



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE INDUSTRIAL DISPUTES (GOA AMENDMENT)
BILL, 2020**

(Bill No. 14 of 2020)

**(As introduced in the Legislative Assembly of the State of
Goa)**

**GOA LEGISLATURE SECRETARIAT,
ASSEMBLY HALL, PORVORIM, GOA
JULY, 2020**

THE INDUSTRIAL DISPUTES (GOA AMENDMENT) BILL, 2020

(Bill No. 14 of 2020)

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BILL

further to amend the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947), as in force in the State of Goa.

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

1. Short title and commencement.— (1) This Act may be called the Industrial Disputes (Goa Amendment) Act, 2020.

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(2) It shall be deemed to have come into force on the 26th day of June 2020.

2. Amendment of section 2A.— In section 2A of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), as in force in the State of Goa (hereinafter referred to as the “principal Act”),—

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(i) in sub-section (3), for the words “**three years**”, the words “**one year**” shall be substituted;

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(ii) after sub-section (3), the following sub-section shall be inserted, namely:-

“(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), no such dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute if such dispute is not raised before conciliation officer within a period of one year from the date of such discharge, dismissal, retrenchment or termination :

Provided that an authority, as may be specified by the State Government, may condone the delay beyond such period of one year if the applicant workman satisfies the authority that he had sufficient cause for not raising the dispute within the period of one year.”.

3. Amendment of section 25F.— In section 25F of the principal Act, in clause (b), for the expression “**fifteen days’** ”, the expression “**forty-five days’** ” shall be substituted.

4. Substitution of section 25K.— For section 25K of the principal Act, the following section shall be substituted,

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namely:-

“25K. Application of Chapter VB.— (1) The provisions of this chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than three hundred workmen were employed on an average per working day for the preceding twelve months.

(2) Without prejudice to the provisions of sub-section (1), the State Government may, if satisfied that maintenance of industrial peace or prevention of victimization of workmen so requires, by notification in the Official Gazette, apply the provisions of this Chapter to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which such number of workmen which may be less than three hundred but not less than one hundred, as may be specified in the notification, were employed on an average per working day for the preceding twelve months.

(3) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the State Government thereon shall be final”.

5. **Amendment of section 25N.**— In section 25N of the principal Act, in sub-section (9), for the expression “fifteen days’ ”, the expression “forty -five days’ ” shall be substituted.

5 6. **Amendment of section 25O.**— In section 25O of the principal Act, in sub-section (8), for the expression “fifteen days’ ”, the expression “forty- five days’ ” shall be substituted.

7. **Insertion of new section 31A.**— After section 31 of the principal Act, the following section shall be inserted, namely:-

15 “31A. **Compounding of offences.**— (1) Any offence punishable under sections 25Q, 25R, 25U, 26, 27, 28, 29, 30A and sub-sections (1) and (2) of section 31 may, either before or after the institution of the prosecution, on an application by the alleged offender, be
20 compounded by such officer or authority as the State Government may, by notification in the *Official Gazette*, specify in this behalf for such amount as specified in the Table below.

25 TABLE

Sr. No.	Section	Composition amount
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(1))	(2)	(3)	
1.	25Q	25 days wages last drawn by each workman.	
2.	25R	60 days wages last drawn by each workman.	
3.	25U	(i) By each workman ₹ 150/- per day but not exceeding ₹ 3000/- in aggregate;	
		(ii) By employer ₹300/- per day but not exceeding the amount in aggregate as shown below:	
		Number of workmen employed in the industry	Amount not exceeding
		1 to 50	₹ 7,000/-
		51 to 100	₹ 10, 000/-
		101 to 500	₹ 15,000/-
		More than 500	₹ 20, 000/-
(1))	(2)	(3)	
4.	26	(i) In case of illegal strike, ₹150/- per day by each workman but not exceeding ₹3000/- in aggregate; (ii) In case of illegal lock-out ₹300/- per day by an employer but not exceeding	

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		the amount in aggregate as shown below:			
		Number of workmen employed in the industry	Amount not exceeding		
		1 to 50	₹ 7,000/-		
		51 to 100	₹ 10, 000/-		
		101 to 500	₹ 15,000/-		
		More than 500	₹ 20, 000/-		
5.	27 and 28	As per section 26 above for illegal strike and lockout			
6.	29	₹ 200/- per day in respect of each of the workman			
7.	30A	25 days wages last drawn by each workman			
8.	31 (1)	Number of workmen employed in the industry	For first offence	For the second offence	For third offence
		1 to 50	₹ 10,000/-	₹ 15,000/-	₹ 20,000/-
		51 to 100	₹ 15,000/-	₹ 20,000/-	₹ 25,000/-

