

Bill No. 211 of 2018

THE RIGHT TO DISCONNECT BILL, 2018

By

SHRIMATI SUPRIYA SULE, M.P.

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BILL

to establish an Employees' Welfare Authority to confer the right on every employee to disconnect from work related telephone calls and emails beyond work hours and on holidays and right to refuse to answer calls and emails outside work hours and for all matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Right to Disconnect Act, 2018.

(2) It extends to the whole of India.

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

Short title,
extent and
commencement.

Definitions.

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

(a) “annual report” means a report giving the details of developmental activities taken up over the year by the Authority and detailing about targets set and achieved;

(b) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(c) “Authority” means the Employees' Welfare Authority constituted under section 3;

(d) “company” means an entity registered under the Companies Act, of 2013;

(e) “Out-of-work hours” means the time other than which is agreed upon, between the employer and employee, in the work contract as the work hours;

(f) “society” means an entity registered as society under the Societies Registration Act, of 1860; and

(g) “prescribed” means prescribed by the rules made under this Act.

Constitution of the Employees' Welfare Authority.

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be constituted, for the purposes of this Act, an Authority, to be known as the Employees' Welfare Authority consisting of the following members, namely:—

(a) Minister of State, Ministry of Electronics and Information Technology—Chairperson *ex-officio*;

(b) Minister of State, Ministry of Communication—Vice-Chairperson *ex-officio*;

(c) Minister of State, Ministry of Labour and Employment—Vice Chairperson *ex-officio*;

(d) Secretaries of the Union Ministries of Electronics and Information Technology, Communication, Labour and Employment and Statistics and Programme Implementation—member *ex-officio*;

(e) Chief Labour Commissioner—member *ex-officio*;

(f) Director General, Labour Bureau—member *ex-officio*;

(2) The Central Government shall appoint such number of officers and staff as it considers necessary for the functioning of the Authority.

(3) The salary and allowances payable to and other terms and conditions of services of officers and staff of the Authority shall be such, as may be prescribed.

Meetings of the Authority.

4. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed by the Central Government.

(2) The expenditure incurred to attend meetings by the members referred to in sub-clauses (a) to (f) of section 3, shall be borne by the Ministry concerned.

Functions of the Authority.

5. (1) The Authority shall discharge such functions as may be necessary to ensure the welfare of employees in the country and formulate a charter that outlines the terms and conditions to be negotiated between employees and employers of a company or society, within one year from the date of its constitution.

(2) The Authority shall disseminate any necessary knowledge and information collected on the use of digital and communication tools, to the State Governments, to be disseminated to the companies and societies.

(3) The rights and benefits bestowed on employees, prescribed in this Act, shall be in addition to those already enjoyed by them under different ongoing Government employee welfare schemes.

- 5 **6.** (1) The Authority shall undertake a baseline study to collect comprehensive data about usage of digital and communication tools outside work hours and in personal life by all workers either employed in a company or society, which shall be completed within one year from the date of its constitution. Baseline study to collect data.
- (2) The Authority may direct the appropriate Government, societies and companies to assist in conducting the baseline study.
- 10 **7.** Every employee shall have the right to disconnect out of work hours. Right to disconnect of employees.
Explanation.—For the purpose of this section:—
- (a) 'right to disconnect' means that while the employer may contact the worker after work hours, the employee is not obliged to reply or shall have right to refuse to answer such calls; and
- 15 (b) In case an employee refuses to reply any call during out-of-work hours, such employee shall not be subject to any disciplinary action by the employer.
- 8.** (1) The Authority shall direct every individual, company and society having more than ten employees to conduct negotiations with employees, unions or employee representatives to decide the terms and conditions for working out-of-work hours: Drafting of customised Charter by individual companies and societies.
- 20 Provided that the right to disconnect rules and protocols shall be negotiated at the level of individual company or society taking into consideration the diverse work cultures of different entities and their competitive needs.
- (2) The individual registered entity (company or society) shall produce its own Charter detailing clarification on the out-of-work hours, service conditions of employees and the respective demands of the employers.
- 25 **9.** (1) The Charter of individual entity made under sub-section (2) of section 8 shall identify on an individual basis, as to when an employee be contacted during out-of-work hours and holidays which are arrived at through negotiations and mutual agreement of employer and employee. Charter to be included in the Charter of individual entities.
- 30 (2) Every employee shall be entitled to right to disconnect, when contacted for work related purpose during time other than that agreed upon under sub-sections (1) and (2).
- 10.** An employer may contact any employee either through telecom, videocall, message, email in other form of communication out-of-work hours, during the time mutually agreed upon by such employee and employers. Contact via call, message and email, etc.
- 35 **11.** Every employee working during out-of-work hours mutually agreed, shall be entitled to overtime at the normal wage rate. Overtime pay for working outside work hours.
- 12.** Every registered company and society shall constitute a Employees' Welfare Committees consisting of its employees to assist or represent the employees for negotiation of terms and conditions of out-of-work hours with employers. Employees Welfare Committees of individual entities.
- 40 **13.** The appropriate Government shall ensure that the negotiations for conditions of outside-work-hours, between employees and employer are conducted at regular intervals, to ensure flexibility in the rules of right to disconnect. Negotiations to be conducted at frequent intervals.

