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THE DELHI PRIVATE PLACEMENT AGENCIES (REGULATION) BILL 2012

An Act to provide for the regulation of private placement agencies and for matters connected therewith or incidental thereto.

BE it enacted by the Delhi Vidhan Sabha in the Sixty-third Year of the Republic of India as follows:-

1. (1.) Short title, extent and commencement.-

(2) This Act may be called the Delhi Private Placement Agencies (Regulation) Act, 2012.

(3) It extends to the whole of National Capital Territory of Delhi..

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

2. Definitions.-In this Act, unless the context otherwise requires,-

(a) "Controlling Authority" means the Controlling Authority appointed under sub-section (1) of section 3;

(b) "licence" means a licence granted under sub-section (5) of section 7;

(c) "notification" means a notification published in the Official Gazette;

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

(e) "domestic worker" means a person engaged through private placement agency to do domestic work and includes a guard working at the residence of a person.

(f) "private placement agency" means a person or body of persons other than a government agency, department or organisation engaged in the business of providing domestic workers and

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includes an agency providing guards, by whatever name designated, at the residence of a person;

(g) "Government", means the Government of National Capital Territory of Delhi.

3. Appointment of Controlling Authority and Inspector:-

(1) The Government shall, by notification, appoint officers not below the rank of a the Joint Labour Commissioner of the Labour Department having educational qualification in human resource management and industrial relation, to be the Controlling Authority for the purposes of this Act and may define local limits within which a Controlling Authority may function.

(2) The Government shall, for efficient discharge of functions by the Controlling Authority, provide it with such other officers and staff as are necessary.

4. Persons or Private Placement Agency not to provide private domestic workers without licence.-No person or private placement agency shall carry on or commence the business of private placement agency, unless he holds a licence issued under this Act:

Provided further that no private placement agency shall provide private domestic worker abroad without obtaining permission of the Controlling Authority.

5. Eligibility for licence.-An application for issue of a licence under this Act shall only be considered from a person after due verification of his antecedents., as may be prescribed.

6. Persons not eligible for licence.-

(1) A person shall not be considered for issue of a licence under this Act, if he has been-

(a) convicted of an offence in connection with promotion, formation or management of a company (any fraud or misfeasance committed by him in relation to the company), including an undischarged insolvent; or

(b) dismissed or removed from Government service on grounds of misconduct or moral turpitude.

(c) convicted by a competent court for an offence on grounds of moral turpitude or of an offence against women.

(2) (i) A company, firm or an association of persons shall not be considered for issue of a licence under this Act, if, it is not registered in India, or having a proprietor or a majority shareholder, partner or director, who is not a citizen of India.

(ii) Has any partner or director who is disqualified under sub section (1) above.

7. Application for grant of licence.-

1) An application for grant of licence to a private placement agency shall be made to the Controlling Authority in such form as may be prescribed.

(2) The applicant shall submit an affidavit incorporating the details in relation to the provisions contained in section 5 and section and ensure fulfilment of conditions under section 11 and of cases registered with police or pending in a court of law involving the applicant.

(3) Every application under sub-section (1) shall be accompanied by a fee of rupees five thousand .

(4) On receipt of an application under sub-section (1), the Controlling Authority may, after making such inquiries as it considers necessary and obtaining no objection certificate from the concerned police authority as may be prescribed, by order in writing, either grant a licence or refuse to grant the same within a period of sixty days from the date of receipt of application with complete particulars and the prescribed fee: Provided that no order of refusal shall be

made unless- (a) the applicant has been given a reasonable opportunity of being heard; and (b) the grounds on which licence is refused is mentioned in the order.

(5) A licence granted under this section- (a) shall be valid for a period of five years unless the same is cancelled under sub-section (1) of section 13; (b) may be renewed from time to time after the expiry of five years, for a further period of five years on payment of such fee as may be prescribed; and (c) shall be subject to such conditions as may be prescribed.

8. Renewal of licence.-

(1) An application for renewal of licence shall be made to the Controlling Authority, not less than forty-five days before the date of expiry of the period of validity thereof, in such form as may be prescribed and shall be accompanied by the requisite fee and other documents required under sections 6, 7 and 11 of this Act.

(2) The Controlling Authority shall pass an order on application for renewal of licence within forty-five from the date of receipt of application complete in all respects.

(3) On receipt of an application under sub-section (1), the Controlling Authority may, after making such inquiries as he considers necessary and by order in writing, renew the licence or refuse to renew the same: Provided that no order of refusal shall be made except after giving the applicant a reasonable opportunity of being heard.

9. Conditions for commencement of operation.-

(1) No private placement agency shall, commence its activities without obtaining a licence;

Provided that a private placement agency which came into existence before the notification of this Act , shall obtain licence within three months of the notification of this Act.

