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Explained | The Jan Vishwas (Amendment of Provisions) Bill, 2023

PREMIUM

What are the objectives of the Bill? How will the proposed legislation help with ease of doing business? Which minor offences will be decriminalised?

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The story so far: Among the Bills taken up during the Monsoon Session of the Parliament, which started on July 20 is the Jan Vishwas (Amendment of Provisions) Bill, which seeks to **redefine the regulatory landscape of the country with decriminalisation of minor offences under 42 Acts** to reduce compliance burden and promote ease of living and doing business in the country.

The proposed legislation was tabled in Parliament by the Union Ministry of Commerce and Industry in December last year and was later referred to a Joint Parliamentary Committee (JPC) for review. The JPC **presented its report with seven general recommendations to Parliament during the Budget Session** in March. As per reports, most recommendations of the JPC have been approved by the Union Cabinet, clearing the way for its passing.

The Bill was passed in Lok Sabha through a voice vote on Thursday, July 27 as the Opposition protested and raised slogans on the Manipur issue

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What does the Bill propose?

The Jan Vishwas Bill aims to decriminalise around 180 offences across 42 laws governing environment, agriculture, media, industry and trade, publication, and other domains that **create barriers to the ease of doing business in the country**. It seeks to completely remove or replace imprisonment clauses with monetary fines, to provide a boost to the business ecosystem and improve the well-being of the public. The Bill also proposes compounding of offences in some provisions.

Broadly, the draft proposes the following changes in existing Acts:

Decriminalising of offences

The Bill removes all offences and penalties under the Indian Post Office Act, 1898.



A periodic revision of fines and penalties for various offences in the specified Acts. The Bill proposes an increase of 10% of the minimum amount every three years.

What is the need for such a law?

Micro, small and medium-scale businesses are the backbone of the Indian economy and contribute significantly to the Gross Domestic Product (GDP). For these enterprises to make a shift to the formal sector and generate jobs and income, there must be effective and efficient business regulations in place that eliminate unnecessary red tape.

Currently, there are 1,536 laws which translate into around 70,000 compliances that govern doing business in India. These excessive compliances have proved onerous for business enterprises, especially MSMEs.

A 2022 report by the *Observer Research Foundation (ORF)* on imprisonment clauses in business laws revealed that among the 69,233 unique compliances that regulate business in India, 26,134 have imprisonment clauses as a penalty for non-compliance. “The legislation, rules and regulations enacted by the Union and State governments have over time created barriers to the smooth flow of ideas, organisation, money, entrepreneurship and through them the creation of jobs, wealth and GDP,” it said.

The *ORF* report added that an average enterprise in the manufacturing sector with more than 150 employees deals with 500-900 compliances a year that cost nearly Rs 12-18 lakh a year. It found that two out of every five (37.8%) compliances carry imprisonment clauses.

The Jan Vishwas Bill envisages decluttering the system and shedding the baggage of archaic and obsolete laws. “The cornerstone of democratic governance lies in the government trusting its own people and institutions. A web of outdated rules and regulations causes trust deficit... Reducing compliance burden gives impetus to business process reengineering and improves ease of living of people,” reads the Statement of Objects and Reasons of the Bill.

While introducing the Bill, Commerce and Industry Minister Piyush Goyal also told



mistakes, people should not be penalised. For minor offences, there should be a provision for paying fines,” the Union minister said.

The Parliamentary committee also notes in its report that regulatory burden poses substantial deterrents for investors. “Discrepancies among existing laws can lead to unnecessary and even contradictory compliance requirements. Moreover, the lengthy processing times for the needed approvals can escalate costs and dampen the entrepreneurial spirit. Proposed amendments would accelerate investment decisions due to smoother processes and attracting more investment,” it says.

Besides ‘decriminalisation’, the Bill is also aimed at reducing judicial burden. As per the National Judicial Data Grid, as of July 2023, out of a total of 4.4 crore pending cases, 3.3 crore cases are criminal proceedings. “Settlement of a large number of issues, by compounding method, adjudication and administrative mechanism, without involving courts, will enable persons to remedy minor contraventions and defaults, sometimes committed unknowingly by them, and save time, energy and resources,” states the draft.

To summarise, the Bill seeks to reduce compliance and remove the fear of imprisonment for minor offences, to give an impetus to businesses and improve ease of doing business and living, thus bolstering ‘trust-based governance’.

Which are the key provisions under consideration?

As stated above, there are a total of 42 laws under the purview of the Jan Vishwas (Amendment of Provisions) Bill, 2023. These are administered by different Union ministries, including finance, agriculture, commerce, environment, road transport and highways, food production and distribution, and electronics and IT.

Here are some key suggestions in the draft legislation:

The Indian Forest Act, 1927: Trespassing, permitting cattle to trespass; cutting timber; or causing damage in felling a tree in a reserved forest is a punishable offence with a jail term of up to six months, or a fine up to Rs 500, or both. The Bill removes the clause of



a reserved tree. The JPC has suggested an increase in penalty from Rs 500 to Rs 5,000 for violation of sections 26 (1) (e) and 33(e) and (f) of the Act, which deal with the above.

The Air (Prevention and Control of Pollution) Act, 1981: The Bill proposes to replace imprisonment for lapses with heavier penalties. For instance, failure to comply with provisions that bar an industrial unit from operating in an air pollution control area will be liable to pay a penalty of up to Rs 15 lakh. The offence currently attracts a jail term of up to six years along with a monetary penalty.

