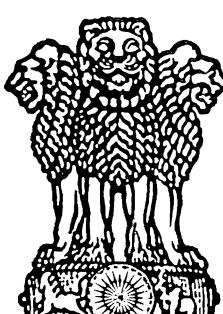


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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1113-L.—21st July, 2010.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 25 of 2010

**THE WEST BENGAL PUBLIC WORKS CONTRACTORS
(REGULATION AND CONTROL) (AMENDMENT)
BILL, 2010.**

**A
BILL**

to amend the West Bengal Public Works Contractors (Regulation and Control) Act, 2006.

WHEREAS it is expedient to amend the West Bengal Public Works Contractors (Regulation and Control) Act, 2006, for the purposes and in the manner hereinafter appearing;

West Ben. Act IX
of 2006.

It is hereby enacted in the Sixty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the West Bengal Public Works Contractors (Regulation and Control) (Amendment) Act, 2010.

(2) It shall come into force at once.

*The West Bengal Public Works Contractors (Regulation and Control)
(Amendment) Bill, 2010.*

(*Clauses 2-5.*)

Amendment of
long title of West
Ben. Act IX of
2006.

2. In the long title of the West Bengal Public Works Contractors (Regulation and Control) Act, 2006 (hereinafter referred to as the principal Act), after the words 'persons dealing with public works', the words 'or jobs' shall be inserted.

Amendment of
Preamble.

3. In the Preamble of the principal Act, after the words 'persons dealing with public works', the words 'or jobs' shall be inserted.

Amendment of
section 1.

4. For sub-section (3) of section 1 of the principal Act, the following sub-section shall be substituted:—

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

Amendment of
section 2.

5. In section 2 of the principal Act,—

(1) clause (b) shall be omitted;

(2) after clause (b), the following clause shall be inserted:—

"(ba) 'Approval Committee' means the Approval Committee constituted under section 6A;”;

(3) for clause (c), the following clause shall be substituted:—

"(c) 'categories of contractors' shall include the following:—

(i) enlisted contractors, that is, those persons who have been granted registration under this Act by the prescribed authority to carry out public works under Public Works Department; and

(ii) outside contractors, that is, those persons other than enlisted contractors;”;

(4) after clause (c), the following clause shall be inserted:—

"(ca) 'categories of enlisted contractors' shall include the following:—

(i) General Works contractors;

(ii) Plumbing Works contractors; and

(iii) Electrical Works contractors;”;

(5) after clause (d), the following clauses shall be inserted:—

"(da) 'classes of enlisted contractors' mean the groups of enlisted contractors for a particular category of public works classified on the basis of financial limits of contracts;

(db) 'contract' means an agreement in writing by and between the State Government and the person whose tender or quotation for carrying out the specified public works or jobs under Public Works Department has been accepted by the State Government;”;

(6) after clause (e) the following clause shall be inserted:—

"(ea) 'jobs' include the following:—

(i) supplies to be made;

(ii) carriage to be made; and

(iii) services to be rendered under Public Works Department;”;

The West Bengal Public Works Contractors (Regulation and Control) (Amendment) Bill, 2010.

(Clause 6.)

(7) for clause (f), the following clause shall be substituted:—

“(f) ‘malpractice’ includes dishonesty, cheating, impersonation, obstruction in carrying out public works or jobs as specified in the contract and failure to observe, while submitting tender or quotation, the instruction given in the tender or quotation documents including Schedule appended thereto;”;

(8) for clause (h), the following clause shall be substituted:—

“(h) ‘Person’ shall include any company or body corporate or association or body of individuals, whether incorporated or not who intends to undertake a contract to carry out public works or jobs under Public Works Department;”;

(9) for clause (j), the following clause shall be substituted:—

“(j) ‘prescribed authority’ means the Officer on Special Duty and *ex officio* Deputy Secretary to the Government of West Bengal in Public Works Department;”;

(10) for clause (k), the following clause shall be substituted:—

“(k) ‘Public Works’ means construction, development, repairing, maintenance and management of—