10. Eligibility to be a domestic worker.-

A private placement agency shall not employ , engage or deploy any person as a domestic worker unless s/he- (a) is a citizen of India or a citizen of such other country as the Government may, by notification in the Official Gazette, specify; (b) has completed eighteen years of age (c) satisfies the agency about his character and antecedents in such manner as may be prescribed; and (d) satisfies such other conditions as may be prescribed.

11. Conditions of licence.-(1) The State Government may frame rules to prescribe the conditions on which licence shall be granted under this Act and such conditions shall include details of the person or persons forming the agency, obligation as to the information to be provided from time to time to the Controlling Authority regarding any change in their address, change of management and also about any criminal charge made against them in the course of their performance of duties of the private placement agency or as the case may be, a domestic worker employed or engaged through them.

12. Licence to be exhibited.-(1) Every private placement agency shall exhibit its licence or copy thereof in a conspicuous place of its business. The registration number of the agency shall be displayed on its letter-head, receipt and in any advertisement printed/painted by it or on its behalf.

(2) Every private placement agency shall display a sign board outside its office which will display the name of the private placement agency and its licence number.

(3) The size of the sign board may be as prescribed .

13. Cancellation and suspension of licence.-

(1) The Controlling Authority may cancel any licence on any one or more of the following grounds, namely:- (a) that the licence has been obtained by misrepresentation or suppression of material facts; (b) that the licence holder has used false documents or photographs; (c) that the licence holder has violated the provisions of this Act or the rules made thereunder or any of the conditions of the licence; (d) that the licence holder has misused information obtained by him during the discharge of his duties as the private placement agency (e) that the licence holder by using any letter-head, advertisement or any other printed matter or in any other manner represented that the private placement agency is an instrumentality of the Government or such agency is or has been using a name different from that for which licence has been granted; (f) that the licence holder is or has been impersonating or permitting or aiding or abetting any body to impersonate as a public servant; (g) that the private placement agency had failed to commence its activities within the specified time period; (h) that the licence holder is or has wilfully failed or refused to render the services agreed to any person; (i) that the licence holder has done any act which is in violation of a court order or an order of a lawful authority or is or has been advising, encouraging or assisting any person to violate any such order; (j) that there have been repeated instances when the domestic workers provided by the private placement agency- (i) failed to render service from the contracted period; (ii) committed a breach of trust or misappropriated the property or a part thereof of the employer; (iii) were found habitually drunk or undisciplined; (iv) were found to be involved in committing crimes.

(2) Where the Controlling Authority, for reasons to be recorded in writing, is satisfied that pending the question of cancelling of licence on any of the grounds mentioned in sub-section (1), it is necessary to do so, that Controlling Authority may, by order in writing, suspend the operation of the licence for such period not exceeding thirty days as may be specified in the order and require the licence holder to show cause, within fifteen days from the date of issue of such order, as to why the suspension of the licence should not be extended till the determination of the question of cancellation.

(3) Every order of suspending or cancelling of a licence shall be in writing and shall specify the reasons for such suspension or cancellation and a copy thereof shall be communicated to the person affected. (4) No order of cancellation of licence under sub-section (1) shall be made unless the person concerned has been given a reasonable opportunity of being heard.

14. Appeals.-

(1) Any person aggrieved by an order of the Controlling Authority refusing the licence under sub-section (4) of section 7 or renewal under sub-section (3) of section 8 or order of suspension of licence under sub-section (2) of section 13 or cancellation of licence under sub-section (1) of that section, may prefer an appeal against that order to the Labour Commissioner of the National Capital Territory of Delhi within a period of sixty days of the date of such order:

Provided that an appeal may be admitted after the expiry of the said period of sixty days if the appellant satisfies the Labour Commissioner that he has sufficient cause for not preferring the appeal within that period.

(2) Every appeal under sub-section (1) shall be made in such form as may be prescribed and shall be accompanied by a copy of the order appealed against.

(3) Before disposing of an appeal, the Labour Commissioner shall give the appellant a reasonable opportunity of being heard.

15. Register to be maintained by a private placement agency.-

(1) Every private placement agency shall maintain a register containing- (a) the names and addresses of the persons managing the private placement agency; (b) the names and addresses of the persons to whom it had provided the domestic workers; (c) the names and addresses of domestic workers deployed by it; and (d) such other particulars as may be prescribed

(2) The Controlling Authority may call for such information as it considers necessary from any private placement agency to ensure due compliance of the Act.

16. Inspection of licence, etc.-The Controlling Authority or any other officer authorised by it in this behalf may at any reasonable time, enter the premises of the private placement agency and inspect and examine the place of business, the records, accounts and other documents connected with the licence and may take copy of any document.

17. Issue of photo identity card.-

(1) Every domestic worker shall be issued a photo identity card, by the private placement agency employed through it.

(2) The photo identity card under sub-section (1) shall be issued in such form as may be prescribed.

(3) Every domestic worker shall carry on his person the photo identity card issued under sub-section (1) and shall produce it on demand for inspection by the Controlling Authority or any other officer authorised by it in this behalf.

