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**STANDING COMMITTEE ON LABOUR
(2013-2014)**

FIFTEENTH LOK SABHA

MINISTRY OF LABOUR AND EMPLOYMENT

**'THE EMPLOYMENT EXCHANGES (COMPULSORY
NOTIFICATION OF VACANCIES) AMENDMENT BILL,
2013'**

FORTY-SECOND REPORT



LOK SABHA SECRETARIAT

February, 2014/Magha, 1935 (Saka)

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2013'**

Presented to Lok Sabha on 7th February, 2014

Presented to Rajya Sabha on 7th February, 2014



LOK SABHA SECRETARIAT

NEW DELHI

February, 2014/Magha, 1935 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON LABOUR

(2013-14)

SHRI DARA SINGH CHAUHAN - CHAIRMAN

MEMBERS

LOK SABHA

2. Shri Ashok Argal
3. Shri Ismail Hussain
4. Dr. Manda Jagannath
5. Dr. Virendra Kumar
6. Shri Nara Hari Mahato
7. Shri Hari Manjhi
8. Shri Bal Kumar Patel
9. Shri Mahendra Kumar Roy
10. Smt. J. Shantha
11. Shri Rajiv Ranjan Singh [Lalan]
12. Shri Ratan Singh
13. Shri Dinu Solanki
14. Shri Makansingh Solanki
15. Shri K. Sugumar
16. Shri Bibhu Prasad Tarai
17. Shri Suresh Kashinath Taware
18. Shri Om Prakash Yadav
- *19. Shri Madhu Goud Yaskhi
20. Vacant
21. Vacant

Rajya Sabha

22. Smt. T. Ratna Bai
23. Shri D. Bandyopadhyay
24. Shri Thaawar Chand Gehlot
25. Shri P. Kannan
26. Shri Mohd. Ali Khan
27. Shri Ranbir Singh Parjapati
28. Smt. Renubala Pradhan
29. Shri Rajaram
30. Shri G.N. Ratanpuri
31. Shri Jai Prakash Narayan Singh

* Nominated w.e.f 17th December, 2013

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri P.V.L.N Murthy - Director
3. Smt. Bharti S. Tuteja - Deputy Secretary

INTRODUCTION

I, the Chairman of the Standing Committee on Labour having been authorized by the Committee to submit the Report on their behalf, present this Forty-Second Report on 'The Employment Exchanges (Compulsory Notification of Vacancies) Amendment Bill, 2013' of the Ministry of Labour and Employment.

2. 'The Employment Exchanges (Compulsory Notification of Vacancies) Amendment Bill, 2013' as introduced in Rajya Sabha on 22nd April, 2013 was referred to the Committee by the Speaker, Lok Sabha in consultation with the Chairman, Rajya Sabha for examination and report.

3. In the process of examination of the Bill, the Committee invited the representatives of the Ministry of Labour and Employment on 7th October, 2013 and 11th December, 2013 to hear their views. The Committee also sought written information on various aspects of the Bill from the Ministry.

4. The Standing Committee on Labour at their sitting held on 19th December, 2013 considered and adopted the draft report and authorized the Chairman to finalise the same and present it to the Hon'ble Speaker/Parliament.

5. The Committee wish to express their thanks to the representatives of Ministry of Labour and Employment for tendering evidence before the Committee and furnishing written inputs/suggestions on the amending Bill.

6. For facilitation of reference and convenience, the observations and recommendations of the Committee have been printed in bold in the body of the Report.

New Delhi;
December, 2013
Agrahayana ,1935 (Saka)

DARA SINGH CHAUHAN,
CHAIRMAN,
STANDING COMMITTEE ON LABOUR

REPORT
CHAPTER-I

Introductory

The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 was enacted on the recommendations of the Training and Employment Services Organisation Committee set up by the Government of India in 1952 to provide for compulsory notification of vacancies to the Employment Exchanges and for rendering returns, both employment and occupational, relating to employment situation by the employers.

1.2. The enforcement of the provisions of the EE(CNV)Act, 1959 is the responsibility of the respective State Governments in respect of the establishments located in their respective administrative jurisdiction and the State Director/Commissioner of Employment is the prescribed authority for implementing the provisions of the Act.

1.3 In sixties to eighties, the main focus of the Employment Exchanges was on registration and placement as majority of the employment was in Public Sector. Since nineties and after liberalization, the trend has changed. Moreover, with the emergence of various recruitment bodies such as Staff Selection Commission, State Service Selection Boards, Railway Recruitment Boards, Subordinate Service Selection Boards, the role of Employment Exchanges in direct placement started declining and shifted towards vocational guidance and career counseling.

1.4 Occupational Structure of Indian Economy, number of contract workers, use of capital intensive instead of labour intensive techniques, advancement and use of technology in many establishments, outsourcing, etc, have reduced the number of regular workers in such establishments and affected the coverage of the EE(CNV) Act, 1959 .

1.5 The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 has been brought to bring the said Act in tune with the present day scenario. The proposed amendments were discussed in various meetings of Working Group on National Employment Service which broadly endorsed all these amendments.

1.6 The salient features of the Bill are as follows—

(a) changing the short title of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 as “the Employment Guidance and Promotion Centres (Compulsory Notification

of Vacancies) Act, 1959” and accordingly to amend the long title of the Act;

(b) substituting the words “Employment Exchanges” with the words “Employment Guidance and Promotion Centres”, throughout the said Act, to give the emphasis on the guidance and counselling aspect rather than mere registration for jobs;

(c) the amendment of clause (g) of section 2 relating to the definition of “establishment in private sector” by substituting the words “ten or more” for the words “twenty-five or more” to collect employment information from establishments employing ten or more persons;

(d) the insertion of a new clause (ga) in section 2 to define the expression “plantation” so as to bring the vacancies in the plantation sector within the purview of the Act and to apply the provisions of the Act to the plantations owned and managed by an individual on voluntary basis;

(e) the amendment of sub-section (1) of section 3 in order to notify vacancies relating to unskilled office work and also vacancies relating to plantation sector along with employment as agriculture or farm machinery operatives;

(f) providing exemption from the application of the Act to the vacancies of staff of the State Legislature at par with the staff of Parliament;

(g) the omission of the provision relating to vacancies in an employment, which carries a remuneration of less than sixty rupees in a month, as there is hardly any post, which carries that remuneration;

(h) providing for an obligation on the employer to furnish the information relating to the selection against the vacancies notified under the Act;

(i) the insertion of a new section 5A, to provide for furnishing of returns by establishments employing ten or more but less than twenty-five persons to work for remuneration and in case of any failure to furnish the returns, to provide the punishment after consecutive two defaults with fine which may extend to five thousand rupees and for every subsequent default with fine which may extend to five thousand rupees for each such default;

(j) the substitution of section 7 so as to ensure better coverage and proper implementation of the said Act by making penalty provisions more stringent including an additional provision of imprisonment and raising the amount of fine for the first offence which may extend to five thousand rupees, for any second offence with fine which may extend

to ten thousand rupees and for any subsequent offence with fine which may extend to ten thousand rupees, or with simple imprisonment which may extend to one month, or with both;

(k) the insertion of new sections 7A and 7B to provide penalties for non-
rendition of returns by establishments employing ten or more but less
than twenty-five persons and to bring the public and private limited
companies offering employment opportunities under the purview of the
Act and to make liable any officer or other person working in such
companies for committing offence for non-compliance of the provisions
of the said Act.

