

Bill No. IX of 2011

THE LABOUR LAWS (EXEMPTION FROM FURNISHING RETURNS
AND MAINTAINING REGISTERS BY CERTAIN ESTABLISHMENTS)
AMENDMENT BILL, 2011

A

BILL

*to amend the Labour Laws (Exemption from Furnishing Returns and Maintaining
Registers by certain Establishments) Act, 1988.*

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

1. (1) This Act may be called the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Amendment Act, 2011.

Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

51 of 1988. 2. In the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988 (hereinafter referred to as the principal Act), in section 2, in clause (e), for the word “nineteen”, the word “forty” shall be substituted.

Amendment of section 2.

10

Substitution of new section for section 4.

Exemption from furnishing or maintaining of returns and registers required under certain labour laws.

3. For section 4 of the principal Act, the following section shall be substituted, namely:—

“4. (1) Notwithstanding anything contained in a Scheduled Act, on and from the commencement of the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Amendment Act, 2011, it shall not be necessary for an employer in relation to any small establishment or very small establishment to which a Scheduled Act applies, to furnish the returns or to maintain the registers required to be furnished or maintained under that Scheduled Act:

Provided that such employer—

(a) furnishes, in lieu of such returns, annual return in Form I; and

(b) maintains, in lieu of such registers,—

(i) registers in Form II and Form III, in the case of small establishments, and

(ii) a register in Form III, in the case of very small establishments,

at the work spot:

Provided further that every such employer shall continue to—

(a) issue wage slips in the Form prescribed in the Minimum Wages (Central) Rules, 1950 made under sections 18 and 30 of the Minimum Wages Act, 1948 and slips relating to measurement of the amount of work done by piece-rated workers required to be issued under the Payment of Wages (Mines) Rules, 1956 made under sections 13A and 26 of the Payment of Wages Act, 1936; and

(b) file returns relating to accidents under sections 88 and 88A of the Factories Act, 1948 and sections 32A and 32B of the Plantations Labour Act, 1951.

(2) The annual return in Form I and the registers in Forms II and III and wage slips, wage books and other records, as provided in sub-section (1), may be maintained by an employer on a computer, computer floppy, diskette or other electronic media:

Provided that a printout of such returns, registers, books and records or a portion thereof is made available to the Inspector on demand.

(3) The employer or the person responsible to furnish the annual return in Form I may furnish it to the Inspector or any other authority prescribed under the Scheduled Acts through electronic mail if the Inspector or the authority has the facility to receive such electronic mail.

(4) Save as provided in sub-section (1), all other provisions of a Scheduled Act, including, in particular, the inspection of the registers by, and furnishing of their copies to, the authorities under that Act, shall apply to the returns and registers required to be furnished or maintained under this Act as they apply to the returns and registers under that Scheduled Act.

(5) Where an employer in respect of an establishment referred to in sub-section (1), to whom a Scheduled Act applies, furnishes returns or maintains the registers as provided in the proviso to sub-section (1), nothing contained in that Scheduled Act shall render him liable to any penalty for his failure to furnish any return or to maintain any register under that Scheduled Act.”

4. For the First Schedule and Second Schedule to the principal Act, the following Schedules shall be substituted, namely:—

Substitution of new Schedules for First Schedule and Second Schedule.

"THE FIRST SCHEDULE

[See section 2(d)]

- 5 1. The Payment of Wages Act, 1936 (4 of 1936).
- 2. The Weekly Holidays Act, 1942 (18 of 1942).
- 3. The Minimum Wages Act, 1948 (11 of 1948).
- 4. The Factories Act, 1948 (63 of 1948).
- 5. The Plantations Labour Act, 1951 (69 of 1951).
- 10 6. The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955).
- 7. The Motor Transport Workers Act, 1961 (27 of 1961).
- 8. The Payment of Bonus Act, 1965 (21 of 1965).
- 15 9. The Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (32 of 1966).
- 10. The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970).
- 11. The Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976).
- 12. The Equal Remuneration Act, 1976 (25 of 1976).
- 20 13. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979).
- 14. The Dock Workers (Safety, Health and Welfare) Act, 1986 (54 of 1986).
- 15. The Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986).
- 25 16. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (27 of 1996).

