

## Haryana Job Reservation Law – An Overview

In order to ensure the vision of an unemployment free State by the year 2024, the Haryana Government has launched many initiatives under which The Haryana State Employment of Local Candidates Act, 2020 (“**HSELC Act**”) is sought to be made applicable with effect from January 15, 2022<sup>1</sup> (**Commencement Date**) with the priority of providing employment to the local youth of the State in the private sector.

The HSELC Act aims at reserving 75% jobs in private sector (up to a certain salary slab) in favour of local candidates<sup>2</sup> in the State of Haryana. The HSELC Act shall cease to have effect on the expiry of 10 years from the Commencement Date.

### Key highlights of the HSELC Act

- (a) Registration of all employees by the employer: Every employer<sup>3</sup> needs to register its employees receiving a gross monthly salary or wages of not more than INR 30,000<sup>4</sup> (USD 405 approx.) on the designated portal, within 3 months from the Commencement Date. It is further provided that no person shall be employed or engaged by any employer till the registration of all the aforesaid employees is completed on the designated portal. Meaning thereby, on or after the Commencement Date, the employers in the State of Haryana will not be able to employ or engage a new person unless it has registered the details of its existing employees



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<sup>1</sup> The Haryana Government vide notification no. Lab/25467/2021 dated November 6, 2021 notified January 15, 2022 as the date on which the HSELC Act will come into force.

<sup>2</sup> Section 2(g) of the HSELC Act defines “Local Candidate” to mean a candidate who is domiciled in the State of Haryana.

<sup>3</sup> Section 2(e) of the HSELC Act defines “Employer” to mean a company, society, limited liability partnership firm, trust, partnership firm, or any person employing ten or more persons on salary, wages or other remuneration for the purpose of manufacturing or providing any service or such entity, as may be notified by the Government from time to time but does not include the Central Government or the State Government or any organisation owned by the Central Government or the State Government.

<sup>4</sup> The Haryana Government vide its notification no. Lab./25478/2021 dated November 6, 2021 reduced the threshold of the gross monthly wages to INR 30,000 from INR 50,000 for the purposes of the HSELC Act.

receiving a gross monthly salary or wages of not more than INR 30,000 (USD 405 approx.) on the designated portal.

- (b) Hiring of 75% of the local candidates: After the Commencement Date, every employer shall employ 75% of the local candidates in the jobs where the gross monthly salary or wages is not more than INR 30,000 (USD 405 approx.). The employer may, at his option, restrict the employment of local candidates from any district to 10% of the total number of local candidates.
- (c) Registration by the local candidate: The HSELC Act clearly provides that no local candidate shall be eligible to avail the benefits under the HSELC Act unless he/she registers on the designated portal. Meaning thereby, the domicile in the State of Haryana is not sufficient for a person to qualify as a local candidate for the purposes of the HSELC Act unless he/she registers on the designated portal.
- (d) Registration process: The HSELC Act provides that the process for registration on the designated portal shall be prescribed under the rules notified by the Haryana Government from time to time. The Haryana Government has issued the Haryana State Employment of Local Candidates Rules, 2021<sup>5</sup> (“**HSELC Rules**”) on January 10, 2022 which will also come into force along with the HSELC Act. The HSELC Rules provide for the process of registration of employees by the employer, the registration by the local candidate, filing of an exemption application, disposal of the complaints by local candidate, filing of the quarterly return for new employment, maintenance of records in digital form, etc.
- (e) Exemption from hiring local candidates: The employer can claim exemption from the aforesaid requirement of employing 75% of the local candidates, if an adequate number of local candidates having the desired skill and proficiency are not available, by filing an application with the designated officer<sup>6</sup>. The designated officer after receipt of such application can either reject or accept it or direct the employer to train local candidates accordingly. An employer aggrieved by the order of the designated officer can file an appeal with the appellant authority<sup>7</sup> within a period of 60 days.
- (f) Quarterly report: The employer needs to furnish a quarterly report on the local candidates employed and appointed during the quarter on the designated portal by the prescribed date.
- (g) Penalties: The HSELC Act also provides for the imposition of significant monetary penalties ranging from INR 10,000 (USD 135 approx.) to INR 500,000 (USD 6,770

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<sup>5</sup> The HSELC Rules can be viewed at the following link - <https://www.egazetteharyana.gov.in/Gazette/Extra-Ordinary/2022/6-2022-Ext/12750.pdf>.

<sup>6</sup> Section 2(c) of the HSELC Act defines “Designated Officer” to mean an officer of Government not below the rank or equivalence of the Deputy Commissioner as may be designated by notification in Official Gazette.

<sup>7</sup> Section 2(a) of the HSELC Act defines “Appellate Authority” to mean an officer of the Government not below the rank or equivalence of the Labour Commissioner, as may be designated by notification in Official Gazette

approx.) for non-compliance with its provisions besides imposition of a daily penalty until the contravention is continued. The HSELC Act, inter-alia, provides if the offence has been committed by a company, every director, manager, secretary, agent or other officer or person concerned with the management shall be deemed to be guilty of such offence, unless such person proves that the offence was committed without his/her knowledge or consent. Similarly, in case of the limited liability partnership firms, if the offence committed by a limited liability partnership firm is proved to have been committed with the consent or connivance of its partner(s) or designated partner(s) or attributable to any neglect on their part, then such partner(s) or designated partner(s) as well as the limited liability partnership firm shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

## **Conclusion**

While the HSELC Act has been enacted to deal with the local unemployment issues in the State of Haryana, it would pose a serious challenge for the private sector in Haryana to recruit new employees. Further, the HSELC Act is a cause of concern for the existing employees who are hired from all over India. The industrial organisations have already moved to the Punjab & Haryana High Court seeking directions to quash the HSELC Act as unconstitutional<sup>8</sup>. The HSELC Act may have a negative impact on the foreign investment as well as ease of doing business in the State of Haryana.

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<sup>8</sup> <https://timesofindia.indiatimes.com/city/chandigarh/job-on-merit-not-with-selection-test-rackets-partial-to-local-law/articleshow/88602452.cms>