

Bill No. 92 of 2014

THE APPRENTICES (AMENDMENT) BILL, 2014

A

BILL

further to amend the Apprentices Act, 1961.

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

1. (1) This Act may be called the Apprentices (Amendment) Act, 2014.

Short title and
commence-
ment.

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

52 of 1961. 5 2. In the Apprentices Act, 1961 (hereinafter referred to as the principal Act), in section 2,—

Amendment
of section 2.

(i) in clause (d), in sub-clause (1), after item (b), the following item shall be inserted, namely:—

10 “(bb) any establishment which is operating business or trade from different locations situated in four or more States, or”;

(ii) for clauses (e), (j) and (k), the following clauses shall respectively be substituted, namely:—

‘(e) “designated trade” means any trade or occupation or any subject field in engineering or non-engineering or technology or any vocational course which the Central Government, after consultation with the Central Apprenticeship Council, may, by notification in the Official Gazette, specify as a designated trade for the purposes of this Act; 5

(j) “graduate or technician apprentice” means an apprentice who holds, or is undergoing training in order that he may hold a degree or diploma in engineering or non-engineering or technology or equivalent qualification granted by any institution recognised by the Government and undergoes apprenticeship training in any designated trade; 10

(k) “industry” means any industry or business in which any trade, occupation or subject field in engineering or non-engineering or technology or any vocational course may be specified as a designated trade or optional trade or both;’; 15

(iii) after clause (l), the following clauses shall be inserted, namely:—

‘(II) “optional trade” means any trade or occupation or any subject field in engineering or non-engineering or technology or any vocational course as may be determined by the employer for the purposes of this Act; 20

(III) “portal-site” means a website of the Central Government for exchange of information under this Act;’;

(iv) in clause (pp), for the words “such subject field in any vocational course as may be prescribed”, the words “designated trade” shall be substituted;

(v) for clauses (q) and (r), the following clauses shall be substituted, namely:— 25

‘(q) “trade apprentice” means an apprentice who undergoes apprenticeship training in any designated trade;

(r) “worker” means any person working in the premises of the employer, who is employed for wages in any kind of work either directly or through any agency including a contractor and who gets his wages directly or indirectly from the employer but shall not include an apprentice referred to in clause (aa).’ 30

Amendment
of section 3.

3. In section 3 of the principal Act, for clause (a), the following clause shall be substituted, namely:—

“(a) is not less than fourteen years of age, and for designated trades related to hazardous industries, not less than eighteen years of age; and” 35

Amendment
of section 4.

4. In section 4 of the principal Act,—

(i) for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) Every contract of apprenticeship entered into under sub-section (1) shall be sent by the employer within thirty days to the Apprenticeship Adviser until a portal-site is developed by the Central Government, and thereafter the details of contract of apprenticeship shall be entered on the portal-site within seven days, for verification and registration. 40

(4A) In the case of objection in the contract of apprenticeship, the Apprenticeship Adviser shall convey the objection to the employer within fifteen days from the date of its receipt. 45

(4B) The Apprenticeship Adviser shall register the contract of apprenticeship within thirty days from the date of its receipt.”;

(ii) sub-section (5) shall be omitted.