THE SECOND SCHEDULE

[See section 2 (c)]

FORM I

[See section 4 (1)]

30

ANNUAL RETURN

(To be furnished to the Inspector or the authority specified for this purpose under the respective Scheduled Act before the 31st January of the following year)

(ending 31st December _____)

- 35 1. Name of the establishment, its postal address, telephone number, FAX number, e-mail address and location _____
- _____
- 2. Name and postal address of the employer _____
- _____
- 3. Name and address of principal employer, if the employer is a contractor _____
- 40 _____

4. Name of the Manager responsible for supervision and control_____					
(i) Name of business, industry, trade or occupation carried on by the employer					

(ii) Date of commencement of the business, industry, trade or occupation_____					
_____	5				
5. Employer's number under ESI/EPF/Welfare Fund/PAN No., if any_____					
6. Maximum number of workers employed on any day during the year to which this return relates to:					
Category	Highly Skilled	Skilled	Semi-skilled	Un-skilled	
Male					10
Female					
Children (those who have not completed 18 years of age)					15
Total					
7. Average number of workers employed during the year:					
8. Total number of mandays worked during the year:					
9. Number of workers during the year:					
(a) Retrenched	:	20			
(b) Resigned	:				
(c) Terminated	:				
10. Retrenchment compensation and terminal benefits paid (provide information completely in respect of each worker)_____					
_____	25				
11. Mandays lost during the year on account of—					
(a) Strike	:				
(b) Lockout	:				
(c) Fatal accident	:				
(d) Non-fatal accidents	:	30			
12. Reasons for strike or lockout	:				
13. Total wages paid (wages and overtime to be shown separately):					
14. Total amount of deductions from wages made	:				
15. Number of accidents during the years	:				
Reported to Inspector of Factories/Dock Safety	Reported to Employees' State Insurance Corporation	Reported to Workmen's Compensation Commissioner	Others	35	
Fatal				40	
Non-fatal					

16. Compensation paid under the Workmen’s Compensation Act, 1923 (8 of 1923) during the year_____

(i) Fatal accidents :

(ii) Non-fatal accidents :

5 17. Bonus*

(a) Number of employees eligible for bonus :

(b) Percentage of bonus declared and number of employees who were paid bonus:

(c) Amount payable as bonus :

(d) Total amount of bonus actually paid and date of payment :

10

Signature of the Manager/Employer
with full name in capital letters.

Place:

Date:

ANNEXURE TO FORM I*

15	Name and address of the Contractor	Period of contract From to	Nature of work	Maximum number of workers employed by each contractor	Number of days worked	Number of mandays worked
	1	2	3	4	5	6

*Delete, if not applicable.

FORM II

[See section 4(I)]

REGISTER OF PERSONS EMPLOYED-CUM-EMPLOYMENT CARD

Name of the establishment, address, telephone number, FAX number and e-mail address _____ 5

Location of work _____

Name and address of principal employer if the employer is a contractor _____

1. Name of workman/employee _____

2. Father's/Husband's name _____ 10

3. Address:

(i) Present _____

(ii) Permanent _____

4. Name and address of the nominee/next of kin _____

5. Designation/Category _____ 15

6. Date of Birth/Age _____

7. Educational qualifications _____

8. Date of entry _____

9. Worker's ID No./ESI/EPF/L.W.F. No. _____

10. If the employed person is below 14 years, whether a certificate of age 20
is maintained _____

11. Sex: Male or Female _____

12. Nationality _____

13. Date of termination of employment with reason _____

_____ 25

14. Signature/thumb impression of worker/employee _____

15. Signature of the employer/Authorised officer with designation _____

Signature of the contractor/
authorised representative
of the principal employer.

FORM III

[See section 4 (1)]

MUSTER ROLL-CUM-WAGE REGISTER

Name of the establishment and address

5 Location of work

Name and address of employer

1	2	3	4	5	6	7	8
Serial number	Name of the worker (ID No. if any) and father's/husband's name	Designation/category/nature of work performed	Attendance (Dates of the month 1, 2, ... to 31)	Leave due (Earned leave and other kind of admissible leave)	Leave availed (specify)	Wage rate/pay or piece rate/wages per unit	Other allowances, <i>e.g.</i> (a) Dearness Allowance (b) House Rent Allowance (c) Night Allowances (d) Displacement Allowance (e) Outward Journey Allowance
10							
15							(a) (b) (c) (d) (e)
20							
25							
9	10	11	12	13	14	15	16
Overtime worked Number of hours in the month	Amount of overtime wages	Amount of advance and purpose of advance	Total/gross earnings	Deduction <i>e.g.</i> (a) Provident Fund (b) Advance (c) Employees' State Insurance (d) Other amount	Net amount payable (12-13)	Signature/receipt of wages/allowances for column number 14	Remarks
30							
35							(a) (b) (c) (d)

Certificate by the principal employer if the employer is contractor.