- (i) Communications that is to say, roads, bridges and ferries;
- (ii) Land;
- (iii) Buildings;
- (iv) Archaeological sites and remains;
- (v) Sanitary and Plumbing Works; and
- (vi) Electrical Works either vested in or under the possession of the State and shall include such other works as the State Government may, by order, specify by the notification;”;

(11) after clause (k), the following clauses shall be inserted:—

“(ka) ‘qualified persons’ mean the persons who have been found eligible by the Advisory Board to be recommended for registration under this Act as enlisted contractors;

(kb) ‘quotation’ means the estimate in writing of any person against invitation by the State Government through notice in such form, and in such manner as may be prescribed for carrying out the job, as specified in the said notice, under Public Works Department;”;

(12) after clause (l), the following clause shall be inserted:—

“(m) ‘tender’ means a valid and sufficient offer, specifically and unconditional offer in writing, of any person against invitation by the State Government through notice in such form, and in such manner as may be prescribed by the State Government for carrying out the public works, as specified in the said notice, under Public Works Department.”.

6. In section 3 of the principal Act,—

(1) for sub-section (1), the following sub-section shall be substituted:—

“(1) Every person, intending to become an enlisted contractor shall on invitation by the State Government by means of advertisement, have to apply, for the purpose of registration for enlistment under

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(*Clauses 7-9.*)

Public Works Department, to the prescribed authority in such form, in such manner and with such fee, as may be prescribed:

Provided that different fees may be prescribed for different categories of enlisted contractors as well as different classes of enlisted contractors.”;

- (2) in sub-section (2), for the words “registration for enlistment”, the words “the purpose of registration for enlistment under Public Works Department” shall be substituted;
- (3) in sub-section (4), for the words “three months”, the words “six months” shall be substituted.

Substitution of new section for section 4.

7. For section 4 of the principal Act, the following section shall be substituted:—

“Certificate of registration. 4. (1) The prescribed authority shall, subject to the provisions contained under sections 5 and 6A direct the name and the particulars of persons be entered in the registered maintained for the purpose and shall issue a certificate of registration for enlistment to the qualified person in the prescribed manner.

(2) Certificate issued under sub-section (1) shall be valid for a period of five years from the date of issue and shall be renewable in such manner and on payment of such fees as may be prescribed.”.

Amendment of section 5.

8. In sub-section (1) of section 5 of the principal Act,—

- (1) for the words “The prescribed authority may refuse registration for enlistment of contractors”, the words “The Advisory Board may not recommend registration” shall be substituted;
- (2) sub-clause (ii) of clause (a) shall be omitted.

Amendment of section 6.

9. In section 6 of the principal Act,—

(1) in sub-section (1), for the words “The State Government may, by notification in the *Official Gazette*, constitute”, the words “There shall be” shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted:—

“(2) The Advisory Board to be constituted under sub-section (1), by an order, shall consist of the following persons:—

(i) Engineer-in-chief and <i>ex officio</i> Secretary, Public Works Department	— Chairperson;
(ii) Additional Chief Engineer, (Head Quarter) Public Works Directorate	— Convenor;
(iii) Technical Secretary, Public Works Department	— Member;

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(*Clauses 10-13.*)

(iv) Such other officers not more than three of whom two shall be in the rank of Additional Chief Engineer and one in the rank of Superintending Engineer to be nominated as members by the State Government, by order:

Provided that the State Government may, by an order, bring about any change in the composition of Advisory Board whenever deemed expedient to do so;

(3) in sub-section (3),—

(a) for the words “the persons”, the words “the qualified persons” shall be substituted;

(b) for the words “the prescribed authority”, the words “the Approval Committee” shall be substituted;

(4) in sub-section (4), for the words “by order”, the words “by order, in addition to those already specified in sub-section (3)” shall be substituted.

Insertion of new section 6A after section 6.

10. After section 6 of the principal Act, the following section shall be inserted:—

Approval Committee.

