

**THE PAYMENT OF GRATUITY (ASSAM AMENDMENT) BILL, 2022**

**A**

**BILL**

further to amend the Payment of Gratuity Act, 1972.

Preamble

Whereas it is expedient further to amend the Payment of Gratuity Act, 1972, hereinafter referred to as the principal Act, in its application to the State of Assam, in the manner hereinafter appearing ;

Central  
Act No.  
XXXIX of  
1972

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 Payment of Gratuity (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 9

2. In the principal Act, in section 9,-
  - (i) in sub-section (1), for the words "imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both," appearing after the words "punishable with", the words "fine which may extend to two lakhs rupees," shall be substituted.
  - (ii) in sub-section (2), for the words "imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, or with both," appearing after the words "punishable with" the words "fine which may extend to three lakhs rupees," shall be substituted.

Insertion of new section 9A

3. In the principal Act, after section 9, the following new section 9A shall be inserted, namely:-

**"Compounding of Offences**

- 9A (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 percent of the maximum fine provided for such offence, in the manner as may be prescribed.

Central  
Act No. II  
of 1974

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14.12.2022

- (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—
- (i) of commission of a similar offence which was earlier compounded;
  - (ii) of commission of 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 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 punishable with 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."

*14.12.2022*  
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## STATEMENT OF OBJECTS AND REASONS

The Payment of Gratuity (Assam Amendment) Bill, 2022 seeks to amend the Payment of Gratuity Act, 1972 (Central Act No. XXXIX of 1972).


It is proposed to bring amendment of **Penalties for certain offences** under Section 9 (1) & (2) and insertion of a new Section **9A 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 9**


**Section 9A ( new insertion)**

  
Minister  
Labour Welfare  
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 Payment of Gratuity (Assam Amendment) Bill, 2022**PROPOSAL:**

The proposal includes amendment of penalties for certain offences under Section 9 (1) & (2) and insertion of new section 9A Compounding of offences.

Section	Extract of existing provision	Extract of proposed provisions
9 Penalties for certain offences	Sub-section (1): punishable with "imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees or with both,"	punishable with "fine which may extend to two lakhs rupees."
	Sub-section (2): imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, or with both."	punishable with "fine which may extend to three lakhs rupees"
9A Compounding 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 percent. of the maximum fine provided for such offence, in the manner as may be prescribed.</p> <p>(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— (i) of commission of a similar offence which was earlier compounded; (ii) of commission of similar offence for which such person was earlier convicted.</p> <p>(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.</p> <p>(4) Every application for the compounding of an offence shall be made in such manner as may be prescribed.</p>

(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 punishable with 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 Code shall be compounded except under and in accordance with the provisions of this section.