

THE INTER-STATE MIGRANT WORKMEN (Regulation of Employment) AND Conditions of Service) ACT, 1979

1. OBJECT:

To regulate the employment of inter-state migrant workmen and to Provide for their conditions of service and for matters connected therewith.

II APPLICABILITY:

It extends to the whole of India and applies to:

- (1) Every establishments in which 5 or more inter-state migrant workmen (whether or not in addition to other workmen) are employed or who were employed on any day of the preceding twelve months
- (2) To every contractor who employed 5 or more interstate migrant worker (whether or not in addition to other workmen) on any day of the Preceding twelve months.

III WHO IS AN INTER-STATE MIGRANT WORKMAN:

Any person who is recruited by or through a contractor in one state under an agreement or other arrangement for employment in an establishment in another state whether with or without the knowledge of the Principle employer. (Section-2e)

IV REGISTRATION OF ESTABLISHMENTS:

Every principle employer of an establishment to which this Act applies shall make an application for registration in triplicate in Form No.1 to the registering officer, along with the Prescribed fees. On receipt of an application, registering officer shall issue a registration certificate in Form-II based on the specifications stipulated in the Kerala Inter-State Migrant Workmen (regulation of employment and conditions of service) Rules 1983 (Section-4 read with Rules 3, 4 and 12)

V FEE FOR REGISTRATION:

a.	If the number of Inter-State Workmen is 5 but does not Exceed 20	Rs.50.00
b.	„ „ 20 „ „	50 Rs.100.00
c.	„ „ 50 „ „	100 Rs. 200.00
d.	„ „ 100 „ „	200 Rs. 350.00
e.	„ „ 200 „ „	400 Rs. 650.00
f.	„ above 400	Rs. 800.00

VI PROHIBITION AGAINST EMPLOYMENT OF INTER-STATE MIGRANT WORKMEN WITHOUT REGISTRATION:

No principle employer shall employ inter-state migrant workmen in the establishment unless a certificate of registration is obtained under this Act. (Section-6)

VII LICENSING OF CONTRACTORS:

No contractor shall

- (I) Recruit any person in a state for the purpose of employing him in any establishment situated in another state except without obtaining a recruitment licence issued by the licensing officer of the area where the recruitment is done.
- (II) Employ any interstate workmen without obtaining an employment licence received from the licensing officer of the area where the establishment is situated. (Section-8)

VII GRANT OF LICENCES:

The contractor shall apply for a recruitment licence in triplicate in Form-IV to the licensing officer having jurisdiction in relation to the area wherein recruitment is made.

FEE FOR THE RECRUITMENT LICENCE AND EMPLOYMENT LICENCE.

a. If the number of migrant Workman is 5 but does not

		Exceed 20	Rs.15.00
b. „	„	20 „ „	Rs.25.00
c. „	„	50 „ „	Rs.50.00
d. „	„	100 „ „	Rs.100.00
e. „	„	200 „ „	Rs.200.00
f. „		above 400	Rs.250.00

The application for the employment licence in Form-V to be submitted to the licensing officer.

IX SECURITY AMOUNT:

The licensing officer can direct the contractor to furnish a security for ensuring the due performance of the conditions of the licence an amount which is not exceeding 40% of the amount estimated for the recruitment and performance of the conditions of the licence etc. (Section-9 read with Rule-7 to 12& 13)

X RENEWAL OF LICENCE:

Every contractor may apply to the licensing officer for renewal in Form-IX in triplicate not less than 30 days before the date on which the licence expires. The fee chargeable for renewal of the licence shall be same as for the grant of licence. If the application for renewal is not submitted within the time

specified, a fee of 25% in excess of the fee ordinarily Payable shall be payable for such renewal.

A licence issued or renewed shall remain in force for a period of twelve months. (Rule-14& 15)

A duplicate certificate may be granted on Payment of a fee of Rs.10/- (Rule 16)

XI APPEAL:

Any person aggrieved by an order of the registering officer or licensing officer may within 30 days Prefer an appeal to the appellate officer, along with the certified copy of the order and Chelan receipt of Rs.25/- (Section-11 read with Rule 18 & 19). (Regional labour commissioners are the notified appellate officer under this Act)

XII DUTIES AND OBLIGATIONS OF THE CONTRACTORS:

- I. Every contractor shall furnish to the specified authorities the particulars regarding recruitment and employment of migrant workmen within 15 days from the date recruitment/ the date of employment/ any change occurs in any of the particulars already furnished in Form-X.
- II. Issue to every inter-state migrant workman a passbook affixed with a passport size Photograph with the following particulars: Date of recruitment, Date of employment, Wage Period, Name and address workman etc. (Section-12 read with Rules 21 & 23).
- III. Every contractor shall send half yearly return in form.XXIII (in duplicate to the licensing officer not later than 30 days from the close of the half year commencing from 1st January

