conformity with the relevant provisions of the Act or the rules made thereunder {Subsection 16-21}

What is the liability of the principal employer for the provision of the amenities or payment of wages to contract labour?:

If a contractor fails to provide the amenities or to make payment of the wages, the principal employer will be liable to provide the amenities or to make payment of wages to the contract labour. The principal employer can recover such expenses from the contractor {Subsection 21-21}

What are the offences under the Act and what is the punishment for them?:

1. If any person obstructs an inspector or willfully refuses produce any document demanded by him, he would be punished with imprisonment up to 3 months, or fine up to Rs. 500.00
2. If any person contravenes any provision of the Act or of any rules made thereunder prohibiting, restricting or regulating the employment of contract labour or contravenes any condition of a license granted under the Act, he would be punished with imprisonment up to 3 months, fine up to Rs. 1000.00, or with both. If such contravention is continued after conviction the fine would be upto Rs. 100.00 per day.
3. If any person contravenes any other provision of the Act or of the rules made thereunder, he would be punished with imprisonment upto 3 months, or with fine upto Rs. 1000.00 or with both {Subsection 22-24}

Is it an offence on the part of a contractor to supply security guards to a principal employer without taking a license under section 12 of the Act?:

It is not an offence to do so because the security guards are not employed in or in connection with any work of the principal employer.

Note: Held in Basanta Kumar Mohanty v. State of Orissa, 1992 || CLR 712

What are the powers of the Inspectors appointed under the Act?: An Inspector appointed under the Act has power -

- a. to enter any premises or place where contract labour is employed, for the purpose of examining any register, record or notices;
- b. to examine any workmen employed in such premises or place;
- c. to require any person or workman to give information regarding work or payment for work;
- d. to seize or take copies of any register, record of wages or notices {Section 28}

What type of record is required to be maintained under the Act by a principal employer or contractor?:

It is the duty of every principal employer and every contractor to maintain records giving particulars of contract labour employed, the nature of work performed by the contract labour, the rates of wages paid to the contract labour, etc. as per rules framed under the Act . It is also their duty to exhibit in the premises of the establishment notices containing particulars about the hours of work, nature of duty, etc. as per rules framed under the Act {Section 29}

What are the provision regarding payment of wages of contract labour?:

A contractor is responsible for payment of wages of contract labour. In an employment to which the Payment of Wages Act or the Minimum Wages Act, as the case may be, apply, wages of contract labour shall be paid in accordance with the provisions of the Payment of Wages Act or the Minimum Wages Act, as the case may be. In any other case they shall be paid in accordance with the provisions of Rules 45 to 51 of the Contract Labour Rules {Section 21}

Is a principal employer required to submit any return to the Registering Officer?: Every principal employer of a registered establishment is required to send to the Registering Officer concerned an annual return in the prescribed form. The return should reach the Registering Officer not later than the 15th February following the end of the year to which it relates {Rule 63(2)}

What will be the effect of other Acts or agreements which are inconsistent with this Act?:

If the provisions of any law, agreement, contract of service or standing orders are less favorable than those of the Contract Labour Act, they will be superseded by the provisions of the Contract Labour Act. But if such provisions are more favorable than those of the Contract Labour Act, the former will prevail over the latter {Section 30}

Is it permissible under the Act to exempt any establishment from its provisions?:

The Act permits the Government in the case of an emergency to exempt any class of establishments or any class of contractors from the application of all or some of the provisions of the Act or the rules made thereunder for a specified period and subject to specified conditions and restrictions {Section 21}

How to identify “the appropriate Government” in relation to any establishment?:

In relation to an establishment in respect of which the appropriate Government under the Industrial Disputes acts, 1947 is the Central Government, the same Government is the appropriate Government under this Act in relation to any other establishment, the Government of the State in which that other establishment is situated is the appropriate Government {Section 2(1)(a)}