5. After section 5 of the principal Act, the following sections shall be inserted, namely:—	Insertion of new sections 5A and 5B.
“5A. The qualification, period of apprenticeship training, holding of test, grant of certificate and other conditions relating to the apprentices in optional trade shall be such as may be prescribed.	Regulation of optional trade.
5 5B. The employer may engage apprentices from other States for the purpose of providing apprenticeship training to the apprentices.”.	Engagement of apprentices from other States.
6. In section 6 of the principal Act,—	Amendment of section 6.
(i) in clause (a), for the words “determined by that Council”, the word “prescribed” shall be substituted;	
10 (ii) for clause (aa), the following clause shall be substituted, namely:—	
15 “(aa) in the case of trade apprentices who, having undergone institutional training in a school or other institution affiliated to or recognised by a Board or State Council of Technical Education or any other authority or courses approved under any scheme which the Central Government may, by notification in the Official Gazette specify in this behalf, have passed the trade tests or examinations conducted by that Board or State Council or authority or by any other agency authorised by the Central Government, the period of apprenticeship training shall be such as may be prescribed;”.	
7. For section 8 of the principal Act, the following section shall be substituted, namely:—	Substitution of section 8.
20 “8 (1) The Central Government shall prescribe the number of apprentices to be engaged by the employer for designated trade and optional trade.	Number of apprentices for a designated trade and optional trade.
25 (2) Several employers may join together either themselves or through an agency, approved by the Apprenticeship Adviser, according to the guidelines issued from time to time by the Central Government in this behalf, for the purpose of providing apprenticeship training to the apprentices under them.”.	
8. In section 9 of the principal Act,—	Amendment of section 9.
(i) for sub-section (1), the following sub-section shall be substituted, namely:—	
30 “(1) Every employer shall make suitable arrangements in his workplace for imparting a course of practical training to every apprentice engaged by him.”;	
(ii) for sub-section (3), the following sub-section shall be substituted, namely:—	
35 “(3) Such of the trade apprentices who have not undergone institutional training in a school or other institution recognised by the National Council or any other institution affiliated to or recognised by a Board or State Council of Technical Education or any other authority which the Central Government may, by notification in the Official Gazette, specify in this behalf, shall, before admission in the workplace for practical training, undergo a course of basic training and the course of basic training shall be given to the trade apprentices in any institute having adequate facilities.”;	
40 (iii) sub-sections 4A, 4B, 5 and 6 shall be omitted.	

(iv) for sub-section (7) and sub-section (7A), the following sub-sections shall be substituted, namely:—

“(7) In the case of an apprentice other than a graduate or technician apprentice or technician (vocational) apprentice, the syllabus of and the equipment to be utilised for, practical training including basic training in any designated trade shall be such as may be approved by the Central Government in consultation with the Central Apprenticeship Council. 5

(7A) In the case of graduate or technician apprentices or technician (vocational) apprentices, the programme of apprenticeship training and the facilities required for such training in any designated trade shall be such as may be approved by the Central Government in consultation with the Central Apprenticeship Council.”; 10

(v) in sub-section (8), in clause (c), after the words “employer alone”, the words “except apprentices who holds degree or diploma in non-engineering” shall be inserted.

Amendment of section 15. **9.** In section 15 of the principal Act,— 15

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The weekly and daily hours of work of an apprentice while undergoing practical training in a workplace shall be as determined by the employer subject to the compliance with the training duration, if prescribed.”; 20

(ii) for sub-section (3), the following sub-section shall be substituted, namely:— 20

“(3) An apprentice shall be entitled to such leave and holidays as are observed in the establishment in which he is undergoing training.”.

Amendment of section 19. **10.** In section 19 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) Until a portal-site is developed by the Central Government, every employer shall furnish such information and return in such form as may be prescribed, to such authorities at such intervals as may be prescribed: 25

(3) Every employer shall also give trade-wise requirement and engagement of apprentices in respect of apprenticeship training on portal-site developed by the Central Government in this regard.”. 30

Amendment of section 21. **11.** In section 21 of the principal Act,—

(i) for sub-section (1) the following sub-section shall be substituted, namely:—

“(1) Every trade apprentice who has completed the period of training may appear for a test to be conducted by the National Council or any other agency authorised by the Central Government to determine his proficiency in the designated trade in which he has undergone apprenticeship training.”; 35

(ii) In sub-section (2), after the words “National Council”, the words “or by the other agency authorised by the Central Government” shall be inserted.

Amendment of section 22. **12.** In section 22 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— 40

“(1) Every employer shall formulate its own policy for recruiting any apprentice who has completed the period of apprenticeship training in his establishment.”.