18. Delegation.-The Government may, by notification, direct that any power or function (except the powers to make rules under section 22 ; (a) which may be exercised or performed by it, or (b) which may be exercised or performed by the Controlling Authority, under this Act, may, in relation to such matter and subject to such conditions, if any, as may be specified in the notification, be also exercised or performed by such officer or authority subordinate to the Government or officer subordinate to the Controlling Authority, as may be specified in such notification.

19. Punishment for contravention of certain provisions.-(1) Any person who contravenes the provisions of section 9,10,12 or 17, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to twenty-five thousand rupees or with imprisonment for a term which may extend to one year.

(2) Any person or private placement agency who contravenes, the provisions of section 4,15,23 or 24 of this Act, shall be punishable with a fine which may extend to fifty thousand rupees, and or with imprisonment for a term which may extend to two year in addition to suspension or cancellation of the licence.

20. Offences by companies.-

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

21. Indemnity.-No suit, prosecution or other legal proceeding shall lie against the Controlling authority or any other officer authorised by it or an inspector in respect of anything in good faith done or intended to be done under this Act.

22. Power of Government to make rules.-

(1) The State Government may, by notification, make rules for carrying out the provisions of this Act. (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:-

(a) the procedure for verification of character and antecedents under clause (c) of sub-section (1) of section 10; and other conditions under clause (f) of sub-section (1) of section 10;

(b) the form of an application for grant of licence under sub-section (1) of section 7;

(c) the form in which the licence to be granted under sub-section (4) of section 7 and conditions subject to which such licence to be granted under section 11;

(d) the form of an application for renewal of licence under sub-section (1) of section 8;

(e) the form under sub-section (2) of section 14 for preferring an appeal;

(f) particulars to be maintained in a register under sub-section (1) of section 15;

(g) the form in which photo identity card under sub-section (2) of section 17 be issued;

(h) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Government under this section shall be laid, as soon as may be after it is made, before the Delhi Vidhan Sabha.

23. **Private placement Agency not to charge fee from the domestic workers:** No placement agency shall charge any fee, by whatsoever name called, from any domestic worker.

24. **Duties and obligations of private placement agency:** Every private placement agency shall;

(1) furnish in such form as may be prescribed to the Controlling authority of the District in which the office of private placement agency is located, details of deployment of the domestic workers and where any change occurs in any particulars so furnished, a report within five days of the deployment or change in information already furnished..

(2) To issue to every domestic worker, a pass book, affixed with a passport size photograph of the worker, duly attested by the owner/occupier /manager of the private placement agency and indicating, in Hindi:-

- (i) The name and place of the house/s where the domestic worker is employed
- (ii) The proposed period of employment and the periodicity
- (iii) The proposed rate and periodicity of payment, provided that no wage period shall exceed one month
- (iv) The details of ~~Bank~~ Account number of the domestic worker in which the payment shall be made,
- (v) The return fare payable to the domestic worker on the expiry of period specified in para (ii) above. Provided that no fare shall be payable if the period of actual employment is less than 12 months.
- (vi) Name and address of the next of kin of the domestic worker.
- (vii) Such other particulars as may be prescribed.

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25. Inspectors.—(1) The appropriate Government may, by notification in the Official Gazette, appoint persons with educational qualifications in human resource management and industrial relation to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf, within the local limits for which he is appointed, an inspector may—

(a) if he has reason to believe that the office of a private placement agency is working in any premises or place, enter such a premises or place, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or any local or other public authority as he thinks fit, such premises or place for the purpose of—

(i) satisfying himself whether the provisions of this Act are being complied with;

(ii) examining any register or record or notices required to be kept or exhibited by the provisions of this Act or the rules made thereunder, and requiring the production thereof for inspection;

(b) examine any person found in any such premises or place for the purpose of determining whether such person is domestic workman or has come to be deployed as a domestic worker;

(c) seize or take copies of such register, record of wages, or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed; and

(d) exercise such other powers as may be prescribed.

(3) Any person required to produce any document or thing, or to give any information required, by an inspector under sub-section (2), or by a person appointed under sub-section (3), shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

(5) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

26. Obstructions.—(1) Whoever obstructs an inspector or a person Controlling Authority appointed under section 3 of in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector or Controlling Authority any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment to which, this Act applies, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty five thousand rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of any inspector or authorised person any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by any inspector or Controlling Authority acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty five thousand rupees, or with both.

27. Cognizance of offences.—No court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of, an inspector or authorised person and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

28. Limitation of prosecutions.—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months

from the date on which the alleged commission of the offence came to the knowledge of the inspector or authorised person concerned:

Provided that where the offence consists of disobeying a written order made by an inspector or authorised person, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

29. **The Delhi Shop and Establishments Act to apply:-** The provision of the Delhi Shop and Establishments Act, 1954 (___ of 1954) shall continue to apply to be private placement agencies in respect of the employees of the private placement agencies..