This is to certify that the contractor has paid wages to workmen employed by him as shown in this register.

Signature of principal employer/
authorised representative of principal employer."

STATEMENT OF OBJECTS AND REASONS

Parliament enacted from time to time a number of labour laws for regulating employment and conditions of service of workers. Whenever a new law was enacted, it prescribed certain registers to be maintained by the employers. Simultaneously, the laws also prescribed for furnishing of returns of various details by the employers to the concerned enforcing authorities. Over the years, the numbers of such registers to be maintained and the returns to be furnished by the employers under different labour laws have increased considerably. At present, the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988 has limited application for providing exemption only to establishments employing up to nineteen persons.

2. There have been persistent demands from various quarters to simplify the forms of various returns to be furnished and registers to be maintained by the employers under different labour laws and also to expand the coverage of the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Act, 1988 to establishments employing more than nineteen persons. After the introduction of computers in all spheres of business, demand has also been made to design computer-based forms and make provision for transmitting the returns electronically.

3. With a view to expanding the coverage of the aforesaid Act to establishments employing up to five hundred workers and to prescribe simplified user friendly forms and to provide for maintenance of registers or records in computer, Computer floppy, diskette or other electronic media and submit the returns through electronic mail, the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Amendment and Miscellaneous Provisions Bill, 2005 was introduced in Rajya Sabha on the 22nd August, 2005. The Bill was referred to by the Department Related Parliamentary Standing Committee on Labour for examination and report. The Standing Committee advised to discuss the provisions of the Bill with the employers' and employees' organisations and to redraft the amendments on the basis of consensus as may be reached. Accordingly, several meetings were held with the representatives of the employers' and employees' organisations. Since giving effect to the recommendations of the Parliamentary Standing Committee and also the suggestions made by various employers' and employees' organisations required amendments to almost all the clauses of the Bill, it is considered appropriate to withdraw the aforesaid Bill and to introduce a fresh Bill.

4. The proposed Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by certain Establishments) Amendment Bill, 2011, *inter alia*, seeks to provide for the following:—

- (i) to revise the definition of the expression "small establishment" so as to cover those establishments in which not less than ten and not more than forty persons are employed or were employed on any day of the preceding twelve months within the meaning of that expression instead of not less than ten and not more than nineteen persons, as at present;
- (ii) to provide for maintenance of registers and returns in computer, Computer floppy, diskette or other electronic media and to submit returns through electronic mail;
- (iii) to substitute the First Schedule to the Act for applying the provisions of the Act to sixteen enactments in place of nine enactments, as at present; and
- (iv) to substitute the Second Schedule to the Act to specify new Forms instead of the present Forms A, B, C, D and E.

5. The Bill seeks to achieve the above objectives.

ANNEXURE
EXTRACTS FROM THE LABOUR LAWS (EXEMPTION FROM FURNISHING RETURNS AND MAINTAINING
REGISTERS BY CERTAIN ESTABLISHMENTS) ACT, 1988

(51 OF 1988)

* * * * *

2. In this Act, unless the context otherwise requires,— Definitions.

* * * * *

(e) "small establishment" means an establishment in which not less than ten and not more than nineteen persons are employed or were employed on any day of the preceding twelve months;

* * * * *

4. (1) On and from the commencement of this Act, it shall not be necessary for an employer in relation to any small establishment or very small establishment to which a Scheduled Act applies to furnish the returns or to maintain the registers required to be furnished or maintained under that Scheduled Act: Exemption from returns and registers required under certain labour laws.

Provided that such employer—

(a) furnishes, in lieu of such return, a Code Returns in Form A;

(b) maintains, in lieu of such registers,—

(i) registers in Form B, Form C and Form D, in the case of small establishments; and

(ii) register in Form E, in the case of very small establishments:

Provided further that every such employer shall continue to—

11 of 1948.

(a) issue wage slips in the Form prescribed in the Minimum Wages (Central) Rules, 1950 made under sections 18 and 30 of the Minimum Wages Act, 1948 and slips relating to measurement of the amount of work done by piece-rated workers required to be issued under the Payment of Wages (Mines) Rules, 1956 made under sections 13A and 26 of the Payment of Wages Act, 1936; and

4 of 1936.