CHAPTER-II**CLAUSE BY CLAUSE ANALYSIS OF `THE EMPLOYMENT EXCHANGES
(COMPULSORY NOTIFICATION OF VACANCIES) AMENDMENT BILL, 2013****Amendment of the Act.**

2.1 This Act may be called the Employment Exchanges (Compulsory Notification of Vacancies) Amendment Act, 2013. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2.2 The Ministry in their explanatory note to the proposed amendments in the Bill stated as follows:-

“It is proposed to rename the “Employment Exchanges” as “Employment Guidance and Promotion Centres”. The guidance and counseling activities are also being handled by Employment Exchanges in addition to a mere employment placement agency.”

Amendment of Long title of the Act.

2.3 In the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 (hereinafter referred to as the principal Act), in the long title, for the words "employment exchanges", the words "employment guidance and promotion centres" shall be substituted.

2.4 The Ministry in their explanatory note to the amendment stated as follows:-

“An Act to provide for the compulsory notification of vacancies to Employment Guidance and Promotion Centres. Wherever employment exchange is appearing in the Act, it will be substituted by Employment Guidance and Promotion Centre.”

2.5 When Ministry were asked about the change in nomenclature and no consequent provision in the Bill for discharging of the new rate, the Ministry replied that:

“The Employment Exchanges are already rendering advice and counselling to the jobseekers on career, training and employment opportunities. On the basis of various inputs received from stakeholders and valuable suggestions of the Members of the Standing Committee, the Ministry is proposing to remodel the National Employment Service as a National Career Service (NCS) and improve the delivery of employment services. The range of services is also proposed to be widened to cover apprenticeships, part time job, and information about various skill development courses etc so that more and more people access these services and that too from various delivery points over and above the Employment Exchanges. The Committee may therefore, like to guide whether we may call this Act as “National Career Service Act”.

Amendment in definitions.

2.6 In the principal Act, in Section 2

'(b) "employee" means any person who is employed or engaged on contract basis, continuously for a period not less than two hundred and forty days, in an establishment to do any work for remuneration;

2.7 The Ministry in their explanatory note to the amendment stated as follows:-

“It has been observed that many times employers are hiring manpower on contract basis for a particular activity. Presently, these persons are not covered under the Act. As the number of such persons is on rise, it is proposed to include them to get a realistic picture. The revised provision is suggested as follows: ‘employee’ means any person who is employed or engaged on contract for the whole year (240 days or more) in an establishment to do any work for remuneration.”

2.8 In the principal Act, in section 2,—

(c) "employer" means any person who, employs, or, enters into contract with, one or more other persons to do any work in an establishment for remuneration, continuously for a period not less than two hundred and forty days, and includes any person entrusted with the supervision and control of employees in such establishment;”

2.9 The Ministry in their explanatory note to the amendment stated as follows:-

“The employer sometimes enters into contract with one or more persons for performing a part of the functions of the establishment. The definition of employer, therefore, needs a little modification and has been proposed as ‘employer’ means any person who either employs or enters into contract for the whole year (240 days or more) with one or more other persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment.”

2.10 In the principal Act, in section 2,—

(d) "employment guidance and promotion centre" means any office or place established and maintained by the appropriate Government for the collection and furnishing of information, either by the keeping of registers or through electronic medium or otherwise, relating to—

- (i) persons who seek to engage employees;
- (ii) persons who seek employment;
- (iii) vacancies to which persons seeking employment may be appointed; and
- (iv) persons who seek vocational guidance and career counselling or guidance to start self-employment;’;

2.11 The Ministry in their explanatory note to the amendment stated as follows:-

“Employment Guidance and Promotion Centre” means any office or place established and maintained by the appropriate Government for the collection and furnishing of information either by keeping of registers or through electronic medium or otherwise, relating to---

- (i) persons who seek to engage employees,
- (ii) persons who seek employment,
- (iii) vacancies to which persons seeking employment, may be appointed; and
- (iv) persons who seek vocational guidance and career counseling or guidance to start self-employment.”

2.12 In the Principal Act (B) in clause (g), for the words "twenty-five or more", the words "ten or more" shall be substituted;

2.13 The Ministry in their explanatory note to the amendment stated as follows:-

““establishment in private sector” means an establishment which is not an establishment in public sector and where ordinarily ten or more persons are employed to work for remuneration.”

To increase the scope and coverage of the Act and make data collected under Employment Market Information programme more meaningful it is proposed to bring establishments in private sector employing 10-24 workers within the scope of the Act.”

2.14 When the Ministry were asked to comment on the suggestion that provisions of the Bill apparently aim at reaching the large number of establishments for enhancing database. There is view that census/surveys can be better carried out by dedicated organisations and the employment exchanges should concentrate on providing information about employment opportunities to the largest number of people and information about unemployed youth to the prospective employers, the .Ministry replied that:

“This is an extremely good suggestion and focus would be kept on providing employment and other career related services leaving the work of information collection/survey to other specialised agencies.”

2.15 (C) after clause (g), the following clause shall be inserted, namely:—

'(ga) "plantation" means preparation of any land for planting of commercial crops of perennial nature cultivated extensively in tropical and sub-tropical situations on a large scale by uniform system of cultivation under central management owned and managed by a company formed and registered under the Companies Act, 1956, but does not include the plantation owned and managed by an individual;';

2.16 The Ministry in their explanatory note to the amendment stated as follows:-

“The following definition of plantation will be included.

“preparation of any land for planting of commercial crops of perennial nature cultivated extensively in tropical and sub tropical situations on a large scale by uniform system of cultivation under central management owned and managed by a company, does not include the plantation owned and managed by an individual.

The importance of plantation sector in the Indian economy as well as the considerable employment in the industry compels for inclusion of the plantation sector in the Act.”

2.17 In the Principal Act, in Section-2 - (D) clause (i) shall be omitted.

2.18 The Ministry in their explanatory note to the amendment stated as follows:-

“It is now proposed to cover vacancies to do unskilled office work within the purview of the Act as the number of vacancies notified to the employment exchanges presently does not reflect the exact employment opportunities occurred.”

