

AS INTRODUCED IN THE RAJYA SABHA
ON 5TH AUGUST, 2022

Bill No. LIV of 2022

THE NATIONAL EMPLOYMENT GUARANTEE BILL, 2022

A

BILL

to ensure minimum one hundred days of work to all citizens within the age of eighteen to forty years in accordance with their educational qualification or skill as the case may be, and to provide unemployment allowance to those persons, to whom the authority concerned failed to provide such minimum days of work and for matters connected therewith or incidental thereto.

BE it enacted by the Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the National Employment Guarantee Act, 2022.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint; and different dates may be appointed for different States or
for different areas in a State and any reference in any such provision to the commencement
of this Act shall be construed as a reference to the coming into force of that provision in such
State or, as the case may be, in such area:

Provided that this Act shall be applicable to the whole of the territory to which it
10 extends within a period of three years from the date of its enactment.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "adult" means a person who has completed his eighteenth year of age;

(b) "applicant" means an adult person who has not completed his fortieth year of age;

(c) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(d) "Fund" means the Employment Guarantee Fund established by the appropriate Government under section 9 of this Act;

(e) "minimum wage", in relation to any area, means the minimum wage fixed by the appropriate Government under the Code on Wages, 2019;

(f) "National Council" means the National Employment Registration Council constituted by the Central Government under sub-section (1) of section 5 of this Act;

(g) "prescribed" means prescribed by the rules made under this Act;

(h) "Scheme" means the Employment Guarantee Scheme made by the appropriate Government under section 4 of this Act;

(i) "State Council" means the State Employment Registration Council constituted by the State Government under sub-section (1) of section 6 of this Act.

Guarantee of minimum employment.

3. (1) Save as otherwise provided, the appropriate Government shall provide employment to every applicant, for not less than one hundred days in every financial year, in accordance with the Scheme made under this Act.

(2) Every person who has done the work given to him under the Scheme shall be entitled to receive the proportionate wages fixed under the Scheme.

(3) Save as otherwise provided in this Act, the disbursement of wages shall be made on weekly or monthly basis, as may be prescribed.

(4) The appropriate Government may within the limits of its financial capacity, make provisions for securing work or employment to the applicant for any period beyond the period guaranteed under sub-section (1).

Employment Guarantee Scheme.

4. (1) The appropriate Government shall notify a Scheme, namely, the Employment Guarantee Scheme to ensure minimum one hundred days of employment in a financial year under this Act.

(2) The appropriate Government shall furnish a report once in every year to the National Council or the State Council, as the case may be, the number of vacancies from various departments, corporations, Government bodies, semi-Government authorities, Boards and other authorities coming under such Government to accommodate the applicants under this Act, in such manner as may be prescribed.

(3) The appropriate Government shall categorize the vacancies as Grade-1, Grade-2, Grade -3, Skilled and Manual.

Explanation.—For the purposes of this sub-section,—

"Grade -1" means those vacancies that require a post-graduate degree or diploma or any other post-graduate qualification, from a recognised university;

"Grade -2" means those vacancies that require a graduate degree or diploma or any other graduate level qualification, from a recognised university;

"Grade -3" means those vacancies that require a Higher Secondary School Certificate from a recognised Board of Education;

"Skilled" means those vacancies that require a specific skill any particular area of employment; and

"Manual" means those vacancies that require physical work without any skill.

(4) The appropriate Government shall include in the Scheme, the mode of payment of unemployment allowance provided under section 10 of this Act.

5 **5. (1) The Central Government shall constitute a National Employment Registration Council within one year from the commencement of this Act.**

National
Employment
Registration
Council.

(2) The National Council shall consist of the following members, nominated by the Central Government, in such manner as may be prescribed:—

(a) a Chairperson;

(b) a Vice-Chairperson;

10 (c) a Secretary;

(d) Chairpersons of every State Council; and

(e) such members of representatives of youth organizations, as may be prescribed.

(3) The term of office of members of the National Council shall be five years.

15 (4) The terms and conditions and salaries and allowances of the Chairperson, Vice-Chairperson, Secretary, members, officers, staff etc., of the National Council shall be such as may be prescribed.

(5) The Central Government shall provide such officers and staff for the National Council as may be required.

20 **6. (1) Every State Governments shall constitute a State Employment Registration Council within one year from the commencement of this Act.**

State
Employment
Registration
Council.

(2) The State Council shall consist of the following members, nominated by the State Government, in such manner as may be prescribed:—

(a) a Chairperson;

25 (b) a Vice-Chairperson;

(c) a Secretary; and

(d) such number of representatives of youth organizations, as may be prescribed.

(3) The term of office of members of the State Council shall be five years.

30 (4) The terms and conditions and salaries and allowances of the Chairperson, Vice-Chairperson, Secretary, officers, staff etc., of the State Council shall be such as may be prescribed.

(5) The State Governments shall provide such officers and staff for the State Councils, as may be required.

35 **7. (1) The National Council shall perform and discharge the following functions and duties, namely:—**

Functions and
duties of
National
Council.

(a) ensure yearly reporting of vacancies by the Central Government, in such manner as may be prescribed;

(b) receive applications to the vacancies reported by the Central Government;

(c) publish the list of qualified applicants as per the category of vacancies;

40 (d) establish a central monitoring system;

(e) monitor the implementation of this Act;

(f) advice the Central Government on all matters concerning implementation of this Act; and

(g) any other function as may be assigned to it by the Central Government.

