

THE BUILDING AND OTHER CONSTRUCTION WORKERS WELFARE CESS  
(ASSAMAMENDMENT) BILL, 2022

A

BILL

further to amend the Building and Other Construction Workers Welfare Cess Act, 1996.

Preamble

Whereas it is expedient further to amend the Building and other Construction Workers welfare cess Act, 1996, herein after referred to as the principal Act, in the manner hereinafter appearing ;

Central  
Act No.  
28 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 Welfare Cess (Assam Amendment) Act, 2022.
- (2) It extends to the whole of Assam.
- (3) It shall come into force at once.

Amendment  
of section 12

2. In the principal Act, in section 12, in sub-section (1), for the words "imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both." Appearing after the words "punishable with" the words fine which may extend to one lakh rupees." Shall be substituted.

Insertion of  
new section 12A

3. In the principal Act, after section 12, the following new section 12A shall be inserted, namely:-

"Compounding  
of offences

- 12A. (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 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.

*deas*  
CHECKED BY THE  
LEGISLATIVE DEPARTMENT  
ON 14.12.2022

(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 percent 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.”

*Das*  
VETTED BY  
LEGISLATIVE DEPARTMENT  
ON 14.12.2021

## STATEMENT OF OBJECTS AND REASONS

The Building and Other Construction Workers Welfare Cess (Assam Amendment) Bill, 2022 seeks to amend the Building and Other Construction Workers Welfare Cess Act, 1996 (Central Act No. XXVIII of 1996).

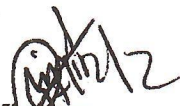
It is proposed to bring amendment of **Penalty** under Section 12 and insertion of a new Section 12A **Compounding of offences** with a object to decriminalise the labour law by bringing in civil penalties.


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 12**


**Section 12A ( new insertion)**

  
Minister  
Labour Welfare, Assam  
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 Welfare Cess(Assam Amendment) Bill, 2022PROPOSAL

The proposal includes amendment of penalty under Section 12(1) and insertion of compounding of offences under a new Section 12A . 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
12(1) Penalty	punishable with "imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both."	punishable with "fine which may extend to one lakh rupees."
12A Compound ing of 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 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> <p>(a) which was earlier compounded; or</p> <p>(b) for which such person was earlier convicted</p>