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		101 to 500	₹ 20,000/-	₹ 25,000/ -	₹ 30,000/-
		More than 500	₹ 30,000/-	₹ 35,000/ -	₹ 40,000/-
9.	31 (2)	(i) For each workman, for the first offence ₹ 1000/-, for the second offence ₹ 2000/- and for the third offence ₹ 3000/-.			
		(ii) For Employer:			
		Number of workmen employed in the industry	For first offenc e	For secon d offenc e	For third offence
		1 to 50	₹ 1500/-	₹ 3000/-	₹ 6000/-
		51 to 100	₹ 3000/-	₹ 6000/-	₹ 10000/-
		101 to 500	₹ 4000/-	₹ 8000/-	₹ 15,000/-
		More than 500	₹ 5000/-	₹ 10000/ -	₹ 20000/-

Provided that the State Government may, by notification in the *Official Gazette*, amend the composition amount specified in above Table:

5 Provided further that the offence committed of the same nature shall be compoundable only for the first three offences:

10 Provided also that such offences shall be compounded only after the alleged offender has acted to the satisfaction of such officer or authority that such offence is not continued any further.

15 (2) Where an offence has been compounded under subsection (1), no further proceedings shall be taken against the offender in respect of such offence and the offender, if in custody, shall be discharged.”.

20 **8. Insertion of new section 36C.**— After section 36B of the principal Act, the following section shall be inserted, namely:—

25 “36C. **Power to exempt new Industries.**— Where the State Government is satisfied in relation to any **new industrial establishment** or **new undertaking** or class of new industrial establishments or new undertakings that it is necessary in the public interest to do so, it may, by
30 notification in the Official Gazette, exempt, conditionally

or unconditionally, any such **new establishment** or **new undertaking** or class of new establishments or new undertakings from all or any of the provisions of this Act for a period of **one thousand days** from the date of the establishment of such new industrial establishment or new undertaking or class of new establishments or new undertakings, as the case may be.

Explanation:— For the purpose of this section, the expression “**new industrial establishment** or **new undertaking** or class of new industrial establishments or new undertakings” means such industrial establishment or undertaking or class of industrial establishments or undertakings which are established within a period of **one thousand days** after the commencement of the Industrial Disputes (Goa Amendment) Act, 2020”.

9. Repeal and Saving.— (1) The Industrial Disputes (Goa Amendment) Ordinance, 2020 (Ordinance No. 8 of 2020) is hereby repealed.

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(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

In sub-section (1) of **section 2-A** of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) (herein after referred to as the “said Act”) no time limit is specified for raising disputes connected with or arising out of discharge, dismissal, retrenchment or termination of an individual workman and sometimes such disputes are raised after a lapse of many years which cause difficulties in settlement of disputes. It was therefore considered expedient for providing time limit in respect of raising the disputes. This shall ensure that the disputes are raised within the prescribed time frame. The Industrial Disputes (Goa Amendment) Ordinance, 2020 (Ordinance No.8 of 2020) was promulgated by the Governor of Goa on 26/06/2020 after obtaining instructions from the President of India in pursuance of the proviso to clause (1) of Article 213 of the Constitution of India so as to provide, time limit of one year for raising the industrial disputes covered under sub-section (1) of section 2-A of the said Act by way of inserting sub-section (4). Further on similar lines the time limit in sub-section (3) was reduced from “**three**” years to “**one**” year for speedy disposal of the disputes.

Clause (b) of section 25F was also amended so as to enhance the payment of fifteen days average pay to payment of 45 days average pay for every completed years of continuous service in respect of retrenchment. Also,

sub-section (9) of **section 25-N** of the said Act was amended so as to enhance the payment of fifteen days average pay to payment of 45 days average pay for every completed year of continuous service so as to make the process of retrenchment/closure less painful for both employers and employees. The said amendment was made with the object of having reformative impact both on the industry and the employees. Also sub-section (8) of **section 25-O** of the said Act was amended so as to provide for payment of an amount equivalent to forty five days.

Section 25-K of the said Act was also substituted to increase number of workmen from one hundred to three hundred so as to encourage the employers to employ more number of workers in the industrial establishments.