Amendment of section 30. **13.** In section 30 of the principal Act,—

(i) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) If any employer contravenes the provisions of this Act relating to the number of apprentices which he is required to engage under those provisions, 45

he shall be given a month's notice in writing, by an officer duly authorised in this behalf by the appropriate Government, for explaining the reasons for such contravention.

5 (IA) In case the employer fails to reply the notice within the period specified under sub-section (I), or the authorised officer, after giving him an opportunity of being heard, is not satisfied with the reasons given by the employer, he shall be punishable with fine of five hundred rupees per shortfall of apprenticeship month for first three months and thereafter one thousand rupees per month till such number of seats are filled up.”;

10 (ii) in sub-section 2,—

(a) after clause (f), the following clauses shall be inserted, namely:—

“(g) engages as an apprentice a person who is not qualified for being so engaged, or

15 (h) fails to carry out the terms and conditions of a contract of apprenticeship.”;

(b) for the words “imprisonment for a term which may extend to six months or with fine or with both” , the words “fine of one thousand rupees for every occurrence” shall be substituted.

(iii) after sub-section (2), the following sub-section shall be inserted, namely:—

20 “(2A) The provisions of this section shall not apply to any establishment or industry which is under the Board for Industrial and Financial Reconstruction established under the Sick Industrial Companies (Special Provisions) Act, 1985.”

1 of 1986.

14. In section 37 of the principal Act, after sub-section (I), the following sub-section shall be inserted, namely:—

Amendment
of section 37.

25 “(IA) The powers to make rules under this section shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act received the assent of the President, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.”

STATEMENT OF OBJECTS AND REASONS

The Apprentices Act 1961 was enacted with the objective of regulating the programme of training of apprentices in the industry by utilising the facilities available therein for imparting on-the-job training. The Act was amended in 1973 and 1986 to include training of graduates, technicians and technician (vocational) apprentices respectively under its purview. It was further amended in 1997 and 2007 to amend various sections of the Act as regards definition of “establishment”, “worker”, number of apprentices for a designated trade and reservation for candidates belonging to Other Backward Classes, etc. Comparing the size and rate of growth of economy of India, the performance of Apprenticeship Training Scheme (ATS) is not satisfactory and a large number of training facilities available in the industry are going unutilised depriving unemployed youth to avail the benefits of the ATS. Employers are of the opinion that provisions of the Act are too rigid to encourage them to engage apprentices and provision relating to penalty create fear amongst them of prosecution and they have suggested to modify the Apprentices Act suitably.

In order to make the apprenticeship more responsive to youth and industry, a slew of suggestions have been received from various quarters for making changes in the Apprentices Act and these were discussed in Inter Ministerial Group (IMG). Recommendations of the IMG for making changes in the Act were uploaded on the website for seeking the comments of public and deliberated in meeting of Central Apprenticeship Council (CAC)- a statutory body. Based on the consensus evolved in CAC, these amendments are proposed. The major changes are given below:—

- (i) providing for establishments operating in four or more states will be taken into the fold of Directorate General of Employment and Training;
- (ii) providing for prescribing number of apprentices to be engaged at establishment level instead of tradewise;
- (iii) providing for apprenticeship training to non-engineering graduate and diploma holders;
- (iv) providing for employers to undertake new courses (optional trades) which are demand based;
- (v) providing for employers to determine, qualification, period of apprenticeship training, holding of test, grant of certificate and other conditions relating to the apprentice in optional trade;
- (vi) providing for simplifying the procedure for registration of contract apprenticeship training;
- (vii) providing for exchange of information through a portal-site;
- (viii) providing for allowing employers to engage apprentices from other states.
- (ix) providing for employers to formulate their own policy for recruiting apprentice;
- (x) the regime for penalties will be in terms of fine only;
- (xi) providing for ex post facto rule making powers to facilitate recognition of training started pending notification of new trades under the Act;
- (xii) providing for sitting in the examination optional and certification from any competent agency.

The Bill seeks to achieve the above objectives.