Applicability of Act in case of certain vacancies

2.19 In the principal Act, in section 3,—

(a) in sub-section (1),—

(i) in clause (a), after the words "other than", the words "employment in plantation or" shall be inserted;

2.20 The Ministry in their explanatory note to the amendment stated as follows:-

“ It is proposed to cover vacancies in plantation owned and managed by a company within the purview of the Act by adding the words “employment in plantation and” after the words “other than” in clause (a), of Sub- Section (1) of Section 3 as a sizeable Section of the work force in the organised sector is engaged in Plantation Sector

(ii) clause (d) shall be omitted;

2.21 In the principal Act, in section 3 (iii) in clause (e), after the word "Parliament", the words "or a State Legislature" shall be inserted;

2.22 The Ministry in their explanatory note to the amendment stated as follows:-

“It is proposed to bring the staff of Parliament and State Legislature at par, by inserting the words “or any State Legislature” after the word “Parliament” in clause (e) of Sub-Section (1) of Section (3) which means that the vacancies of staff of Parliament as well as State Legislatures will be excluded from the purview of the Act.”

2.22 When Ministry were asked about large numbers of private placement agencies involved in providing domestic workers and why not the employment exchanges involve themselves in this area as this will help in curbing exploitation of poor people, the Ministry stated that:

“As per section 3(1)(b) of the Act, this Act shall not apply in relation to vacancies “in any employment in domestic service”.

However, regulation of Private Placement Agencies is a matter of concern which requires wider debate and discussion, especially, with reference to the role of the State Government. If Employment Exchanges were to enter the arena of providing placement to domestic workers, it would imply that households would need to notify their vacancy requirements with the Employment Exchange which may not be practical to implement or enforce, given the existing infrastructure available with the Employment Exchanges.”

2.23 In the Principal Act, in sub-section (2), clause (b) shall be omitted.

2.24 The Ministry in their explanatory note to the amendment stated as follows:-

“In the present day wage structure, there is hardly any post which carries a remuneration of less than rupees sixty per month and therefore, this Section has become obsolete. It is proposed to omit this clause as it has become redundant.”

2.25 On being asked about the suggestion that to increase the effectiveness of the Act the provisions may be made mandatory for certain categories of the employees, for e.g., class IV employees or information about openings offering more than the prescribed salary may not be routed through employment exchanges, the Ministry replied as under:

“It is not possible to make it mandatory that recruitment be made only from the list sent by Employment Exchange for any category of employees. Supreme Court orders dated 22.08.1996 in the case of Excise Superintendent vs KBN Bisweshwar Rao & Ors (CA No. A7646-11724 of 1996) in this regard is attached at Annexure. Also, for high salary jobs, there is no restriction to recruit people from the open market. The proposal to do away with notification of vacancies will go against the spirit of the Act especially, since the Ministry is moving to launch National Career Service (NCS) and planning to attract jobseekers from all categories. As stated earlier, the range of employment related services is also proposed to be widened under the National Career Service (NCS) to cover apprenticeships, part time job, and information about various skill development courses etc. so that more and more people access these services and that too from various delivery points over and above the Employment Exchanges.”

Notification of Vacancies by certain establishments

2.26 In the principal Act, in section 4, in sub-section (2),—

(i) after the words "every establishment in private sector", the words "employing twenty-five or more persons" shall be inserted;

(ii) after the words "category of establishments in private sector", the words "employing twenty-five or more persons" shall be inserted.

2.27 The Ministry in their explanatory note to the amendment stated as follows:-

“In the light of insertion of new section 5A, consequential amendments in section 4 of the Principal Act relating to “private establishment ordinarily employing twenty-five or more persons to work for remuneration”.

Intimation of the result of selection/Furnishing of information

2.28 In the principal Act, in section 5, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) The employer shall furnish the information relating to the result of selection against the vacancies notified under section 4 to the employment guidance and promotion centre within thirty days from the date of selection in such form as may be prescribed."

2.29 The Ministry in their explanatory note to the amendment stated as follows:-

“Provision is being added as 5(4) in the Act.

It has been experienced that most of the employers do not intimate the Employment Exchange about the results of selections made by them against submissions made by the Employment Exchanges from time to time against notified vacancies despite repeated follow up by the exchange and hence the Section 5(4) is to be added. The live register gets inflated on this account.

“The employer shall intimate the result of selection to the Employment Guidance and Promotion Centre against the vacancies notified within thirty days from the date of selection in the format as may be prescribed”.

2.30 In the principal Act, after section 5, the following section shall be inserted, namely:—

"5A. Notwithstanding anything contained in this Act, the appropriate Government may, by notification in the Official Gazette, having regard to the requirement of collection of statistics relating to employment status, require that from such date as may be specified in the notification, the employer in every establishment in private sector employing less than twenty-five persons or every establishment pertaining to any class or category of establishments in private sector employing less than twenty-five persons shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment to such employment guidance and promotion centre as may be prescribed, and the employer shall thereupon comply with such requisition."

2.31 The Ministry in their explanatory note to the amendment stated as follows:-

“Provision is being added as now the establishments employing 10-24 persons in private sector are required to furnish employment and occupational returns under the Act.

Experience shows that most of these establishments do not furnish the returns for one reason or another. This distorts the employment statistical information collected under EMI Programme. In order to get the employment statistics from these establishments it is proposed to add a new section 5A as follows:

“Notwithstanding anything contained in this Act, the appropriate Government may, by notification in the Official Gazette, having regard to the requirement for collection of statistics relating to employment status, require that from such date as may be specified in the notification, the employer in every establishment in private sector ordinarily employing ten or more but less than twenty-five persons to work for remuneration or every establishment pertaining to any class or category of establishments in private sector ordinarily employing ten or more but less than twenty-five persons to work for remuneration shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment to such employment guidance and promotion centre as may be prescribed, and the employer shall thereupon comply with such requisition.”.

2.32 When the Ministry were asked why no time limit has been prescribed for intimation of vacancies by the establishments, the Ministry replied as under:

“As such, occurrence of a vacancy and the decision to fill it up by an establishment are two different issues. Many a time, there could be a conscious decision of the management not to fill the vacancy on its occurrence and it would not be feasible to specify a time limit on the management for filling up the same.”

Amendment to Section 6

2.33 In the principal Act, in section 6,—

(i) for the words and figure "any employer required to furnish any information or returns under section 5", the words, figures and letter "any employer required to notify vacancies to employment guidance and promotion centres under section 4 or furnish any information or return under section 5 or section 5A" shall be substituted;

(ii) for the words "under that section", the words, figures and letter "under section 5 or section 5A" shall be substituted.

2.34 The Ministry in their explanatory note to the amendment stated as follows:-

“It is proposed that Section 6 of the Act may also be made applicable for purposes of Section 4, by substituting in Section 6, for the words and figure “any employer required to furnish any information or returns under Section 5” the following words and figures:-

“any employer required to notify vacancies to Employment Guidance and Promotion Centres under Section 4 or furnish any information or returns under Section 5 or Section 5A”.

This will ensure better implementation of the Act and have a realistic picture about the vacancies occurred.”

Enhancement in Penalties

2.35 In the principal Act, for section 7, the following section shall be substituted, namely:—

"7. (1) If any employer fails to notify to the employment guidance and promotion centre prescribed for the purpose any vacancy in accordance with sub-section (1) or sub-section (2) of section 4, he shall be punishable for the first offence with fine which may extend to five thousand rupees and for every second offence with fine which may extend to ten thousand rupees and for every subsequent offence with fine which may extend to ten thousand rupees, or with simple imprisonment which may extend to one month, or with both.