New section 31A was also inserted to make provision for compounding of offences.

The Bill also seeks to insert section 36C so as to empower the State Government from the provisions of the said Act, thus encouraging investors to set up their new industries.

The Bill also seeks to repeal the Industrial Disputes (Goa Amendment) Ordinance, 2020 (Ordinance No. 8 of 2020) Promulgated by the governor of Goa on 26th day of June, 2020.

This Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

No financial implications are involved in this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill empowers the authority that may be specified by the State Government, to condone the delay beyond such period of one year if the applicant workman satisfies that authority, that he had sufficient cause for not raising the dispute within the period of one year.

Clause 4 of the Bill, empowers the State Government without prejudice to the provisions of sub-section (1), if satisfied that maintenance of industrial peace or prevention of victimization of workmen so requires, by notification in the Official Gazette, apply the provisions of this Chapter to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which such number of workmen which may be less than three hundred but not less than one hundred, as may be specified in the notification, were employed on an average per working day for the preceding twelve months.

Clause 7 of the Bill empowers the State Government to issue notification for specifying authority/officer to compound offences punishable under the Act.

Clause 8 of the Bill empowers the State Government by inserting new section “36C **Power to exempt new Industries**”, by which the State Government in relation to any **new industrial establishment** or **new undertaking** or class of new industrial establishments or new undertakings if necessary in the public interest, it may, by notification in the Official Gazette, exempt, conditionally or unconditionally, any such **new establishment** or **new undertaking** or class of new establishments or new undertakings from all or any of the provisions of this Act for a period of **one thousand days** from the date of the establishment of such new industrial establishment or new undertaking or class of new establishments or new undertakings, as the case may be.

These delegations are of normal character.

Assembly Hall
Porvorim, Goa.
27th July, 2020.

Smt. Jennifer Monserrate
Minister for Labour & Employment.

Assembly Hall,
Porvorim, Goa.
27th July, 2020.

Smt. Namrata Ulman
Secretary to the
Legislative Assembly of Goa.

ANNEXURE

.....
Extract of The Industrial Disputes Act, 1947.
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1. Short title, extent and commencement.— (1) This Act may be called THE INDUSTRIAL DISPUTES ACT, 1947.

[(2) It extends to the whole of India];

(3) It shall come into force on the first day of April, 1947.

2. 2-A. Dismissal, etc., on an individual workman to be deemed to be an industrial dispute.— [(1)] where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal

for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).

3. 25-F. Condition precedent to retrenchment of workmen.— No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

(a) the workman has been given one month's notice in writing indicating the reason for retrenchment and the period of notice has expired, or the workman has been

paid in lieu of such notice, wages for the period of the notice:

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay [for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette.]

4. 25-K. Application of Chapter V-B.- (1) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than [one hundred] workmen were employed on an average per working day for the preceding twelve months.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

5. 25-N. Condition precedent to retrenchment of workmen.- (1) No workman employed in any industrial

establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,-

(a) The workman has been given three months' notice in writing indicating the reason for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice, wages for the period of the notice; and

(b) The prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of

being heard to the employer, the workmen concerned and the person interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman,

review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year or continuous service or any part thereof in excess of six months.

6. 25-O. Procedure for closing down an undertaking.—

(1) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, in the prescribed manner, apply, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government, stating clearly the reason for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner.

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(2) Where an application for permission has been made

under sub-section (1), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(3) Where an application has been made under sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(4) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (5), be final and binding on all the parties and shall remain in force for one year from the date of such order.

(5) The appropriate Government may, either on its own motion or on the application made by the employer or any

workman, review its order granting or refusing to grant permission under sub-section (2) or refer the matter to a Tribunal for adjudication.

(6) where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

(8) Where an undertaking is permitted to be closed down under sub-section (2) or where permission for closure is deemed to be granted under sub-section (3), every workman who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive

compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.

7. 31. Penalty for other offences.— (1) Any employer who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

8. 36B. Power to exempt.— Where the appropriate Government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishment or undertaking carried on by a department of that Government that adequate provisions exist for the investigation and settlement of industrial dispute in respect of workmen employed in such establishment or undertaking or class of establishments or undertakings, it may, by notification in the Official Gazette, exempt, conditionally or unconditionally such establishment or

undertaking or class of establishments or undertakings
from all or any of the provisions of this Act.

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