(b) file returns relating to accidents under sections 88 and 88A of the Factories Act, 1948 and sections 32A and 32B of the Plantations Labour Act, 1951.

63 of 1948.

69 of 1951.

(2) Save as provided in sub-section (1), all other provisions of a Scheduled Act, including in particular, the inspection of the registers by, and furnishing of their copies to, the authorities under that Act, shall apply to the returns and registers required to be furnished or maintained under this Act as they apply to the returns and registers under that Scheduled Act.

(3) Where an employer in relation to a small establishment or very small establishment to which a Scheduled Act applies, furnishes returns or maintains the registers as provided in the proviso to sub-section (1), nothing contained in that Scheduled Act shall render him liable to any penalty for his failure to furnish any return or to maintain any register under that Scheduled Act.

* * * * *

FIRST SCHEDULE

[See section 2(d)]

(1) The Payment of Wages Act, 1936 (4 of 1936).

(2) The Weekly Holidays Act, 1942 (18 of 1942).

(3) The Minimum Wages Act, 1948 (11 of 1948).

(4) The Factories Act, 1948 (63 of 1948).

(5) The Plantations Labour Act, 1951 (69 of 1951).

(6) The Working Journalists and other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955).

(7) The Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970).

(8) The Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976).

(9) The Equal Remuneration Act, 1976 (25 of 1976).

SECONDSCHEDULE

[See section 2(c)]

FORMA

[See section 4(1) proviso (a)]

CORE RETURN

RETRUN FOR THE YEAR ENDING 31ST DECEMBER

(To be furnished on or before the 15th February of the succeeding Year by small establishments and very small establishments).

1. (a) Name and postal address of the establishment.

(b) Name and residential address of the employer.

(c) Name and residential address of the Manager or person responsible for supervision and control of the establishment.

(d) Name of the principal employer in the case of a contractor's establishment.

(e) Date of commencement of the establishment.

NATURE OF OPERATION/INDUSTRY/WORK CARRIED ON

2. (a) Number of days worked during the year.

(b) Number of man-days worked during the year.

(c) Daily hours of work.

(d) Day of weekly holiday.

3. (a) Average number of persons employed during the year.

(i) Males.

(ii) Females

(iii) Adolescents (those who have completed 14 years but have not completed 18 years of age)

(iv) Children (those who have not completed 14 years of age).

(b) Maximum number of workers employed on any day during the year.

(c) Number of workers discharged, dismissed, retrenched or whose services were terminated during the year.

4. Rates of wages-categorywise.

(1) Males (2) Females (3) Adolescents (4) Children

5. Gross Wages paid:

(a) in cash.

(b) in kind.

6. Deductions:

- (a) Fines.
- (b) Deductions for damage or loss.
- (c) Other deductions.

7. Number of workers who were granted leave with wages during the year.

8. Nature of Welfare amenities provided; Statutory (specify the Statute).

9. Does the establishment carry out any hazardous process or dangerous operation coming within the meaning of the Factories Act, 1948. If so, give particulars.

10. Number of Accidents:

- (a) Fatal.
- (b) Non-fatal.

11. Nature of safety measures provided as required under the Factories Act, 1948.

Signature of employer with full name in capitals.

Date

Place

FORMB

[See section 4(1) proviso (b)(i)]

REGISTER OF WAGES REQUIRED TO BE MAINTAINED BY SMALL ESTABLISHMENTS
(To be maintained within seven days of the expiry of the wage period)

Name of the Establishment.....							Name and address of employer.....							
Address (Local).....							Nature of work.....							
(Permanent).....							Wage period.....							
Serial Number	Name of the employee	Sex	Designation	Classification, whether permanent/temporary/casual/part-time or any other	Father's or husband's name	Total days/number of units worked	Wages earned							
							Basic wage	Dearness allowance	Overtime	Bonus or ex-gratia	Maternity Benefits	Gratuity	Any other allowance	
							Statutory Minimum rate	Actual						
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

Wages earned							Deduction					
Total amount	Advances	Fines due to damage or loss by neglect or default	Provident Fund		Employees' State Insurance		Other deductions indicating the nature	Total deductions	Net amount payable	Signature or thumb impression of employee with date	Signature of Inspector with date	Remarks
			Employers' contribution	Employees' contribution	Employers' contribution	Employees' contribution						
16	17	18	19	20	21	22	23	24	25	26	27	28

- NOTES:
1. In case of deduction of any advance taken by an employee, the employer shall also indicate therein the number of instalments paid/total instalments by which advance is to be repaid such as "5/20, 6/20" etc. The purpose of advance shall also be mentioned in the Remarks column.
 2. In case of imposition of fines or deduction for damage or loss, the specific act or omission for which the penalty has been imposed has to be indicated in the Remarks column. A certificate shall also be recorded in the said column to the effect that an opportunity to show cause was given to the employee concerned before imposition of fine or deduction.