XIII WAGE RATES AND OTHER CONDITIONS OF SERVICE:

The wage rates, holidays, hours of work and other conditions of migrant workmen shall be same as those applicable to such other workman in the ESH which shall not be less than the rate of wages paid by the principal employer to a workmen in the lowest category of workman directly employed by him in that ESH or the minimum rates of wages notified by Govt. in any scheduled employment which ever is higher. All wages payable to an inter-state migrant workman shall be paid in the presence of an authorized representative of the Principal employer who shall record under his signature a certificate stating that the amount has been paid in his Presence on such date and time. It shall be the duty of the contractor to ensure the disbursement of wages done in the Presence of the authorised representative. (Rules 25 to 34)

XIV DISPLACEMENT ALLOWANCE:

The contractor shall pay in addition to the wages or other amounts payable to a migrant workman at the time of recruitment, a displacement allowance equal to 50% of the monthly wages Payable to him or Rs.75/-whichever is higher. Which shall not be refundable and is an additional benefits payable by the contractor. (Section-14)

XV JOURNEY ALLOWANCE:

The contractor shall pay a journey allowance of a sum not less than the fare from them place of residence of the work man to the place of work to the workman for the outward and return journeys. The Workman is also entitled to payment of wages during the period of such journeys as if he were on duty. (Section-15)

XVI REPORTING OF FATAL ACCIDENTS:

In case of fatal accidents or serious boldly injury to any migrant workmen, the contractor shall immediately send telegram to the specified authority of both state and also next of kin of the workman. The contractor shall further send a written report to the specified authority and the next of the kin by read. post with in 24 hours of the occurrence of the accident, with the following particulars:

1. Name of the migrant workman.
2. Date, place and nature of accident.
3. Condition of the migrant workman.
4. Action taken by the contractor or principal employer.
5. Remarks.

The contractor shall also liable to provide other welfare amenities such as canteen, crèche, drinking water, latrine etc. as specified in the Rules.

(Section-16 read with rules 35 to 41)¹⁵

XVII REGISTER AND RECORDS:

Every Principal employer shall maintain registers of contractors. Every employer and contractor shall maintain a register of persons employed, service Certificate, displacement cum outward journey allowance sheet and return journey allowances register, muster roll, wages register, deduction register and overtime register as stipulated in Notice showing the rates of wages, hour of work wages periods etc. shall be exhibited in a conspicuous place the ESH Rules 47 to 54.

XVIII RETURNS:

The contractor shall send a half yearly returns in duplicate in Form-23 to the

licensing officer within 30 days from the close of the half year and the principal employer shall send an annual return in Form-24 in duplicate to the registering officer not later than 15th of February (Rule -55)

XIX LEGAL AID:

On receipt of a written application from a migrant workman or in the event of his death, the next of his kin, for providing legal aid in relation to any proceedings before the claim authorities of the following Acts

1. Section 15 of the payment of wages Act 1936
2. Section 20 of the minimum wages Act 1948.
3. sub-section (2) of section 33c of the I D Act 1947
4. Compensation under workmen compensation Act 1923

in which the migrant workman or his legal heir is a party, the specified authorities concerned, if he satisfied, may with the prior approval of officer authorized by the govt. by notification engage an advocate to conduct the relevant proceedings on behalf of the migrant workman or legal heirs and meet all legal expenses in this regard.

XX PENALTIES:

Offences under this Act shall be punishable with imprisonment for a term which may extend to 2 years or with fine which may extend to Rs.2000/- or with both. For a continuing contravention after a conviction shall be punishable with an additional fine which may extend to Rs.100/- every day during which such contravention continues. (Section-24 to 26)

XXI COGNIZANCE OF OFFENCES:

An inspector or an authorised person or any person with the previous sanction

in writing of may file complaint under this Act. No. court inferior to that of a metropolitan Magistrate or judicial First class Magistrate shall try the offences under the Act. (Section-28)

A complaint under this Act shall be filed within three months from the date on which the alleged commission of the offence came to the knowledge of the inspector or authorized person.

XXII AUTHORITIES APPOINTED UNDER THE ACT:

1. Inspectors (under Section-20)

- a. Labour commissioner
- b. Additional Labour Commissioner (IR)
- c. Additional Labour Commissioner (Enforcement)
- d. Joint Labour Commissioner (p)
- e. Deputy labour Commissioner (HQ)
- f. Regional Joint Labour Commissioners Ekm., Kollam and Kozhikod
- g. District Labour Officers (E)
- h. Asst. Labour Officers-Grade II

2. Registering Officers (under sec-3)

District Labour Officer (HQ)

District Labour Officers (E)

3. Appellate Authority

(under Section-11)

Additional Labour Commissioner, (IR)

ALC Enforcement

Regional joint Labour Commissioners

4. Licensing Officer (under Section - 7)

District Labour Officers (E)