

NATIONAL RURAL EMPLOYMENT GUARANTEE ACT 2005

EMPLOYMENT GUARANTEE AND THE RIGHT TO WORK

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Employment Guarantee Act: The Basic Idea

The Employment Guarantee Act
is a step towards the right to
work, as an aspect of the
fundamental right to live with
dignity

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The right to work as a “fundamental right”

- The “right to life” is a fundamental right of all citizens under Article 21 of the Indian Constitution.
- “Right to life... includes the right to live with human dignity, it would include all these aspects which would make life meaningful, complete and living.” (Supreme Court)

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The right to work in the “Directive Principles” of the Constitution

- “The State shall... direct its policy towards securing that the citizen, men and women equally, have the right to an adequate means of livelihood...” (Article 39A)
- “The State shall ... make effective provision for securing the right to work...” (Article 41)

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NREGA 2005 in a Nutshell

**The National Rural Employment
Guarantee Act 2005 is a law whereby:
any adult who is willing to do unskilled
manual work at the minimum wage
is entitled to being employed on local
public works within 15 days of
applying.**

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The Unemployment Allowance

- If employment is not provided within 15 days, the applicant is entitled to an unemployment allowance:**
- **At least one fourth of the minimum wage for the first 30 days.**
 - **At least one half of the minimum wage thereafter.**

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WORKERS' ENTITLEMENTS

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Who is eligible?

Anyone above the age of 18 who resides in rural areas.

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Is there a limit on the number of days of work?

- Yes: 100 days per household per year.
- Each nuclear family counts as a separate "household".

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Where will the work be provided?

- Within 5 kilometres of the applicant's residence, as far as possible.
- If work is provided beyond 5 kilometres, a travel allowance has to be paid.

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What is the minimum wage due to NREGA labourers?

- Labourers are entitled to the statutory minimum wage for agricultural labourers in the state, unless the Central Government "notifies" a different norm.
- If the Central Government notifies, the norm is subject to a minimum of Rs 60/day.

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How and when are wages to be paid?

- Weekly, or in any case not later than a fortnight.
- Directly to the person concerned, in front of the community.

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Mandatory worksite facilities

- Drinking water
- Shade
- Medical aid
- Creche if more than five children below age 6 are present

Note: These facilities are to be provided by the implementing agency.

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Gender-related provisions

- Equal wages for women and men in all circumstances.
- No gender discrimination of any kind.
- Priority for women in the allocation of work: at least 33% of labourers should be women.

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EMPLOYMENT GUARANTEE SCHEME

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Employment Guarantee Scheme (EGS)

- Each State has to launch an “employment guarantee scheme” within six months of the Act coming into force.

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EGS: Basic Implementation Principles

- Block is the basic unit of implementation.
- In each Block, a “Programme Officer” is to coordinate the implementation of EGS
- Gram Panchayats are the main implementing agencies.
- Accountability to Gram Sabhas.

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EGS: Implementing agencies

- Gram Panchayats (half of EGS works)
- Other Panchayati Raj Institutions (PRIs)
- Line departments (PWD, Forest Dept.)
- NGOs.

Note: Private contractors are banned.

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EGS: Decentralised planning

- Programme Officer to maintain shelf of projects, based on proposals from the implementing agencies.
- Gram Panchayats also supposed to prepare a shelf of works based on the recommendations of the Gram Sabha.

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EGS: Permissible works

- Minor irrigation
- Water conservation, drought proofing, desilting of tanks, flood control, etc.
- Land development
- Rural roads
- "Any other work which may be notified by the Central Government in consultation with the State Government"

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EGS is a "demand driven" programme

- Employment to be provided on demand, within 15 days.
- Programme Officer sanctions projects to ensure that all applicants get work.
- Programme Officer to arrange payment of unemployment allowance to those who don't get work.

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EGS: Applying for work

Step 1 (Registration): Gram Panchayat to "register" interested households, to facilitate advance planning.

Step 2 (Application): Adult members of registered households apply for work.

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EGS: The Registration Process

- Unit of registration is the household.
- Gram Panchayat to issue a "job card" to each applicant.
- Special meeting of Gram Sabha to be held to invite applications.

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EGS: The Application Process

- Any adult member of a registered household can apply for work at any time.
- Applications should be for at least 14 days of continuous work.
- Advance applications are allowed.

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EGS: Wage-material ratio

- Wage-material ratio should not be less than 60:40
- Wages of skilled and semi-skilled labourers to be included in material costs

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EGS: Cost sharing

- Central Government to pay for:
 - wage costs,
 - 75% of material costs, and
 - some administrative costs.
- State governments to pay for:
 - 25% of material costs
 - other administrative costs,
 - unemployment allowance.

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TRANSPARENCY AND ACCOUNTABILITY

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Hamara Paisa, Hamara Hisaab!

- All NREGA-related documents to be available for public scrutiny.
- Copies of documents to be made available at nominal cost.
- Muster rolls to be pro-actively displayed at Panchayat Bhawan.
- Documents can also be obtained under the Right to Information Act.

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Social Audits

- Gram Sabhas to conduct social audits of all works taken up within Gram Panchayat
- All relevant documents to be provided to the Gram Sabha by the Gram Panchayat and other implementing agencies

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Beware the “anti-corruption clause”!

Section 27 of the Act allows the Central Government to stop release of funds if there is any suspicion of corruption.

This means:

- Arbitrary powers to stop funds
- Punishing the victims of corruption instead of its perpetrators

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