Functions and
duties of State
Council.

8. (1) The State Council shall perform and discharge the following functions and duties, namely:—

(a) ensure yearly reporting of vacancies by the State Government, in such manner as may be prescribed; 5

(b) receive applications to the vacancies reported by the State Government;

(c) publish the list of qualified applicants as per the category of vacancies;

(d) establish a state level monitoring system;

(e) monitor the implementation of this Act in the State;

(f) advice State Government on all matters concerning implementation of this Act; and 10

(g) any other function as may be assigned to it by the National Council or the State Government.

Employment
Guarantee
Fund.

9. (1) The appropriate Government shall, by notification, establish a Fund to be called the Employment Guarantee Fund for the purpose of this Act. 15

(2) The appropriate Government shall credit sufficient amount from the Consolidated Fund of such Government by way of grant or loan, in such manner as may be prescribed.

(3) The Fund shall be utilized in such manner and subject to such conditions and limitations as may be prescribed by the appropriate Government.

Payment of
Unemployment
Allowances.

10. (1) If an applicant for employment under the Scheme is not provided such employment within sixty days of receipt of his application, he shall be entitled to unemployment allowance in accordance with this Act. 20

(2) The quantum of unemployment allowance shall be fixed based on categories described under section 4 of this Act and proportionate amount so fixed shall be paid to the eligible applicants for each day the government fail to provide job in the prescribed manner. 25

Effect of non-
reporting of
vacancies.

11. (1) The appropriate Government shall notify the list of authorized officers who shall report vacancies under the Act.

(2) On failure of reporting vacancies by such authorized officer he shall be liable to disciplinary action under relevant conduct rules.

Savings.

12. The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 and any rules, regulations or scheme made thereunder, shall remain in force, to the extent they are not inconsistent with the provisions of this Act. 30 42 of 2005.

Act to have
overriding
effect.

13. The provisions of this Act, and rules made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force. 35

Power to
remove
difficulties.

14. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the official gazette, make such provision not inconsistent with the provisions of this Act as may be appear to be necessary or expedient for the removal of the difficulties.

Power to
make rules.

15. (1) The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act. 40

(2) The State Government may by notification in the State Gazette, consistent with this Act and the rules may be the Central Government, make rules for carrying out the purposes of this Act.

- (3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the
- 5 successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, 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.
- 10 (4) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

STATEMENT OF OBJECTS AND REASONS

India has a very large working-age population, and yet it has been witnessing high rate of youth unemployment for a long time, which has been made worse by the COVID-19 pandemic. The Periodic Labour Force Survey (PLFS) of 2017-18, had reported a forty-five year high in India's open unemployment rate. The most alarming aspect of this statistics was high unemployment amongst the youth. The aggregate youth unemployment rate stood at 17.8 per cent. and has remained at above fifteen per cent. in the period from 2017 to 2020. The inability of young adults to secure jobs as per their skill and education is not only demotivating and discouraging for them but can also lead to a scarring effect on their career. Recently, the World Economic Forum had warned that, the high unemployment rate among the college educated in India may lead to "widespread youth disillusionment," and can threaten India's economic stability. India has witnessed the most recent manifestation of disillusionment among educated youth. More than twelve million people had applied for thirty-five thousand clerical jobs at Indian Railways which is one of the world's largest employers. This clearly reflects the grave crisis of jobless growth that we are undergoing.

In this scenario, eradication of unemployment in the country is the most important goal to be achieved to sustain economic growth and social justice. Although the Mahatma Gandhi National Rural Employment Guarantee Scheme guarantees hundred days of wage employment in a financial year to at least one member of every household, the scope of the Scheme is limited to rural areas alone. Under the existing Scheme, we cannot effectively address the joblessness among urban youth as well as educated and skilled youth across the country.

Hence, there is an urgent need for a comprehensive employment guarantee programme that can ensure minimum days of decent work without any differentiation on the basis of rural or urban areas. Apart from that, it is important to ensure job opportunity for all citizens based on their educational qualification and skill, as the case may be. It is high time that we recognise minimum as well as decent job opportunity as the part of the "Fundamental Right to Life" provided in the Constitution of India. Lastly, any such guarantee will be meaningful only if the Government ensures to provide unemployment allowance to those persons, to whom the authority concerned failed to provide such minimum days of work.

Hence, this Bill.

SANDOSH KUMAR P.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for constitution of National Employment Registration Council and Clause 6 also provides the constitution of the State Employment Registration Councils. Clause 9 of the Bill provides for the establishment of an Employment Guarantee Fund. Clause 10 stipulates the provision for unemployment allowance if the state fails to provide employment within sixty days of application.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund which cannot be estimated at present as the same would depend upon the number of job seekers and persons who would be paid unemployment allowance. Recurring expenditure is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

RAJYA SABHA

A

BILL

to ensure minimum one hundred days of work to all citizens within the age of eighteen to forty years in accordance with their educational qualification or skill as the case may be, and to provide unemployment allowance to those persons, to whom the authority concerned failed to provide such minimum days of work and for matters connected therewith or incidental thereto.

(Shri Sandosh Kumar P., M.P.)