(2) If any person,—

(a) required to furnish any information or return under section 5,—

(i) refuses or neglects to furnish such information or returns; or

(ii) furnishes or causes to be furnished any information or returns which he knows to be false; or

(b) impedes the right of access to any relevant record or document or the right of entry conferred by section 6; or

(c) refuses to answer, or gives a false answer to any question asked under section 6, necessary for obtaining any information required under section 5 or section 5A,

he shall be punishable for the first offence with fine which may extend to five thousand rupees and for every second offence with fine which may extend to ten thousand rupees and for every subsequent offence with fine which may extend to ten thousand rupees, or with simple imprisonment which may extend to one month, or with both."

2.36 The Ministry in their explanatory note to the amendment stated as follows:-

"To ensure better coverage and proper implementation of the said Act, it is proposed to enhance the penalties in respect of all establishments except those in private sector employing 10-24 workers.

The penalties for first offence with regard to notification of vacancies as well as submission of returns, uniformly upto Rs.5000/-; for the second offence upto Rs.10,000/-; and for any subsequent offence the penalty may include a fine upto Rs. 10,000/- and/or simple imprisonment upto one month, except in respect of returns filed by establishments employing 10-24 workers. In such cases, warning will be given for the first offence; explanation called if it is repeated; and a fine of Rs. 5000/- imposed for each subsequent offence. Accordingly, the existing Sections 7(1) and 7(2) in the Act may be amended as under:

(a) in clause (1) of Section 7, for the words "he shall be punishable for the first offence with fine which may extend to five hundred rupees and for every subsequent offence with fine which may extend to one thousand rupees", the words "he shall be punishable for the first offence with fine which may extend upto Rs.5000/-; for the second offence upto Rs. 10,000/-; and for any subsequent offence the penalty may include a fine be upto Rs. 10,000/- and/or simple imprisonment upto one month, except in respect of returns filed by establishments employing 10-24 workers. In such cases, warning will be given for the first offence; explanation called if it is repeated; and a fine of Rs. 5000/- imposed for each subsequent offence" shall be substituted;

(b) in clause (2) of Section 7, in sub-clause (b), for the words "he shall be punishable for the first offence with fine which may extend to two hundred and fifty rupees and for every subsequent offence with fine which may extend to five hundred rupees", the words "he shall be punishable for the first offence with fine which may extended upto Rs.5000/-; for the second offence upto Rs. 10,000/-; and for any subsequent offence the penalty may include a fine be upto Rs. 10,000/-

and/or simple imprisonment upto one month, except in respect of returns filed by establishments employing 10-24 workers. In such cases, warning will be given for the first offence; explanation called if it is repeated; and a fine of Rs. 5000/- imposed for each subsequent offence” shall be substituted.”

2.37 In the principal Act, after section 7, the following sections shall be inserted, namely:—

“7A. If any employer of an establishment in private sector referred to in section 5A,—

(a) required to furnish any information or return under that section,—

(i) refuses or neglects to furnish such information or return;

or

(ii) furnishes or causes to be furnished any information or return which he knows to be false; or

(b) impedes the right of access to any relevant record or document or the right of entry conferred by section 6,

he shall be punishable after consecutive two defaults with fine which may extend to five thousand rupees and for every subsequent default with fine which may extend to five thousand rupees for each such default.

2.38 The Ministry in their explanatory note to the amendment stated as follows:-

“It is proposed to include a penalty clause for establishments employing 10-24 workers in the private sector by including a separate section 7A as follows:

(a) required to furnish any information or return –

(i) refuses or neglects to furnish such information or returns, or

(ii) furnishes or causes to be furnished any information or return which he knows to be false, or

(iii) refuses to answer, or gives a false answer to any question necessary for obtaining any information required to be furnished under section 5; or

(b) impedes the right of access to relevant records or documents or the right of entry conferred by section 6, he shall be punishable after consecutive two defaults with fine which may extend to five thousand rupees and for every subsequent default with fine which may extend to five thousand rupees for each such default.”.

2.39 In the principal Act,

7B. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means a body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.‘.

2.40 The Ministry in their explanatory note to the amendment stated as follows:-

“It is proposed to include imprisonment as a penalty provision for violating the provisions of the Act. Thus, it becomes necessary to prescribe the person responsible for violating the provisions of the Act in the case of companies. It is, therefore, proposed to incorporate a new clause in the Act in Section 7 as 7(B) as under:

“7(B).(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this Sub-Section shall render any such person liable to any punishment, if he proves that the offence

was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in Sub-Section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation – For the purposes of this Section –

(a) “company” means any body corporate and includes a firm or other association of individuals; and “director”, in relation to affirm, means a partner in the firm.”

Amendment of Section 10

2.41 In the principal Act, in section 10, in sub-section (2), after clause (b), the following clauses shall be inserted, namely:—

“(ba) the form in which the information relating to result of selection may be furnished by the employer under sub-section (4) of section 5;

(bb) the information or return in relation to vacancies that have occurred or are about to occur in the establishment in private sector and the employment guidance and promotion centre to which such information or return shall be furnished under section 5A;”.

2.42 The Secretary, Ministry of Labour and Employment stated during evidence held on 11th December, 2013:

“I have already said that employment exchanges should be dynamic. They are disjoined from current requirement. I had said in my opening remarks that out of four crore persons only four lakhs are being placed. Therefore, the process needs to be fundamentally changed and that is the job which are doing. I had also said in the beginning that we are making an e-governance model. Why should everyone come to office. He has to go to an office to register.”

CHAPTER-III**OBSERVATIONS/RECOMMENDATIONS**

3.1 The Committee note that the Ministry proposes to substitute Section 2(b) by a new definition of employee. The Committee note from the reply of the Ministry that as the number of persons engaged on contract basis is on rise, it is proposed to widen the definition of employees to cover all those persons who are employed or engaged on contract basis, continuously for a period not less than 240 days. The Committee are concerned about the situation where the employers give a break after less than 240 days and re-employ on contract basis or where project wise employment is offered by the employers which may or may not last for 240 days. The Committee are of the opinion that the definition needs to be inclusive to cover all such scenarios where employers look for new ways to solicit employees.

3.2 The Committee note that the Ministry propose to substitute the nomenclature of Employment Exchanges with Employment Guidance and Promotion Centres by amending Section 2 (d). The Committee note that to give emphasis to the guidance and counseling aspect rather than mere registration of jobs, substituting the words 'Employment Exchanges' with the words 'Employment Guidance and Promotion Centres' has been proposed. The Committee find that no provision has been made for the role of Employment Exchanges as 'Guidance and Promotion centres' pursuant to the proposed change. When the Ministry was asked about the non-provision, the Ministry replied they propose to remodel the National Employment Service as National Career Service and to widen the range of employment services. The Committee note from the reply of the Ministry that the Ministry now propose to call the Act the 'National Career Service Act'. The Committee are of the opinion that improving the services and widening the coverage of the Act would be in the interest of the large employment seeking population of the country. The Committee recommend that the Ministry while changing the nomenclature of the Act

bring consequent changes in the Act for the benefit of maximum number of jobseekers and prospective employers.