The Information Technology Act, 2000: The Bill proposes to remove Section 66A which provides for punishment for sending offensive messages or false information through a communication service. For breach of confidentiality and privacy, the Bill proposes a penalty of Rs 5 lakh. The offence is presently punishable with imprisonment up to two years, with a fine up to Rs 1 lakh, or both.

Disclosing personal information in breach of a lawful contract is punishable with imprisonment of up to three years and/or a fine of up to Rs 5 lakh. The proposed Bill replaces it with a penalty of up to Rs 25 lakh.

The Environment (Protection) Act, 1986: The Bill suggests a penalty of Rs 1 lakh to Rs 15 lakh for inadvertent compliance breaches, such as being unaware of excess discharge of pollutants under Sections 7 and 9 of the Act. The offence currently carries an imprisonment of five years and a fine of Rs 1 lakh.

The Copyright Act, 1957: The proposed law omits the penalty for making false statements for deceiving or influencing an authority or officer. The offence is presently punishable with imprisonment which may extend to one year, or fine, or both.

The Motor Vehicles Act, 1988: Under Section 192A, a person using a motor vehicle without a valid permit faces a jail term of up to six months and a fine of Rs 10,000. The Bill proposes the same jail term but omits the compulsion of paying a fine of Rs 10,000.

The Railway Act, 1980: A person caught hoarding or selling goods without a permit in a



punishment clause for beggars. It sets a clause of a jail term of up to one year or a fine of a maximum of Rs 2,000 for illegal hawkers, or both.

The Cinematograph Act, 1952: Unauthorised tampering of an already certified film will be punishable with up to three years in jail, a fine of up to Rs. 10 lakh, or both. It also proposes a penalty of up to Rs 10,000 for a person showing an adult movie (A-rated) to a minor.

The Patents Act, 1970: If a person wrongly claims a patent on an article sold by him, he will be liable to pay a penalty of up to Rs 10 lakh, and a further penalty of Rs 1,000 per day in case of a continuing claim. The offence is presently punishable with a fine of up to Rs 1 lakh.

The Agricultural Produce (Grading & Marking) Act, 1937: The Bill removes the provision of jail term for unauthorised marking of an article with a grade designation mark and its sale. Instead, it proposes a penalty of Rs 5 lakh.

The Trade Marks Act, 1999: Falsely representing a trademark as registered is punishable with imprisonment of up to three years, with a fine, or both. The Bill proposes a penalty of Rs 25,000-Rs 1 lakh.

The Food Safety and Standards Act, 2006: For the sale of unsafe food, the Bill proposes imprisonment for three months with a fine of up to Rs 3 lakh. Currently, the jail term for the offence is not more than six months, while the fine goes up to Rs 1 lakh. Similarly, for providing misleading or false information, a person can be jailed for up to three months, with a fine extending to two lakh. The Bill proposes that the offence be punishable by a fine extending to Rs 10 lakh.

The High Denomination Bank Notes (Demonetisation) Act, 1978: The Bill decriminalises offences under the Act, which was used to remove high-value banknotes as legal tender in 1978. Noting that the law has outlived its utility, the parliamentary committee suggested the Ministry of Finance repeal the Act.

Are there any concerns?



enough attempt at 'decriminalisation'.

In an article in *The Hindu* earlier, G.S. Bajpai, Vice-Chancellor, Rajiv Gandhi National University of Law, Punjab and Assistant Professor Ankit Kaushik argued that the the Bill undertakes what they refer to as 'quasi-decriminalisation.' "It is a welcome move and can be viewed as an attempt to reverse the trend of over-criminalisation. However, there is much that needs to be done in order to institutionalise efforts aimed at decriminalisation," the authors noted. The number of offences deregulated under the Bill seems to be a mere drop in India's regulatory framework, they said.

The Vidhi Centre for Legal Policy, an independent think-tank and research centre, also pointed out this issue in an analysis of the Bill. The think tank submitted suggestions to the JPC on proposed amendments to environmental laws in the Bill. "Imprisonment may not be the best punishment for all environmental offences. However, the blanket removal of imprisonment provision might also remove the deterrence effect of the environmental legislation, especially for large corporations profiteering from the offence," it said.

The PRS Research Institute has raised concerns related to the appointment of adjudicating officers under the Air (Prevention and Control of Pollution) Act and the Environment (Protection) Act, 1986. Currently, contraventions of both laws are prosecuted in court only upon a complaint by specified authorities, or by a person giving these authorities 60 days' notice of their intention to file a complaint. The Bill empowers Adjudicating Officers to decide penalties under both Acts, and to file complaints in court under the EP Act.

"Appeals against their orders lie with the National Green Tribunal. Under both Acts, the officer would be of the rank of Joint Secretary to the central government or above, or a Secretary to the state government. This new process of adjudication raises a few issues," it states. "Further, there is significant technical input involved in legal proceedings for offences under the Air Act. These Adjudicating Officers may lack the technical competence necessary to decide all penalties under the Air Act and the EP Act," the review adds.



that of the 42 Acts of Parliament mentioned in the Bill, little more than half, or 23 Acts, impact ease of doing business, with the rest either targeting ease of life or influencing institutional structures. “When placed within the larger context of business laws, the 23 Acts are a fraction of the Union compliance universe,” it added.

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