

The Goa Labour Welfare Fund (Amendment) Bill, 2022

(Bill No. 25 of 2022)

A

BILL

further to amend the Goa Labour Welfare Fund Act, 1986 (Act No.4 of 1987).

BE it enacted by the Legislative Assembly of Goa in the Seventy-third Year of the Republic of India as follows:-

1. Short title and commencement. — (1) This Act may be called the Goa Labour Welfare Fund (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Insertion of new section 29A.— After section 29 of the Goa Labour Welfare Fund Act, 1986 (Goa Act 4 of 1987), the following section shall be inserted, namely:—

“29A. Compounding of Offences. — (1) 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 such Officer, as the Government may, by notification in the Official Gazette, specify, for a sum equivalent to seventy-five percent of the maximum fine provided for such offence, in such manner as prescribed.

(2) Nothing contained in sub-section (1) shall apply to an offence committed by a person for the second time or thereafter within a period of five years from the date,—

(a) of commission of a similar offence which was earlier compounded;

(b) of commission of a similar offence for which such person was earlier convicted.

(3) Every officer referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Government.

(4) Every application for the compounding of an offence shall be made in such form and in such manner as may be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(6) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the officer referred to in sub-section (1) in writing to the notice of the court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

(7) 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 sum equivalent to twenty percent of the maximum fine provided for the offence, in addition to such fine.

(8) No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section.”.

STATEMENT OF OBJECT AND REASON

The Bill seeks to insert a new section 29A in the Goa Labour Welfare Fund Act, 1986 (Act No.4 of 1987) so as to enable compounding of offences punishable under the said Act on payment of certain sum as specified therein.

This Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

No financial implications are involved in this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the Government to frame rules for prescribing the form of application and the manner in which the same to be made.

This delegation is of normal character.

Porvorim, Goa.

21st July, 2022

(Atanasio Monserrate)

Minister for Labour and Employment

Assembly Hall.

Porvorim, Goa.

21st July, 2022.

(Namrata Ulman)

Secretary to the Legislative Assembly of Goa.

ANNEXURE - A

Extract of The Goa Labour Welfare Fund, 1986

Section - 1

26. Penalty for non-compliance with direction.- Any person who wilfully fails to produce any document required by the Board or to furnish any information called for by the Board or willfully fails to comply with any directions issued by the Board under section 25, shall, on conviction be punished.-

- (a) for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and
- (b) for a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, in any case where the offender is sentenced to fine only; the amount of fine shall not be less than hundred rupees.

27. Penalty for obstructing inspection or for failure to produce documents, etc. - Any person who willfully obstructs an Inspector in the exercise of his powers or discharge of his duties under this Act or fails to produce for inspection on demand by an Inspector any registers, record or other documents maintained in pursuance of the provisions of this Act or the rules made there under or to supply to him on demand true copies of any such document, shall, on conviction, be punished-

- (a) for the first offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and
- (b) for a second or subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the court, in any case where the offender is sentenced to fine only, the amount of fine shall not be less than hundred rupees.

28. Offences by companies. - (1) If the person committing an offence under this Act is a company, every person, who, at the time the offence was committed, was in-charge of, and was responsible to the company for the

conduct of the business of the company as well as the company, shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section. (1) where an offence under this Act has been committed by a Company, and it is proved, that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the Company, such director, manager, secretary or officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purposes of this section –

(a) 'Company' means a body. corporate and includes a firm or other association of individuals; and

(b) 'Director' in relation to a' firm means a .partner in the firm.

29. General provision for punishment for offences.- Any employer who contravenes any provision of this Act or of any rule or order made there under shall, if no other penalty is provided separately under this Act, be punishable with imprisonment which may extend to six months or with a fine which may extend to one thousand rupees or with both.

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