3.3 The Committee note that the Ministry propose to amend Section 2(g) containing the definition of ‘establishment’ by covering all the establishments, which are not in public sector, having 10 or more employees. The Committee note that to increase the scope and coverage of the Act and make data collected under Employment Market Information Programme more meaningful it has been proposed to bring establishments in private sector employing 10-24 workers within the scope of the Act. The Committee are of the view that such provisions apparently aim at reaching large number of establishments for enhancing database. The Committee are of the opinion that census/ surveys can be better carried out by dedicated organizations and the employment exchanges should concentrate on providing information about employment opportunities to the largest number of people and information about unemployed youth to the prospective employers.

3.4 The Committee note that as per Section 3(1)(b), the Act does not apply in relation to any vacancies in any employment in domestic services. The Committee are concerned to note that the rise of private placement agencies involved in providing domestic workers has led to exploitation of poor people at the hands of the agencies, the middlemen and the employers. The Committee note from the reply of the Ministry that if employment exchanges were to enter the arena, the households would have to notify their vacancies which may not be practical. The Committee are of the opinion that there is no need for the households to notify their vacancies beforehand. The domestic workers seeking work can register with the exchange and the households can go to the exchanges when the demand arises. The Committee are of the view that to curb the exploitation of the poor workers, the revamped Employment Exchanges, once they are set up, may involve themselves in this field.

3.5 The Committee observe that private placement agencies catering to the recruitment needs of the private sector have mushroomed in the recent past. The Committee note that guidelines on regulation of private placement agencies have been issued and it is left to the state governments to frame regulations to monitor the working of private placement agencies. The Committee are of the view that these placement agencies mislead the unemployed youth, collect money from them and often vanish. The Committee recommend that the provisions for regulating such agencies may also be made in the amended Act.

3.6 The Committee note that the sub section 3(2)(b) exempting the vacancies carrying monthly remuneration of less than rupees sixty per month is proposed to be omitted. The Committee while agreeing to the proposal are of the view that the high-end vacancies may be exempted from the purview of the Act. The Committee are not satisfied with the reply of the Ministry that the proposal to do away with notification of vacancies will go against the spirit of the Act. The Committee

are of the view that high-end jobs are filled by selection from short listed experienced candidates and making it mandatory to notify their vacancy in the employment exchange would serve no purpose and also this would mean that people who are already working will have to register with employment exchanges. The Committee are of the opinion that the Ministry should focus on providing employment opportunities to the unemployed/ first time job seekers.

3.7 The Committee find that there are various shortcomings in the Amendment Bill. The Bill seeks to change the name of the Employment Exchanges as Employment Guidance and Promotion Centres but no provision has been made in the Bill for effective discharge of the new role of the exchanges. The Bill provides for amending the definition of employee and employer but has fallen short of an inclusive definition to cover future developments. The Bill defines employment guidance and promotion centre as any office or place established and maintained for collection and furnishing of information relating to employees, employers, vacancies and persons who seek vocational guidance and career counseling. It is apparent from

the definition that the exchanges are only established for collection and furnishing of information and no value addition is proposed to be done through them. Further, in this era of computerization and connectivity the exchanges cannot be said to be limited to an office or place where information is collected, maintained and furnished. The Bill seeks to cover plantation owned and managed by a company formed and registered under the Companies Act, 1956 under the Act but has left 'contract farming' out of purview where companies enter into agreement with the cultivators for production and supply of agricultural products. The Bill provides for imposing an obligation on the employer to furnish information relating to the selection against the vacancies notified under the Act but no provision has been made for intimation of a vacancy at the same time as it is advertised in other media to give equal opportunity to those registered with the employment exchanges. The Bill seeks to cover establishments employing 10-24 workers only to enhance database thereby losing its focus i.e. providing information about job opportunities to the unemployed youth.

3.8 The Committee also note that only four lakh candidates per year are placed through 956 Employment Exchanges out of four crore people who are registered with them. The Committee observe that the Employment Exchanges have lost their significance due to changing trends for e.g. rise in number of contract workers, use of capital intensive techniques, technological developments, outsourcing and emergence of recruitment boards have led to reduced coverage under the Act. The Committee are of the opinion that the Employment Exchanges should be completely revamped to provide one-stop placement solutions to the unemployed. Employment exchanges should aim to match the requirements of the employers with the skill sets of the employees and for matching them, they should strive to provide short term courses, vocational guidance, training and career counseling by qualified career counselors to the registered candidates. The Committee are also of the opinion that the Act should aim at making the establishments in both private and public sector transparent in their recruitment policies by displaying the status of vacant posts as and when they arise and those opened

for filling on the web portal. But, the present Amendment Bill fails to offer anything in this direction. The Committee are disappointed to find that the Ministry has taken 50 years to bring an Amendment Bill that too haphazardly and half heartedly. The Committee agree with the submission of the Secretary that the Employment Exchanges need to be dynamic and the whole process needs to be re-engineered in line with the under consideration e-governance project. The Committee are of the opinion that since the Ministry is still working on the improving the delivery of employment services, it may review the proposed amendments in light of those improvements and bring fresh proposal for the benefit of large number of jobseekers in the country. The Committee recommend that the Bill should be returned to the Ministry with a request to bring a comprehensive Amendment Bill so that the Employment Exchanges are able to fulfill their role in the present times.

New Delhi;
December, 2013
Agrahayana ,1935 (Saka)

DARA SINGH CHAUHAN,
CHAIRMAN,
STANDING COMMITTEE ON LABOUR

AS INTRODUCED IN THE RAJYA SABHA
Bill No. XXVII of 2013

THE EMPLOYMENT EXCHANGES (COMPULSORY NOTIFICATION
OF VACANCIES) AMENDMENT BILL, 2013

A

BILL

further to amend the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959.

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

1. (1) This Act may be called the Employment Exchanges (Compulsory Notification of Vacancies) Amendment Act, 2013.

Short title and commencement.

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

2. In the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 (hereinafter referred to as the principal Act), in the long title, for the words "employment exchanges", the words "employment guidance and promotion centres" shall be substituted.

31 of 1959. Amendment of long title.

3. In the principal Act, in section 1, in sub-section (1), for the words "Employment Exchanges", the words "Employment Guidance and Promotion Centres" shall be substituted.

Amendment of section 1.

4. Throughout the principal Act, unless otherwise expressly provided, for the words "employment exchange" and "employment

exchanges" wherever they occur, the words "employment guidance and promotion centre" and "employment guidance and promotion centres" shall respectively be substituted and such other consequential amendments as the rules of grammar may require shall also be made.

Substitution of references of certain expressions by certain other expressions.