6A. (1) There shall be an “Approval Committee” for according approval to the names of the persons duly recommended by the Advisory Board to be registered under this Act for enlistment.

(2) The Approval Committee under sub-section (1) shall consist of the following members:—

(i) Secretary, Public Works Department	— Chairperson;
(ii) Engineer-in-chief and <i>ex officio</i> Secretary, Public Works Department	— Vice-Chairperson;
(iii) Chief Engineer, Public Works Directorate	— Convenor;
(iv) Such other officers not more than three, all of whom shall be in the rank of Chief Engineer to be nominated by order, by the State Government	— Members:

Provided that the State Government may, by an order, bring about any change in the composition of the Committee wherever deemed expedient to do so.

(3) The duties, functions, tenure of office of the members and amounts of fees and travelling expenses payable to the members in connection with the performance of their duties shall be such as may be prescribed.’.

Amendment of section 7.

11. In section 7 of the principal Act, after the words “The prescribed authority may,”, the words “subject to the approval of the Advisory Board,” shall be inserted.

Omission of Chapter III.

12. Chapter III of the principal Act shall be omitted.

13. For section 10 of the principal Act, the following section shall be substituted:—

“Penalty for false statement. 10. Any person, who makes a false statement or suppresses a

material fact under this Act shall be liable to punishment with imprisonment which may extend to two years.”.

Substitution of new section for section 10.

The West Bengal Public Works Contractors (Regulation and Control) (Amendment) Bill, 2010.

(*Clauses 14-21.*)

Amendment of
section 11.

14. In section 11 of the principal Act, for the words "which shall not be less than three years but may extend to seven years", the words "which may extend to two years" shall be substituted.

Amendment of
section 12.

15. In section 12 of the principal Act, for the words "which shall not be less than three years but may extend to seven years", the words "which may extend to two years" shall be substituted.

Amendment of
section 14.

16. In section 14 of the principal Act,—

(1) the word 'wilfully' shall be omitted;

(2) for the words "which shall not be less than three years but may extend to seven years", the words "which may extend to two years" shall be substituted.

Amendment of
section 15.

17. In section 15 of the principal Act, for the words "a police officer not below the rank of Sub-Inspector", the words "an Engineer as specified in section 13" shall be substituted.

Omission of
section 16.

18. Section 16 of the principal Act shall be omitted.

Amendment of
section 20.

19. In section 20 of the principal Act, after the words 'and on payment of the prescribed fees' the words 'and on being satisfied after inquiry', shall be inserted.

Amendment of
section 23.

20. In section 23 of the principal Act, for the word 'person', the words 'officer of the State Government' shall be substituted.

Amendment of
section 25.

21. In sub-section (1) of section 25 of the principal Act, the words "after previous publication," shall be omitted.

STATEMENT OF OBJECTS AND REASONS.

It is considered expedient and necessary to amend the West Bengal Public Works Contractors (Regulation and Control) Act, 2006 (West Ben. Act IX of 2006) for the purposes of making the said Act more effective as also to make it easier for the contractors dealing with Public Works to get enlisted under the said Act including regulation of persons dealing with jobs under Public Works Department.

2. It has also been proposed, *inter alia*, to constitute an Approval Committee for the purpose of accordinng approval of the persons to be registered under the said Act for enlistment so as to make it certain that the enlistments are made in compliance with the provisions contained under the said Act.

3. The Bill has been framed with the above objects in view.

KOLKATA,
The 20th July, 2010.

KSHITI GOSWAMI,
Member-in-charge.

FINANCIAL MEMORANDUM.

There is expenditure involved in giving effect to the provisions of the Bill. Necessary provisions for this purpose will be made in the budget of Public Works Department.

KOLKATA,
The 20th July, 2010.

KSHITI GOSWAMI,
Member-in-charge.

By order of the Governor,

MITA BASU ROY,
Pr. Secy. to the Govt. of West Bengal,
Law Department.