

AS INTRODUCED IN THE RAJYA SABHA
ON THE 12TH JULY, 2019

Bill No. XLVI of 2018

THE CONTRACT LABOUR (REGULATION AND ABOLITION)
AMENDMENT BILL, 2018

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BILL

further to amend the Contract Labour (Regulation and Abolition) Act, 1970.

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

1. (1) This Act may be called the Contract Labour (Regulation and Abolition) Amendment Act, 2018.

5 (2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

Substitution new section for Section 10.	2. In the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as the principal Act) for section 10, the following section shall be substituted, namely:—	37 of 1970.
Prohibition of employment of contract labour.	<p>“10. (1) Notwithstanding anything contained in this Act or any other law in force, the employment of any contract labour is prohibited in any process, service, operation or work for the time being in any establishment, unless that process, service, operation or work is:</p> <p style="margin-left: 40px;">(a) not necessary or essential for the industry, trade, business, manufacture or occupation that is carried on in the establishment;</p> <p style="margin-left: 40px;">(b) of a temporary nature, that is, not of sufficient duration to constitute the routine activities of the establishment;</p> <p style="margin-left: 40px;">(c) not ordinarily done by regular workmen in that establishment or an establishment similar thereto; or</p> <p style="margin-left: 40px;">(d) of such a nature that it would not be adequate to employ full-time workmen.</p> <p>(2) The employment of any contract labour is prohibited in any process, service, operation or work in any establishment unless permission is granted by the appropriate Government under sub-section (3).</p> <p>(3) The appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, permit, by notification in the Official Gazette, employment of contract labour in any process, service, operation or work in an establishment (3). In granting permission for employment of contract labour on an application by an establishment, in such manner as may be prescribed, the appropriate Government shall consider the factors mentioned in sub-section (1) amongst other relevant factors.</p> <p>(4) Even during the pendency of any application under sub-section (3) or under this act, any workman, irrespective of the nomenclature or status awarded by the employer, engaged in any process, service, operation, or work in the establishment shall be deemed to be a workman of the said establishment and shall be eligible to all rights of a workman under any applicable Act.</p> <p>(5) Any workman appointed in violation of this Act shall be deemed to be a workman of the said establishment and shall be entitled to all the rights and privileges accordingly, arising out provisions of Industrial Disputes Act, 1947, Industrial Employment (Standing Orders) Act, 1946 and any other Act applicable to the establishment.”</p>	5 10 15 20 25 30
Amendment of Section 23.	3. In Section 23 of the principal Act—	14 of 1947. 30 20 of 1946.
Amendment of Section 35.	4. In section 35 of the principal Act, after sub-clause (c) the following shall be inserted, namely:—	35 40
	<p>“(ca) the form of application for grant of permission to employ contract labour under section 10 and the particulars it should contain;”</p>	40

STATEMENT OF OBJECTS AND REASONS

India is at a critical juncture in her growth, with a burgeoning middle-class and the world's largest youth population, and needs to meet the aspiration of those who are joining it's workforce. As it makes the transition towards formalization of labour, new forms of informal employment such as contract labour have emerged. This is mainly due to the demand for greater flexibility and pressures from the global economy that establishments in India facts. Contract labour is an arrangement where the workmen are hired through a contractor, instead of directly through the employer. Recent trends in India have shown that contract labour has risen from approximately 12% in 1985 to nearly 35% today in the organized manufacturing industry in India. This number is much higher, at nearly 50% in some states like Maharashtra, Gujarat and Andhra Pradesh. Contract Labourers face more legal hurdles while enforcing their right to regular working hours, just and humane conditions of work and social security benefits. Therefore, a contract labourer generally draws a fraction of the salary of a regular workman and is often paid less than the minimum wage.

Although the Contract Labour (Regulation and Abolition) Act, 1970 was passed nearly 50 years ago, the component of abolition has been sidetracked, as the Act lacks the necessary enforcement mechanism to remove contract labour where it is not appropriate. There is no general prohibition of contract labour in the Act, and instead it provides a procedure by which the Central or State Governments may prohibit contract labour on a case to case basis, based on an application made to the Central or State Board by the contract labourer himself. This cumbersome procedure relies on the proactivity of the worker to enforce his rights, instead of placing the burden of compliance on the employer. This gap in the law has proven to be a fertile ground for the growth of contract labour in India. Additionally, as per the Supreme Court's judgement in *Steel Authority of India Limited & Others v. National Union Waterfront Workers and Others*, after the Central or State Government passes the prohibition order, there is no automatic absorption of the workmen into the establishment as permanent workers. The Act places no penalties on the employer for employing contract labour and therefore encourages him to subvert the provisions of other labour laws by employing workers through contract labour.

This amendment seeks to change the structure of this law in order to allow it to fulfill its desired outcomes. It retain similar conditions to determine whether contract labour is required, but shifts the burden of compliance to the employer. It prohibits the employment of contract labour in establishments where it is not required, and mandates that an employer must obtain a licence in order to employ contract labour. If this license is not obtained, then the employer could have to pay a fine for contravention of the provisions of the Act. Additionally, it protects the rights of workmen, since they are entitled to the same benefits as regular workers if they are appointed in violation of this Act. Lastly, the Bill also amends the penalty clauses in order to make them more in line with today's economic reality. Therefore, this Bill seeks to achieve the original aims of the Act.

Hence, this Bill.

VANDANACHAVAN

ANNEXURE

THE CONTRACT LABOUR (REGULATION AND ABOLITION) ACT, 1970

(ACT NO. 37 OF 1970)

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Prohibition of employment of contract labour.

10. (1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as—

(a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;

(b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;

(c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;

(d) whether it is sufficient to employ considerable number of whole-time workmen.

Explanation.—If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final.

Contravention of provisions regarding employment of contract labour.

23. Whoever contravenes any provision of this Act or of any rules made thereunder prohibiting, restricting or regulating the employment of contract labour, or contravenes any condition of a licence granted under this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to *one thousand rupees*, or with both, and in the case of a continuing contravention with an additional fine which may extend to *one hundred rupees* for every day during which such contravention continues after conviction for the first such contravention.

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Power to make rules.

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(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

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(c) the manner in which establishments may be registered under section 7, the levy of a fee thereof and the form of certificate of registration;

(d) the form of application for the grant or renewal of a licence under section 13 and the particulars it may contain;

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RAJYA SABHA

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further to amend the Contract Labour (Regulation and Abolition) Act, 1970.

(Shrimati Vandana Chavan, M.P.)