

Main concerns about the draft Employment Guarantee Act prepared by the Ministry of Rural Development¹

1. The Preamble (outlining the motivation for the Act) has been deleted. In particular there is no reference to the right to work.
2. The Act is to come into force immediately "in such areas as may be notified". Thus, there is no guarantee that a substantial part of the country (say 150 districts, as in the NAC draft) will be covered in the first year.
3. The MoRD draft excludes "Class B and C municipalities" from the scope of the Act.
4. Penalties for officers who are not doing their duty under the Act have been diluted.
5. If the notion of "central advisory minimum wage" is retained, there must be a guarantee that this wage is set at a reasonable level (e.g. Rs 66/day), and indexed over time. Otherwise the GOI may set the wage so low that the Act will become a farce.
6. Accountability to Panchayati Raj Institutions (PRIs) has been substantially diluted. For instance, the Block-level Programme Officer is now accountable to the District Coordinator instead of the Panchayat Samiti, and District Coordinator doesn't seem to be accountable to anybody in particular.
7. Mandatory allocation of 50% of the funds to Gram Panchayats has been replaced with: "At least fifty per cent of the projects, in terms of value, taken up under this programme, shall be implemented through the Gram Panchayats".
9. Works taken up under the Programme have been restricted to rural areas (section 8(3)(ii)).
10. The following para has been added (Section 8(4)):

Until the Programme is prepared and published under this section, the Annual Action Plan or perspective plan for the Sampoorna Grameen Rozgar Yojana (SGRY) or the National Food for Work Programme (NFFWP) in operation immediately before the commencement of this Programme, shall be deemed to be the Programme proposed and published under the Act.

The motivation for this new paragraph is not clear, but it does seem to make it easier for the government to postpone the implementation of the Employment Guarantee Programme if it so wishes.

¹ These comments apply to the draft received from the Ministry of Rural Development on 13 October 2004. They were conveyed in a letter addressed to the chairperson of the National Advisory Council on 3 November 2004.

Further comments (27 November 2004)

1. The initial definition of "household", where each nuclear family can be counted as a separate household, should be reinstated (alternatively the entitlement of 100 days could be per "family" instead of household).
2. There should be safeguard against "destructive" projects, e.g. projects that cause displacement of people or degradation of natural resources.
3. The initial (broad) definition of "productive works" should be retained. Further, the term "creation of durable assets" should be replaced with "creation of maintenance of assets".
4. Three per cent of the funds should be ear-marked for providing suitable employment to persons with disabilities, in line with the Persons with Disabilities Act 1995.
5. It should be clearly stated that the EGA does not override any of the provisions of PESA.
6. The salary of the Block-level Programme Officer and supporting staff should be paid by central government.
7. Unemployment allowance should be reimbursed by GOI to state government if the reason for failure to provide employment is that the necessary funds have not been devolved.
8. As a partial response to the comments received about the role of PRIs in the implementation of the Employment Guarantee Act, the following suggestions are made:
 - "Registration" of potential applicants should be done by the Village Panchayats. Eligibility for registration should be restricted to households ordinarily residing in the concerned Village Panchayat.
 - The Programme Officer at the Block level should be accountable to the Intermediate Panchayat, as in the initial NAC draft.
 - Fifty per cent of the funds should be devolved to the Village Panchayats for implementation of village-level works, as in the initial NAC draft.
 - The term "Panchayat Samiti" should be replaced with "Intermediate Panchayat".
 - "Collector" should be replaced with "CEO".