NEW DELHI;
Dated the 5th August, 2014

NARENDRA SINGH TOMAR

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill seeks to insert new section 5(A) which empowers the Central Government to make rules in regard to qualification, period of apprenticeship training, holding of test, grant of certificate and other conditions relating to the apprentices in the optional trades.

2. Clause 6 of the Bill seeks to amend section 6 which empowers the Central Government to make rules to provide the period of apprenticeship training.

3. Clause 7 of the Bill seeks to substitute section 8 which empowers the Central Government to make rules in regard to number of apprentices to be engaged by the employer for designated and optional trades.

4. Clause 10 of the Bill seeks the substitute sub-section (2) of section 19 which empowers the Central Government to make rules for the employer to furnish information and returns, etc., to such authorities and in such intervals until a portal-site is developed.

5. The matters in respect of which rules may be made are matters of procedure and detail. The delegation of power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE APPRENTICES ACT, 1961

(52 OF 1961)

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Definitions.	<p>2. In this Act, unless the context otherwise requires,—</p> <p>(e) “designated trade” means any trade or occupation or any subject field in engineering or technology or any vocational course which the Central Government, after consultation with the Central Apprenticeship Council, may, by notification in the Official Gazette, specify as a designated trade for the purposes of this Act;</p> <p>(j) “graduate or technician apprentice” means an apprentice who holds, or is undergoing training in order that he may hold a degree or diploma in engineering or technology or equivalent qualification granted by any institution recognised by the Government and undergoes apprenticeship training in any such subject field in engineering or technology as may be prescribed;</p> <p>(k) “industry” means any industry or business in which any trade, occupation or subject field in engineering or technology or any vocational course may be specified as a designated trade;</p> <p>(pp) “technician (vocational) apprentice” means an apprentice who holds or is undergoing training in order that he may hold a certificate in vocational course involving two years of study after the completion of the secondary stage of school education recognised by the All-India Council and undergoes apprenticeship training in any such subject field in any vocational course as may be prescribed;</p> <p>(q) “trade apprentice” means an apprentice who undergoes apprenticeship training in any such trade or occupation as may be prescribed.</p> <p>(r) “worker” means any person who is employed for wages in any kind of work and who gets his wages directly from the employer but shall not include an apprentice referred to in clause (aa).</p>			
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CHAPTER II

APPRENTICES AND THEIR TRAINING

Qualification for being engaged as an apprentice.	<p>3. A person shall not be qualified for being engaged as an apprentice to undergo apprenticeship training in any designated trade, unless he—</p> <p>(a) is not less than fourteen years of age; and</p> <p>(b) satisfies such standards or education and physical fitness as may be prescribed:</p> <p>Provided that different standards may be prescribed in relation to apprenticeship training in different designated trades and for different categories of apprentices.</p>			
	*	*	*	*
Contract of apprenticeship.	<p>4. (4) Every contract of apprenticeship entered into under sub-section (1) shall be sent by the employer within such period as may be prescribed to the Apprenticeship Adviser for registration.</p>			
	*	*	*	*

5. Where an employer with whom a contract of apprenticeship has been entered into, is for any reason, unable to fulfil his obligations under the contract and with the approval of the Apprenticeship Adviser it is agreed between the employer, the apprentice or his guardian and any other employer that the apprentice shall be engaged as an apprentice under the other employer for the unexpired portion of the period of apprenticeship training, the agreement, on registration with the Apprenticeship Adviser, shall be deemed to be contract of apprenticeship between the apprentice or his guardian and the other employer, and on and from the date of such registration, the contract of apprenticeship with the first employer shall terminate and no obligation under that contract shall be enforceable at the instance of any party to the contract against the other party thereto.

Novation of contract of apprenticeship.

6. The period of apprenticeship training, which shall be specified in the contract of apprenticeship, shall be as follows:—

Period of apprenticeship training.