5. In the principal Act, in section 2,—

(A) for clauses (b), (c) and (d), the following clauses shall be substituted, namely:—

(b) "employee" means any person who is employed or engaged on contract basis, continuously for a period not less than two hundred and forty days, in an establishment to do any work for remuneration;

(c) "employer" means any person who, employs, or, enters into contract with, one or more other persons to do any work in an establishment for remuneration, continuously for a period not less than two hundred and forty days, and includes any person entrusted with the supervision and control of employees in such establishment;

(d) "employment guidance and promotion centre" means any office or place established and maintained by the appropriate Government for the collection and furnishing of information, either by the keeping of registers or through electronic medium or otherwise, relating to—

(i) persons who seek to engage employees;

(ii) persons who seek employment;

(iii) vacancies to which persons seeking employment may be appointed; and

(iv) persons who seek vocational guidance and career counseling or guidance to start self-employment;';

(B) in clause (g), for the words "twenty-five or more", the words "ten or more" shall be substituted;

(C) after clause (g), the following clause shall be inserted, namely:—

'(ga) "plantation" means preparation of any land for planting of commercial crops of perennial nature cultivated extensively in tropical and sub-tropical situations on a large scale by uniform system of cultivation under central management owned and managed by a company formed and registered under the Companies Act, 1956, but does not include the plantation owned and managed by an individual;'

(D) clause (i) shall be omitted.

Amendment of section 2.

6. In the principal Act, in section 3,—

(a) in sub-section (1),—

(i) in clause (a), after the words "other than", the words "employment in plantation or" shall be inserted;

(ii) clause (d) shall be omitted;

(iii) in clause (e), after the word "Parliament", the words "or a State Legislature" shall be inserted;

(b) in sub-section (2), clause (b) shall be omitted.

Amendment of section 3.

7. In the principal Act, in section 4, in sub-section (2),—

(i) after the words "every establishment in private sector", the words "employing twenty-five or more persons" shall be inserted;

(ii) after the words "category of establishments in private sector", the words "employing twenty-five or more persons" shall be inserted.

Amendment of section 4.

8. In the principal Act, in section 5, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) The employer shall furnish the information relating to the result of selection against the vacancies notified under section 4 to the employment guidance and promotion centre within thirty days from the date of selection in such form as may be prescribed."

Amendment of section 5.

9. In the principal Act, after section 5, the following section shall be inserted, namely:—

"5A. Notwithstanding anything contained in this Act, the appropriate Government may, by notification in the Official Gazette, having regard to the requirement of collection of statistics relating to employment status, require that from such date as may be specified in the notification, the employer in every establishment in private sector employing less than twenty-five persons or every establishment pertaining to any class or category of establishments in private sector employing less than twenty-five persons shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment to such employment guidance and promotion centre as may be prescribed, and the employer shall thereupon comply with such requisition."

Insertion of new section 5A. Obligation of certain establishments
In private sector to furnish returns.

10. In the principal Act, in section 6,—

(i) for the words and figure "any employer required to furnish any information or returns under section 5", the words, figures and letter "any employer required to notify vacancies to employment guidance and promotion centres under section 4 or furnish any information or return under section 5 or section 5A" shall be substituted;

(ii) for the words "under that section", the words, figures and letter "under section 5 or section 5A" shall be substituted.

Amendment of section 6.

11. In the principal Act, for section 7, the following section shall be substituted, namely:—

"7. (1) If any employer fails to notify to the employment guidance and promotion centre prescribed for the purpose any vacancy in accordance with sub-section (1) or sub-section (2) of section 4, he shall be punishable for the first offence with fine which may extend to five thousand rupees and for every second offence with fine which may extend to ten thousand rupees and for every subsequent offence with fine which may extend to ten thousand rupees, or with simple imprisonment which may extend to one month, or with both.

(2) If any person,—

(a) required to furnish any information or return under section 5,—

(i) refuses or neglects to furnish such information or returns; or

(ii) furnishes or causes to be furnished any information or returns which he knows to be false; or

(b) impedes the right of access to any relevant record or document or the right of entry conferred by section 6; or

(c) refuses to answer, or gives a false answer to any question asked under section 6, necessary for obtaining any information required under section 5 or section 5A,

he shall be punishable for the first offence with fine which may extend to five thousand rupees and for every second offence with fine which may extend to ten thousand rupees and for every subsequent offence with fine which may extend to ten thousand rupees, or with simple imprisonment which may extend to one month, or with both."

Substitution of section 7. Penalties.

12. In the principal Act, after section 7, the following sections shall be inserted, namely:—

‘7A. If any employer of an establishment in private sector referred to in section 5A,—

(a) required to furnish any information or return under that section,—

(i) refuses or neglects to furnish such information or return; or

(ii) furnishes or causes to be furnished any information or return which he knows to be false; or

(b) impedes the right of access to any relevant record or document or the right of entry conferred by section 6,

he shall be punishable after consecutive two defaults with fine which may extend to five thousand rupees and for every subsequent default with fine which may extend to five thousand rupees for each such default.

Insertion of new sections 7A and 7B. Penalty for contravention of section 5A.

7B. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.'

Offences by companies

13. In the principal Act, in section 10, in sub-section (2), after clause (b), the following clauses shall be inserted, namely:—

“(ba) the form in which the information relating to result of selection may be furnished by the employer under sub-section (4) of section 5;

(bb) the information or return in relation to vacancies that have occurred or are about to occur in the establishment in private sector and the employment guidance and promotion centre to which such information or return shall be furnished under section 5A;”.

Amendment of section 10.

STATEMENT OF OBJECTS AND REASONS

The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 was enacted on the recommendations of the Training and Employment Services Organisation Committee set up by the Government of India in 1952 to provide for compulsory notification of vacancies to the Employment Exchanges and for rendering returns, both employment and occupational, relating to employment situation by the employers.

2. Over the years, based on experience gained and difficulties encountered in the implementation of the said Act, a number of suggestions were received from various State Governments and Union territory Administrations for amendment of the said Act. The proposed amendments were discussed in various meetings of the Working Group on National Employment Service. The said Working Group broadly endorsed the amendments. In addition, the Act was enacted more than five decades back and with the passage of time, some of its provisions have become redundant or obsolete which need omission. In order to bring the said Act in tune with the present day requirement, certain amendments to the Act are also felt necessary.

