

**THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION
OF EMPLOYMENT AND CONDITION OF SERVICE) (ASSAM AMENDMENT)
BILL, 2022**

**A
BILL**

further to amend the Building and Other Construction Workers (Regulation Of Employment and Condition of Service) Act, 1996.

Preamble

Whereas it is expedient further to amend the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996 hereinafter referred to as the principal Act, in its application to the State of Assam, in the manner hereinafter appearing;

Central Act
No. XXVII
of 1996

It is hereby enacted in the Seventy-third Year of the Republic of India as follows :-

Short title,
extent and
commencement

1. (1) This Act may be called the Building and Other Construction Workers (Regulation of Employment and Condition of Service) (Assam Amendment) Act, 2022.
- (2) It extends to the whole of the state of Assam.
- (3) It shall come into force at once.

Amendment of
section 47

2. In the principal Act, in section 47, in sub-section (1), for the words "imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention" appearing after the words "punishable with", the words "fine which shall be at least two lakhs rupees which may extend upto three lakh rupees, and if the contravention is continued then, with further penalty which may extend upto two thousand rupees for each day till such contravention continues."

Amendment of
section 48

3. In the principal Act, in section 48, for the words "punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both," appearing after the words "shall be", the words "liable to penalty which shall not be less than one lakh rupees and may extend to two lakhs rupees," shall be substituted.

Insertion of
new section
49A

4. In the principal Act, the following new section 49A shall be inserted, namely:-

"Compounding
of Offences.

- 49A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after

Central Act
No. II of
1994

the institution of any prosecution, be compounded by a Gazetted Officer, as the Government may, by notification, specify, for a sum of fifty per cent of the maximum fine provided for such offence punishable with fine only and for a sum of seventy-five per cent provided for such offence punishable with imprisonment for a term which is not more than one year or with fine, in the manner as may be prescribed;

- (2) Where a penalty or an offence has been compounded under sub-section (1), the person liable for penalty or the offender, as the case may be, shall be discharged of the penalty or offence and there shall be no further proceedings against him in respect of such penalty or offence;
- (3) Any person who fails to comply with an order made by the officer referred to in sub-section (1), shall be liable to pay a penalty equivalent to twenty per cent of the maximum penalty or fine provided for the penalty or the offence, as the case may be, in addition to the penalty or fine.
- (4) Nothing contained in sub-section (1) shall apply to a penalty or an offence committed by a person for a second or subsequent time within a period of three years from the date of penalty or offence, as the case may be,—
 - (a) which was earlier compounded; or
 - (b) for which such person was earlier convicted."

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CERTIFIED BY THE
LEGISLATIVE DEPARTMENT
ON 14.12.2017

STATEMENT OF OBJECTS AND REASONS

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) (Assam Amendment) Bill, 2022 seeks to amend the Building and Other Construction Workers Regulation of Employment and Conditions of Service) Act, 1996 (Central Act No. XXVII of 1972).

It is proposed to bring amendment of **Penalty for contravention of provisions regarding safety measures** under Section 47 & **Penalty for failure to give notice of the commencement of the building or other construction work** under Section 48 and insertion of a new Section **49A Compounding of offences** with a object to decriminalise the labour law by bringing in civil penalties.

The rationale behind decriminalization is that imprisonment is too severe a consequence for economic offences that do not involve mala fide. Legal process around an offence involving imprisonment greatly increases the anxiety among employers and reduced possibility of such processes leads to improved ease of doing business. Criminal penalties, especially the risk of imprisonment, often unintentional offences, is a major reason for low business investment. The idea is that strong deterrent provisions with heavy fines would force employers to have watertight internal organizational and operational mechanisms to ensure that there are no lapses in compliance. This will relieve employers from fear of imprisonment while protecting the rights of the workers.

Hence the Bill, for amendment of the following Sections of the Act:

Section 47 & 48

Section 49A (new insertion)


Minister


Labour Welfare, Assam

Minister
Tea Tribes Welfare
& Labour Welfare,
Dispur, Guwahati-6


Principal Secretary
Assam Legislative Assembly
Dispur, Guwahati-6


FINANCIAL MEMORANDUM

There is no financial involvement in the proposed bill.


Minister
Labour Welfare, Assam
Minister
Tea Tribes Welfare
& Labour Welfare,
Dispur, Guwahati-6

MEMORANDUM OF DELEGATED LEGISLATION

There is no delegation of legislative power to the executive in the proposed bill.


Minister
Labour Welfare, Assam
Minister
Tea Tribes Welfare
& Labour Welfare,
Dispur, Guwahati-6

The Building & Other Construction Workers (RE & CS)(Assam Amendment) Bill, 2022PROPOSAL:

The proposal includes amendment of penalty for contravention of provisions regarding safety measures under Section 47(1), penalty for failure to give notice of the commencement of the building or other construction work under Section 48 and insertion of compounding of offences under a new Section 49A . The proposed amendment is drafted in the light of Occupational Safety, Health and Working Conditions Code, 2020 to decriminalise the labour laws.

Section	Extract of existing provision	Extract of proposed provisions
47(1) Penalty for contravention of provisions regarding safety measures	punishable with "imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, and in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention."	"fine which shall be atleast two lakhs rupees which may extend up to three lakh rupees, and if the contravention is continued than, with further penalty which may extend to two thousand rupees for each day till such contravention continues."
48 Penalty for failure to give notice of the commencement of the building or other construction work	"punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both."	"liable to penalty which shall not be less than one lakh rupees but which may extend to two lakhs rupees."

49A Compound ing offences	<p>(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by a Gazetted Officer, as the appropriate Government may, by notification, specify, for a sum of fifty per cent. of the maximum fine provided for such offence punishable with fine only and for a sum of seventy-five per cent. provided for such offence punishable with imprisonment for a term which is not more than one year or with fine, in the manner as may be prescribed;</p> <p>(2) Where a penalty or an offence has been compounded under sub-section (1), the person liable for penalty or the offender, as the case may be, shall be discharged of the penalty or offence and there shall be no further proceedings against him in respect of such penalty or offence;</p> <p>(3) Any person who fails to comply with an order made by the officer referred to in sub-section (1), shall be liable to pay a penalty equivalent to twenty per cent. of the maximum penalty or fine provided for the penalty or the offence, as the case may be, in addition to the penalty or fine.</p> <p>(4) Nothing contained in sub-section (1) shall apply to a penalty or an offence committed by a person for a second or subsequent time within a period of three years from the date of penalty or offence, as the case may be,—</p> <ul style="list-style-type: none">(a) which was earlier compounded; or(b) for which such person was earlier convicted
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