(a) in the case trade apprentices who, having undergone institutional training in a school or other institution recognised by the National Council, have passed the trade tests or examinations conducted by that Council or by an institution recognised by that Council the period of apprenticeship training shall be such as may be determined by that Council;

* * * * *

8. (1) The Central Government shall, after consulting the Central Apprenticeship Council, by order notified in the Official Gazette, determine for each designated trade the ratio of trade apprentices to workers other than unskilled workers in that trade:

Number of apprenticeship training.

Provided that nothing contained in this sub-section shall be deemed to prevent any employer from engaging a number of trade apprentices in excess of the ratio determined under this sub-section.

(2) In determining the ratio under sub-section (1), the Central Government shall have regard to the facilities available for apprenticeship training under this Act in the designated trade concerned as well as to the facilities that may have to be made available by an employer for the training of graduate or technician apprentices, technician (vocational) apprentices if any, in pursuance of any notice issued to him under sub-section (3A) by the Central Apprenticeship Adviser or such other person as is referred to in that sub-section.

(3) The Apprenticeship Adviser may, by notice in writing, require an employer to engage such number of trade apprentices within the ratio determined by the Central Government for the designated trade in his establishment, to undergo apprenticeship training in that trade and the employer shall comply with such requisition:

Provided that in making any requisition under this sub-section, the Apprenticeship Adviser shall have regard to the facilities actually available in the establishment concerned:

Provided further that the Apprenticeship Adviser may, on a representation made to him by an employer and keeping in view the more realistic employment potential, training facilities and other relevant factors, permit him to engage such number of apprentices for a designated trade as is lesser than the number arrived at by the ratio for that trade, not being lesser than fifty per cent. of the number so arrived at, subject to the condition that the employer shall engage apprentices in other trades in excess in number equivalent to such shortfall.

(3A) The Central Apprenticeship Adviser or any other person not below the rank of an Assistant Apprenticeship Adviser authorised by the Central Apprenticeship Adviser in writing in this behalf shall, having regard to—

(i) the number of managerial person (including technical and supervisory persons) employed in a designated trade;

(ii) the number of management trainees engaged in the establishment;

- (iii) the totality of the training facilities available in a designated trade; and
- (iv) such other factors as he may consider fit in the circumstances of the case;

by notice in writing, require an employer to impart training to such number of graduate or technician apprentices technician (vocational) apprentices in such trade in his establishment as may be specified in such notice and the employer shall comply with such requisition.

Explanation.—In this sub-section the expression “management trainee” means a person who is engaged by an employer for undergoing a course of training in the establishment of the employer (not being apprenticeship training under this Act) subject to the condition that on successful completion of such training, such person shall be employed by the employer on a regular basis.

(4) Several employers may join together for the purpose of providing practical training to the apprentices under them by moving them between their respective establishments.

(5) Where, having regard to the public interest, a number of apprentices in excess of the ratio determined by the Central Government or in excess of the number specified in a notice issued under sub-section (3A) should in the opinion of the appropriate Government be trained, the appropriate Government may require employer to train the additional number of apprentices.

(6) Every employer to whom such requisition as aforesaid is made, shall comply with the requisition if the Government concerned makes available such additional facilities and such additional financial assistance as are considered necessary by the Apprenticeship Adviser for the training of the additional number of apprentices.

(7) Any employer not satisfied with the decision of the Apprenticeship Adviser under sub-section (6), may make a reference to the Central Apprenticeship Council and such reference shall be decided by a Committee thereof appointed by that Council for the purpose and the decision of that Committee shall be final.

Practical and basic training of apprentices.

9. (1) Every employer shall make suitable arrangements in his workshop for imparting a course of practical training to every apprentice engaged by him in accordance with the programme approved by the Apprenticeship Adviser.

(2) * * * * *

(3) Such of the trade apprentices as have not undergone institutional training in a school or other institution recognised by the National Council or any other institution affiliated to or recognised by a Board or State Council of Technical Education or any other authority which the Central Government may, by notification in the Official Gazette, specify in this behalf, shall, before admission in the workshop for practical training, undergo a course of basic training.