Date.....

Place.....

Signature of the employer with full name in capitals.

FORMC

[See section 4(1) proviso (b)(i)]

MUSTER ROLL TO BE MAINTAINED BY SMALL ESTABLISHMENTS

Name of establishment..... Name and address of the employer.....

Address (Local)

(Permanent)..... Wage period.....

Serial number	Name of the employee	Date of employment	Permanent address	Age or date of birth	Father's or husband's name	For the period ending..... Number of units of work done during.....	Total attendance
1	2	3	4	5	6	7	8

Total overtime worked ¹	Total production in case of piece rated workers ²	Compensatory rest ³		Signature of Inspector with date	Remarks
		Brought forward from previous wage period	Given during the wage period		
9	10	11	12	13	14

NOTES: ¹ In the case of daily-rated workers, the extend of overtime done on each occasion has to be reflected against each concerned date, such as "P/1" meaning "Present with one hour's overtime", "P/1-2" meaning "Present with one and a half hour's overtime", and so on.

² The number of units of work done by a piece-rated worker has to be noted for each day in the Register. In case of employment of any child/adolescent, the employer shall indicate the hours worked each day with intervals of rest.

³ The compensatory rest availed by the worker has to be marked in the Register in red ink as 'CR'.

NOTE: Column 7 to be filled up on each working day and the remaining columns to be completed within seven days of the expiry of the wage period.

Date.....

Signature of the employer with full name in capitals.

Place.....

FORMD

[See section 4(1) proviso (b)(i)]

MONTHLY REGISTER SHOWING WELFARE AMENITIES TO BE MAINTAINED BY SMALL ESTABLISHMENTS

Name and address of the employer..... Address of the establishment: For the month of.....
 Local/Permanent

Serial number	Name of the employee	Sex	Designation	Weekly day of rest	Dates of holidays for festivals or similar other occasions	Number of casual leave availed by the employee	Quantum of annual leave with wages Due	Availed
1	2	3	4	5	6	7	8	9

Whether Rest room	Welfare Amenities provided for Drinking water	First aid	Whether Scheduled Caste/Scheduled Tribe, Handicapped, or any other particular category	Signature of the employer or his agent	Remarks of the Inspecting Officer	Signature of Inspector with date
10	11	12	13	14	15	16

NOTE: To be completed within seven days of the expiry of each calendar month.

Date.....

Signature of the employer with full name in capitals.

Place.....

[See section 4(1) proviso (b)(ii)]

MONTHLY REGISTER OF MUSTER ROLL-CUM-WAGES REQUIRED TO BE MAINTAINED BY VERY SMALL ESTABLISHMENTS

Year.....
 Month.....or
 Wage period
 (where different).....

Name of establishment.....
 Name of employee..... Father's Name.....
 Nature of work..... Rate of wages.....
 Wage period..... Date of employment.....

Date	Hours of work		Interval for Rest and Meal		Hours worked with the employer	Overtime		Casual or sickness leave availed during the Month/ wage period	Privilege Leave			Signature of the employer	Remarks of the employer
	From	To	From	To		Hours worked	Wages earned		Leave due	Leave availed	Balance		
1	2	3	4	5	6	7	8	9	10	11	12	13	14

Remuneration Due				Deductions			Advance paid, if any	Net Amount of payment	Date of payment	Signature or thumb impression of the employee	Signature of Inspector with remarks, if any, and date	
Basic salary or wage	Over-time	Other allowances, if any	Total	Fines and deductions on account of damage or loss by neglect or default	Other deductions	Date						
15	16	17	18	19	20	21	22	23	24	25	26	27

NOTE : Columns 1 to 12 to be filled up on each working day and the remaining columns to be completed within seven days of the expiry of the wage period.

Date.....
 Place.....

Signature of the employer with full name in capitals.

RAJYA SABHA

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BILL

to amend the Labour Laws (Exemption from Furnishing Returns and Maintaining Registers
by certain Establishments) Act, 1988.

(Shri Mallikarjun Kharge, Minister of Labour and Employment)