3. In view of the above, the Employment Exchanges (Compulsory Notification of Vacancies) Amendment Bill, 2013, *inter alia*, provides for—

(a) changing the short title of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 as “the Employment Guidance and Promotion Centres (Compulsory Notification of Vacancies) Act, 1959” and accordingly to amend the long title of the Act;

(b) substituting the words “Employment Exchanges” with the words “Employment Guidance and Promotion Centres”, throughout the said Act, to give the emphasis on the guidance and counselling aspect rather than mere registration for jobs;

(c) the amendment of clause (g) of section 2 relating to the definition of “establishment in private sector” by substituting the words “ten or more” for the words “twenty-five or more” to collect employment information from establishments employing ten or more persons;

(d) the insertion of a new clause (ga) in section 2 to define the expression “plantation” so as to bring the vacancies in the plantation sector within the purview of the Act and to apply the provisions of the Act to the plantations owned and managed by an individual on voluntary basis;

(e) the amendment of sub-section (1) of section 3 in order to notify vacancies relating to unskilled office work and also vacancies relating to plantation sector along with employment as agriculture or farm machinery operatives;

(f) providing exemption from the application of the Act to the vacancies of staff of the State Legislature at par with the staff of Parliament;

(g) the omission of the provision relating to vacancies in an employment, which carries a remuneration of less than sixty rupees in a month, as there is hardly any post, which carries that remuneration;

(h) providing for an obligation on the employer to furnish the information relating to the selection against the vacancies notified under the Act;

(i) the insertion of a new section 5A, to provide for furnishing of returns by establishments employing ten or more but less than twenty-five persons to work for remuneration and in case of any failure to furnish the returns, to provide the punishment after consecutive two defaults with fine which may extend to five thousand rupees and for every subsequent default with fine which may extend to five thousand rupees for each such default;

(j) the substitution of section 7 so as to ensure better coverage and proper implementation of the said Act by making penalty provisions more stringent including an additional provision of imprisonment and raising the amount of fine for the first offence which may extend to five thousand rupees, for any second offence with fine which may extend to ten thousand rupees and for any subsequent offence with fine which may extend to ten thousand rupees, or with simple imprisonment which may extend to one month, or with both;

(k) the insertion of new sections 7A and 7B to provide penalties for non-remission of returns by establishments employing ten or more but less than twenty-five persons and to bring the public and private limited companies offering employment opportunities under the purview of the Act and to make liable any officer or other person working in such companies for committing offence for non-compliance of the provisions of the said Act.

4. The Bill seeks to achieve the above objects.

NEW DELHI; MALLIKARJUN KHARGE
The 18th January, 2013.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill seeks to amend section 10 of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, relating to the power to make rules, by inserting clauses (*ba*) and (*bb*) in sub-section (2) of section 10. Clause (*ba*) proposed to be inserted empowers the Central Government to make rules for providing the form in which the information relating to result of selection may be furnished by the employer under sub-section (4) of section 5. Clause (*bb*) proposed to be inserted empowers the Central Government to make rules for furnishing the information or return in relation to vacancies that have occurred or are about to occur in the establishment in private sector and the employment guidance and promotion centre to which such information or return shall be furnished under section 5A.

2. The rules made by the Central Government are required to be laid before Parliament. The matters in respect of which rules may be made by the Central Government are matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

(d) “employment exchange” means any office or place established and maintained by the Government for the collection and furnishing of information, either by the keeping of registers or otherwise, respecting—

- (i) persons who seek to engage employees,
- (ii) persons who seek employment, and
- (iii) vacancies to which persons seeking employment may be appointed;

* * * *

*

(g) “establishment in private sector” means an establishment which is not an establishment in public sector and where ordinarily twenty-five or more persons are employed to work for remuneration;

* * * *

*

(i) “unskilled office work” means work done in an establishment by any of the following categories of employees, namely:—

- (1) *daftri*;
- (2) *jamadar*, orderly and peon;
- (3) dusting man or *farash*;
- (4) bundle or record lifter;
- (5) process server;
- (6) watchman;
- (7) sweeper;
- (8) any other employee doing any routine or unskilled work which the Central Government may, by notification in the Official Gazette, declare to be unskilled office work.

3. (1) This Act shall not apply in relation to vacancies,—

(a) in any employment in agriculture (including horticulture) in any establishment in private sector other than employment as agricultural or farm machinery operatives;

* * * * *

Act not to apply in relation to certain vacancies.

(d) in any employment to do unskilled office work;

(e) in any employment connected with the staff of Parliament.

(2) Unless the Central Government otherwise directs by notification in the Official Gazette in this behalf, this Act shall not also apply in relation to—

* * * * *

(b) vacancies in an employment which carries a remuneration of less than sixty rupees in a month.

4. (1) * * * *

(2) The appropriate Government may, by notification in the Official Gazette, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed, and the employer shall thereupon comply with such requisition.

* * * * *

6. Such officer of Government as may be prescribed in this behalf, or any person authorised by him in writing, shall have access to any relevant record or document in the possession of any employer required to furnish any information or returns under section 5 and may enter at any reasonable time any premises where he believes such record or document to be and inspect or take copies of

relevant records or documents or ask any question necessary for obtaining any information required under that section.

7. (1) If any employer fails to notify to the employment exchanges prescribed for the purpose any vacancy in contravention of sub-section (1) or sub-section (2) of section 4, he shall be punishable for the first offence with fine which may extend to five hundred rupees and for every subsequent offence with fine which may extend to one thousand rupees.

(2) If any person—

(a) required to furnish any information or return—

(i) refuses or neglects to furnish such information or return, or

(ii) furnishes or causes to be furnished any information or return which he knows to be false, or

(iii) refuses to answer, or gives a false answer to, any question necessary for obtaining any information required to be furnished under section 5; or

(b) impedes the right of access to relevant records or documents or the right of entry conferred by section 6, he shall be punishable for the first offence with fine which may extend to two hundred and fifty rupees and for every subsequent offence with fine which may extend to five hundred rupees.

* * * * *

10. (1) * * * * *

(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:—

* * * * *

RAJYA SABHA

A
BILL

further to amend the Employment Exchanges (Compulsory
Notification of Vacancies)
Act, 1959.

(Shri Mallikarjun Kharge, Minister of Labour and Employment)
GMGIPMRND—120RS(S3)—12-04-2013.

Minutes of the Sitting of the Committee

The Committee sat on 7 October, 2013 from 1500 hrs. to 1615 hrs. in Room No.53, Parliament House, New Delhi.

PRESENT

Shri Dara Singh Chauhan – CHAIRMAN

MEMBERS LOK SABHA

2. Shri Ashok Argal
3. Dr. Virendra Kumar
4. Shri Narahari Mahato
5. Shri Hari Manjhi
6. Shri Mahendra Kumar Roy
7. Shri Rajiv Ranjan Singh (Lalan)
8. Smt. J. Shantha
9. Shri Ratan Singh
10. Shri K. Sugumar
11. Shri Bibhu Prasad Tarai
12. Shri Suresh Kashinath Taware
13. Shri Om Prakash Yadav

Rajya Sabha

14. Smt. T. Ratna Bai
15. Shri Thaawar Chand Gehlot
16. Shri Mohd. Ali Khan
17. Shri P. Kannan
18. Shri G.N. Ratanpuri
19. Shri Rajaram
20. Smt. Renubala Pradhan

SECRETARIAT

- | | | | |
|----|-----------------------|---|------------------|
| 1. | Shri A.K Singh | - | Joint Secretary |
| 2. | Shri. P.V.L.N Murthy | - | Director |
| 3. | Smt. Bharti S. Tuteja | - | Deputy Secretary |

**REPRESENTATIVES OF THE MINISTRY OF LABOUR AND
EMPLOYMENT AND DIRECTORATE GENERAL OF
EMPLOYMENT & TRAINING**

Sl No.	Name of the Officer	Designation
1.	Shri Arun Kumar Sinha	Additional Secretary
2.	Shri Shikhar Agarwal	Director General (DGE&T)
3.	Shri Pravin Srivastava	Deputy Director General (DGE&T)

- | | | | |
|----|----|----|----|
| 2. | XX | XX | XX |
| 3. | XX | XX | XX |
| 4. | XX | XX | XX |

[At about 1515 hrs the representatives of the Ministries were called in]

5. The Chairman then welcomed the Additional Secretary and other officials of the Ministry of Labour & Employment and invited their attention to the provisions contained in Direction 55 (1) of the Directions by the Speaker.