* * * * *

(4A) Notwithstanding anything contained in sub-section (4), if the number of apprentices to be trained at any time in any establishment in which five hundred or more workers are employed, is less than twelve the employer in relation to such establishment may depute all or any of such apprentices to any Basic Training Centre or Industrial Training Institute for basic training in any designated trade, in either case, run by the Government.

(4B) Where an employer deputes any apprentice under sub-section (4A), such employer shall pay to the Government the expenses incurred by the Government on such training, at such rate as may be specified by the Central Government.

(5) Where an employer employs in his establishment less than five hundred workers, the basic training shall be imparted to the trade apprentices in training institutes set up by the Government.

(6) In any such training institute, which shall be located within the premises of the most suitable establishment in the locality or at any other convenient place the trade apprentices engaged by two or more employers may be imparted basic training.

(7) In the case of an apprentice other than a graduate or technician apprentice technician (vocational) apprentice, the syllabus of and the equipment to be utilised for, practical training including basic training shall be such as may be approved by the Central Government in consultation with the Central Apprenticeship Council.

(7A) In the case of graduate or technician apprentice, technician (vocational) apprentice the programme of apprenticeship training and the facilities required for such training in any subject field in engineering or technology or vocational course shall be such as may be approved by the Central Government in consultation with the Central Apprenticeship Council.

* * * * *

(c) Recurring costs (excluding the cost of stipends) incurred by an employer in connection with the practical training imparted to graduate or technician apprentices technician (vocational) apprentices shall be borne by the employer and the cost of stipends shall be borne by the Central Government and the employer in equal shares up to such limits as may be laid down by the Central Government and beyond that limits by the employer alone.

* * * * *

15. (1) The weekly and daily hours of work of an apprentice while undergoing practical training in workshop shall be such as may be prescribed.

Hours of work, overtime, leave and holidays.

* * * * *

(3) An apprentice shall be entitled to such leave as may be prescribed and to such holidays as are observed in the establishment in which he is undergoing training.

* * * * *

19. (1) * * * * *

Records and returns.

(2) Every such employer shall also furnish such information and returns in such form, to such authorities and at such intervals as may be prescribed.

* * * * *

21. (1) Every trade apprentice who has completed the period of training shall appear for a test to be conducted by the National Council to determine his proficiency in the designated trade in which he has undergone his apprenticeship training.

Holding of test and grant of certificate and conclusion of training.

(2) every trade apprentice who passes the test referred to in sub-section (1) shall be granted a certificate of proficiency in the trade by the National Council.

* * * * *

22. (1) It shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment, nor shall it be obligatory on the part of the apprentice to accept an employment under the employer.

Offer and acceptance of employment.

* * * * *

30. (1) If any employer—

Offences and penalties.

(a) engages as an apprentice a person who is not qualified for being so engaged, or

(b) fails to carry out the terms and conditions of a contract of apprenticeship, or

(c) contravenes the provisions of this Act relating to the number of apprentices which he is required to engage under those provisions, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) If any employer or any other person —

(a) * * * * *

he shall be punishment with imprisonment for a term which may extend to six months or with five or with both.

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LOK SABHA

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BILL

further to amend the Apprentices Act, 1961.

(Shri Narendra Singh Tomar, Minister of Mines, Steel, Labour and Employment)

LOK SABHA

CORRIGENDA

to

THE APPRENTICES (AMENDMENT) BILL, 2014

[To be/As introduced in Lok Sabha]

1. Page 2, line 18, -
for "(II)"
read "(II)"
2. Page 2, line 21,-
for "(III)"
read "(III)"
3. Page 3, in the marginal heading against clause 8,-
for "Amendment of section"
read "Amendment of section 9."
4. Page 5, line 10, -
for " in sub-section 2,"
read "in sub-section (2),"

NEW DELHI;

August 6, 2014
Shravana 15, 1936 (Saka)