

THE MINIMUM WAGES (ASSAM AMENDMENT) BILL, 2022

A BILL

further to amend the Minimum Wages Act, 1948.

Preamble

Whereas it is expedient further to amend the Minimum Wages Act, 1948 herein after referred to as the principal Act, in its application to the State of Assam, in the manner hereinafter appearing ;

Central
Act No.11
of 1948

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 Minimum Wages (Assam Amendment) Act, 2022.
(2) It extends to the whole of Assam.
(3) It shall come into force at once.

Amendment of
section 22

2. In the principal Act, in section 22, for the words, "imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both" appearing after the words "punishable with", the words "fine which may extend to rupees fifty thousand and if the contravention is continued under this clause within a period of five years from the date of the commission of the first offence, he shall, on the second and the subsequent commission of the offence, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to rupees one lakh, or with both" shall be substituted.

Insertion of
new section
22A

3. In the principal Act, after section 22, the following new section 22A shall be inserted, namely:-

"Compounding
of offences.

- 22A. (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 percent provided for such offence

Central
Act No.2
of 1974

das
14.12.2022
CHECKED BY THE
LEGISLATIVE DEPARTMENT

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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14.12.2022
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STATEMENT OF OBJECTS AND REASONS

The Minimum Wages (Assam Amendment) Bill, 2022 seeks to amend the Minimum Wages Act, 1948 (Central Act No. XI of 1948).


It is proposed to bring amendment of **Penalties for certain offences** under Section 22 and insertion of a new Section **22A 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 22


Section 22A (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 Minimum Wages (Assam amendment) Bill, 2022

PROPOSAL:

The proposal on the Minimum Wages (Assam amendment) Bill, 2022 includes amendment of Section 22 (Penalties for certain offences) and insertion of a new section 22A (Compounding of offences) under the Minimum Wages Act, 1948.

Section	Extract of existing provision	Extract of proposed provisions
22 Penalties for certain offences	Punishable with "imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both"	punishable with "fine which may extend to fifty thousand rupees and if the contravention is continued within a period of five years from the date of the commission of the first offence, he shall, on the second and the subsequent commission of the offence, be punishable with imprisonment for a term which may extend to three months or with fine which may extend up to rupees one lakh, or with both"
22A 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 percent 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>