In case of agreement not reached.	<p>14. The Charter of the individual entity shall explicitly mention normal the out-of-work hours to be followed until an agreement is reached between the employer and its employees:</p> <p>Provided that if any employer contacts his employee during the period when there is no mutually agreed out-of-work period, the employee, during out of work hours,—</p> <p>(a) shall not be obliged to respond and shall have right to disconnect; or</p> <p>(b) may choose to respond, for which he shall be entitled to get overtime pay in such manner as may be prescribed.</p>	5
Policy for employees working remotely.	<p>15. Every individual registered entity, company or society, shall frame a policy for its employees who are working in remote areas or, involved in teleworking or working from home, such policy has to be mutually agreed by employees.</p>	10
Awareness increasing activities by entities.	<p>16. Every individual registered entity, company or society, shall undertake awareness programmes to sensitive its employees, on reasonable use of digital and communication tools, for work related purposes, during travel and teleworking.</p>	
Counseling for work-life balance.	<p>17. The appropriate Government shall, in consultation with the individual entities, provide counseling services to employees to help them maintain work-life balance.</p>	15
Digital Detox Centres.	<p>18. The appropriate Government shall set up digital detox centres and provide digital detox counseling services to citizens for reasonable personal use of digital and communication tools.</p>	
Penalty to be paid by the entity for non-compliance with the provisions of the Bill.	<p>19. Every individual entity shall pay penalty at the rate of one per cent of total employees' remuneration for,—</p> <p>(a) any out-of-work service condition not defined in the Charter made under section 9;</p> <p>(b) any out-of-work service condition not defined in the policy for employees working remotely under section 15; and</p> <p>(c) any non-adherence to any of the provisions of this Act.</p>	20
Annual report and its laying before the Parliament.	<p>20. (1) The Authority shall prepare once every year, as may be prescribed, an annual report giving the summary of its activities, including schemes it has undertaken and recommended to the Government over the year and it shall contain statements of annual accounts of the Authority.</p> <p>(2) A copy of the report shall be forwarded to the Central Government, and the Central Government shall lay the report before each House of Parliament.</p>	25 30
Central Government to provide funds.	<p>21. The Central Government, shall from time to time after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.</p>	
Power to remove difficulty.	<p>22. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty:</p> <p>Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.</p> <p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p>	35 40
Power to make rules.	<p>23.(1) The Cental Government, in consultation with the State Governments, may be notification in the Official Gazette, make rules for carrying out the purposes of this Act.</p> <p>(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the</p>	45

expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall
5 be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

With the advent of digital and communication technology, an average worker can work directly from his smart-phone. According to the report released by the World Economic Forum, the proportion of mobile workers who could work from any location, is expected to rise beyond seventy per cent. While this has benefits in terms of work flexibility, it also carries with it a significant risk of erosion of boundaries between professional and personal life. Studies have found that if an employee is expected to be available round the clock, they tend to exhibit risks of over-work like sleep deprivation, developing stress and being emotionally exhausted. This persistent urge to respond to calls and e-mails (termed as 'telepressure'), constant checking of e-mails throughout the day, and even on weekends and holidays, is reported to have destroyed the work-life balance of employees.

According to a study, the constant monitoring of work related messages and e-mails, may over tax employees' brains leading to a condition called 'info-obesity'. The condition is characterised by stress, burnouts and sleeplessness. Studies show that when employees are overburdened with work, either their productivity stays constant or even reduces with increase in work hours. In the year 2014, a study conducted by the University of Stanford found that the output and productivity of employees plateaued off after fifty work hours per week. In fact, workers' productivity declined when they were overburdened with sixty work hours per week. Research depicts that employees who respond to work related calls and mails after 9 pm, had the worst quality of sleep which consequently had a bearing on their productivity. The need is to respect the personal space of the employees by recognising their right to disconnect and not respond to their employer's calls, e-mails etc., during out-of-work hours. The need is also to recognise the rights of the employees, it also takes into consideration the competitive needs of the companies and their diverse work cultures. Flexibility in the right to disconnect rules and leaves it to the individual companies to negotiate terms of service with their employees is need of the hour.

The digital transformation has direct impact on conditions in the employment contract, like the time and the place of work. Hence if an employee agrees to work during out-of-work hours, overtime pay at the same rate as his wage rate is also necessary to check the surge in unpaid overtime work, brought about by digital transformation.

Cases of lack of consensus between employer and employee during negotiations need to be addressed. In such cases the company is required to explicitly lay out their out-of-work demands from their employees, in the Charter, and the employees can either choose to work or enforce their right to disconnect. The companies shall be mandated to draft their own policy towards employees working remotely, tele-working and travelling for work. The Constitution of Employees' Welfare Committees at every company to assist the employees in negotiations with employers is also required. Provision to ensure that these negotiations are held frequently at regular interval, to keep in line with the dynamic business demands are to be incorporated. The present Bill imposes sanctions at the rate of one per cent of its total employees' remuneration, on entities (companies or societies) for any non-compliance with the provisions of the Bill. To rein in the adverse effects of hyper-connectivity on employees' personal life, the Bill also provides for counseling services to increase awareness among employees and citizens, on reasonable use of digital and communication tools, for professional and personal use.

To free an employee from digital distractions and enable him to truly connect with the people around him, the Bill provides for digital detox centres. The Bill thus champions for the rights and welfare of employees, by mandating individual entities to negotiate out-of-hour service conditions with their employees, and upholding the right of employee to disconnect.

The Bill seeks to recognise right to disconnect as a way to reduce stress and ease tension between an employees personal and professional life.

Hence this Bill.

NEW DELHI;
November 22, 2018.

SUPRIYA SULE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of Employees Welfares Authority. Clause 4 provides for expenditure incurred in conducting meetings of the Authority. Clause 5 provides for the various functions of the Authority. Clause 17 provides for counseling services for maintaining work-life balance. Clause 18 provide for setting up digital detox centres. Clause 21 provides for requisite funds for carrying out the functions of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of a rupees one thousand crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of rupees one thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

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