6. A power point presentation was made by the representatives of the Ministry of Labour & Employment and briefed the Committee on the amendments proposed in 'The Employment Exchanges (Compulsory Notification of Vacancies) Amendment Bill, 2013.

7. The Members, thereafter, raised several issues and also sought clarifications on the following:-

- (i). Need for a comprehensive review of the Bill covering all registered establishments irrespective of the number of employees.
- (ii). Effective and stringent penalty for violation of the provision of the Act.
- (iii). Clear definition of the employer and the employee.
- (iv). Making provisions of the Act mandatory.
- (v). Use of information technology for a more effective and efficient implementation of the Act.
- (vi). Coverage of commercial agriculture and establishment engaged in producing Bio products under the Act.
- (vii). Proposal for amendment in the wake of the Supreme Court ruling in 1996 regarding notification of vacancies.
- (viii). No provision for guidance and promotional role of the employment exchanges.
- (ix). Exchanges should be one stop solution for available courses, vacancies, training and self employment opportunities.

8. The Chairman then directed the representatives of the Ministry of Labour & Employment to send written replies to the unanswered queries of the Members to the Secretariat within a week.

9. The Chairman thanked the Additional Secretary and other officials of Ministry of Labour & Employment for giving valuable information to the Committee and responding to the queries of the Members.

(The witnesses then withdrew)

[A copy of the verbatim proceedings was kept for record]

The Committee then adjourned.

XX Matter do not pertain to this report.

Minutes of the Sitting of the Committee

The Committee sat on 11th December, 2013 from 1500 hrs. to 1630 hrs. in Committee Room `C', Parliament House Annexe, New Delhi.

PRESENT

Shri Dara Singh Chauhan - Chairman

MEMBERS

LOK SABHA

2. Shri Ashok Argal
3. Dr. Virendra Kumar
4. Shri Hari Manjhi
5. Shri Mahendra Kumar Roy
6. Smt. J. Shantha
7. Shri Rajiv Ranjan Singh (Lalan)

i. Rajya Sabha

8. Shri D. Bandoyapadhyay
9. Shri Thaawar Chand Gehlot
10. Shri Mohd. Ali Khan
11. Shri G.N. Ratanpuri

SECRETARIAT

- | | | |
|--------------------------|---|------------------|
| 1. Shri A.K Singh | - | Joint Secretary |
| 2. Shri P.V.L.N. Murthy | - | Director |
| 3. Smt. Bharti S. Tuteja | - | Deputy Secretary |

2. XX XX XX
3. XX XX XX
4. XX XX XX

[At about 1515 hrs the representatives of the Ministry of Labour and Employment were called in]

REPRESENTATIVES OF THE MINISTRY OF LABOUR AND EMPLOYMENT

SL. NO.	NAME OF THE OFFICER	ORGANISATION
1.	Smt. Gauri Kumar	Secretary
2.	Shri Shikhar Agarwal	Director General
3.	Shri Pravin Srivastava	Deputy Director General
2.	Shri Rajeeva Sadanandan	Joint Secretary/DGLW
3.	Shri B.K. Sanwariya	CLC (C)
4.	Shri A.K. Jena	Dy. Director General
5.	Shri D.P. Singh	RLC (Hq.)
6.	Shri R.S. Dangi	Deputy Director

5. Thereafter, the Chairman welcomed the Secretary of Ministry of Labour and Employment and other officials of the concerned Ministry to the sitting to hear their views on 'The Building and Other Construction Workers Related Laws (Amendment) Bill, 2013' & 'The Employment Exchanges (Compulsory Notification of Vacancies) Amendment Bill, 2013'. The Chairman also invited their attention to the provisions contained in Direction 55 (1) of the Directions by the Speaker.

6. XX XX XX

7. The Members, thereafter, raised several issues and also sought clarifications on the 'The Employment Exchanges (Compulsory Notification of Vacancies) Amendment Bill, 2013':-

- (i) Role of Employment Exchanges in the proposed Bill.
- (ii) Qualification of career counselors.
- (iii) Proposed change in the nomenclature of the Act.
- (iv) Failure of the employment exchanges in the country to provide employment opportunities.
- (v) Mandatory recruitment through employment exchanges.
- (vi) Need to revamp the employment exchanges, enhance the scope of services rendered through them and reviewing the amendments proposed in line with the present requirements.

8. The Chairman then thanked the Secretary and other officials of Ministry of Labour & Employment for giving valuable information to the Committee and responding to the queries of the Members.

(The witnesses then withdrew)

[A copy of the verbatim proceedings was kept for record]

The Committee then adjourned.

Minutes of the Sitting of the Committee

The Committee sat on 19th December, 2013 from 1500 hrs. to 1700 hrs. in Main Committee Room, Parliament House Annexe, New Delhi.

PRESENT

Shri Dara Singh Chauhan - Chairman

MEMBERS

LOK SABHA

2. Dr. Manda Jagannath
3. Shri Mahendra Kumar Roy
4. Shri Ratan Singh
5. Shri Om Prakash Yadav
6. Shri Madhu Goud Yaskhi

Rajya Sabha

7. Smt. T. Ratna Bai
8. Shri Thaawar Chand Gehlot
9. Shri Ranbir Singh Parjapati
10. Smt. Renubala Pradhan
11. Shri Rajaram
12. Shri G.N. Ratanpuri

SECRETARIAT

- | | | |
|--------------------------|---|------------------|
| 1. Shri A.K Singh | - | Joint Secretary |
| 2. Smt. Bharti S. Tuteja | - | Deputy Secretary |

2.	XX	XX	XX
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10. The Chairman then apprised the Members about the Draft Reports to be considered and adopted on Action taken by the Government on the Recommendations/Observations contained in the Thirty-Fifth Report of the Standing Committee on Labour on the Demands for Grants of the Ministry of Labour and Employment for the year 2013-14' and 'The Employment Exchanges (Compulsory Notification of Vacancies) Amendment Bill, 2013' .

11. The Committee considered and adopted the Draft Reports without any modification.

12. The Committee then authorized the Chairman to finalise the Reports after factual verification from the concerned Ministry and present the Reports first to Hon'ble Speaker, Lok Sabha and thereafter to the Houses.

The Committee then adjourned.