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HC STAYS THE NEW HARYANA LAW ON LOCAL EMPLOYMENT

A. Introduction:

Haryana State Employment of Local Candidates Act, 2020 (“**Act**”)¹ and the Haryana State Employment of Local Candidates Rules, 2021 (“**Rules**”)² was passed by the state legislature and was brought into force from January 15, 2022.³ The Punjab and Haryana High Court (“**HC**”) has granted an interim stay on the operation of the Act.

B. Broad Overview:

1. **Purpose:** To provide for 75% employment of local candidates in Haryana.
2. **Applicability:** Applicable to companies, partnerships, societies, limited liability partnerships, trusts and any person employing ten or more persons.⁴ The Act will be operative for 10 years.⁵
3. **Exemptions:** The Act will not apply to:⁶
 - a. Start-ups and Information Technology (IT or IT enabled Services (ITeS)) companies commencing operation before January 15, 2024, for 2 years from commencement date of business.
 - b. Short term employment of up to 45 days.
 - c. Vacancies filled by employers who engage in agricultural activities; domestic work in residences.
 - d. Vacancies filled through promotion, transfer, or absorption of surplus staff of any unit of the same employer.
 - e. Any employer exempted by the government *vide* a notification.
4. **Key Definitions:**
 - a. A ‘local candidate’ is someone domiciled in Haryana.⁷ As per the Rules, a domiciled person will a *bona fide* resident of Haryana satisfying the prescribed conditions prescribed and having *Parivar Pehchan Patra* (Family Identity Card) issued under the Haryana Parivar Pehchan Act, 2021.⁸ The local candidate must register on the designated portal.⁹

¹ [Notification dated March 2, 2021.](#)

² [Notification dated January 10, 2022.](#)

³ [Linked Notification.](#)

⁴ Section 1(5) read with Section 2(e) of the Act.

⁵ Section 1(4) of the Act.

⁶ [Linked Notification.](#)

⁷ Section 2(g) of the Act.

⁸ Rule 2(1)(b).

⁹ Section 4 of the Act.

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- b. An 'employee' is as any person employed for salary, wages or other remuneration but does not include apprentices.¹⁰
- c. Wages is not defined.

5. Right and Obligations of Employer:

- a. Recruit 75% local candidates to all posts where the gross monthly salary or wages is less than Rs. 30K.¹¹ The local candidates can be from any Haryana district. However, an employer can restrict the recruitment of local candidates from a particular district to 10% of the total local candidates.¹²
- b. Register all current, eligible employees on the designated portal¹³ within 3 months of the Act's commencement. No new employees can be engaged in such posts by any employer until registration is completed.¹⁴
- c. Furnish quarterly report of the local candidates employed and appointed in Form III on the designated portal.¹⁵
- d. Employer may claim exemption by applying to the designated officer, if adequate number of local candidates of the desired skill, qualification or proficiency are not available. The officer may, after inquiry, accept or reject or direct the employer to train local candidates.¹⁶

6. Penalties:

- a. For failure to register current employees on the designated portal: Rs. 25K-100K and a further penalty of Rs. 500 per day of continuing offence after conviction.¹⁷
- b. Failure to recruit local candidates: Rs. 50K-200K , and further penalty of Rs. 1000 per day.¹⁸
- c. General contraventions: Rs. 10K-50K , and further penalty of Rs. 100.¹⁹
- d. Non-furnishing or false furnishing of record: Rs 50K-500K for repeat offenders.

C. Update:

In a plea moved by the Faridabad Industries Association (FIA) in January 2022, the FIA claimed:

"The Act purports to effectively provide for reservation in private employment and represents an unprecedented intrusion by the government into the fundamental rights of private employers to carry out their business and trade, as provided under Article 19 and the restrictions being places upon such a right are not reasonable but are arbitrary, capricious, excessive and uncalled for."

The HC, on 3rd February, granted interim stay on the operation of the Act.²⁰ The Haryana Government has appealed to the Supreme Court challenging the stay order.²¹

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¹⁰ Rule 2(1)(c).

¹¹ The threshold of wages was Rs 50,000 at the time of notification of the Act. It was subsequently reduced to Rs 30,000 by a [notification dated December 24, 2021](#).

¹² Section 4 of the Act.

¹³ The designated postal is the Haryana Udhyam Memorandum portal set up under the Act.

¹⁴ Section 3 of the Act.

¹⁵ Section 6 of the Act read with Rule 7.

¹⁶ Section 5 of the Act.

¹⁷ Section 11 of the Act.

¹⁸ Section 12 of the Act.

¹⁹ Section 13 of the Act.

²⁰ [Linked article](#).

²¹ [Linked article](#).