

From

Principal Secretary to Government, Haryana,
Labour Department.

To

1. All the Administrative Secretaries
2. All the Heads of Department
3. All Deputy Commissioner's,
In the state of Haryana
4. All the Vice Chancellors,
In the State of Haryana.

Subject:-

No. 9384-9540

Dated: 21-9-18

Registration of Govt. Establishments under the Building & Other
Construction Workers Welfare (RE&CS) Act, 1996.

With reference to subject cited above, it is stated that the Building & Other Construction Workers Welfare (RE&CS) Act, 1996 (in short BOCW Act) is being implemented in the state of Haryana since 2005. The said Act is applicable to every establishment, which employs, or had employed, ten or more building workers in any building or other construction works on any day of the preceding 12 months. As per Section 7 of the BOCW Act, it is mandatory, that every employer in relation to any establishment to which this act is applicable shall make an application to the registering officer for the registration of such establishment. For ready reference, Section 7 is reproduced as below:-

"7. Registration of Establishment:-

(1) Every employer shall -

(a) in relation to an establishment to which this Act applies on its commencement, within a period of sixty days from such commencement; and

(b) In relation to any other establishment to which this Act may be applicable at any time after such commencement, within a period of sixty days from the date on which this Act becomes applicable to such establishment, make an application to the registering officer for the registration of such establishment;

Provided that the registering officer may entertain any such application after the expiry of the periods aforesaid, if he is satisfied that the applicant was prevented by sufficient cause from making the application within such period.

(2) Every application under sub-section (1) shall be in such form and shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration to the employer thereof in such form and within such time and subject to such conditions as may be prescribed.

(4) Where, after the registration of an establishment under this section, any change occurs in the ownership or management or other prescribed particulars intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed."

In case of works executed through the contractor, it is the responsibility of the contractor to get the works registered as employers as per section 2(i) of the BOCW Act. In case of works executed directly through the Department, the department is liable to get the works registered. The relevant section is reproduced below:-

2. Definitions. -

- (i) "employer", in relation to an establishment, means the owner thereof, and includes,--
- (i) in relation to a building or other construction work carried on by or under the authority of any department of the Government, directly without any contractor, the authority specified in this behalf, or where no authority is specified, the head of the department;
- (ii) in relation to a building or other construction work carried on by or on behalf of a local authority or other establishment, directly without any contractor, the chief executive officer of that authority or establishment;
- (iii) in relation to a building or other construction work carried on by or through a contractor, or by the employment of building workers supplied by a contractor, the contractor;

It has been observed that Government departments are not getting their establishment registered under the said Act. Non-registration of establishment is violation of the above provision, the contractor covered under the definition of Employer as provided in section 2(i) of the BOCW Act, 1996 is responsible for the registration of the establishment and violator is liable for prosecution under the BOCW Act of 1996.

To ensure that the provision of the Act are followed by the government Departments, it has been decided that all the Government Departments, who undertake the construction work, through contractors, in their respective departments, shall stipulate the following conditions in their contract agreements:-

a) Every contractor shall-

- (i) In relation to an establishment to which this Act applies on its commencement, within a period of 60 days from such commencement; and
- (ii) In relation to any other establishment to which this Act may be applicable at any time after such commencement, within a period of 60 days from the date on which this Act becomes applicable to such establishment, make an application to the registering officer for the registration of establishment;

Further, the first running Bill of the contractor shall be cleared only after the receipt of registration certificate under the Building & Other Construction Workers Welfare (RE&CS) Act, 1996 and registration of all the eligible construction workers as a beneficiary of the Haryana Building & Other Construction Worker Welfare Board.

It is therefore, requested that the above are followed by the Departments. Further, it is requested that the departmental and necessary guidelines may be issued in this regard.

This is issued with the approval of Hon'ble CM.

A. J. S. 19/9/2018

Addl. Chief Inspector of Factories
For Principal Secretary to Government, Haryana
Labour Department.