

The Chief Justice

Mr. Justice Arun Bhansali

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PREFACE

It gives me immense pleasure to present this comprehensive compilation of Central and State Acts, Rules, Ordinances and Bills published during the year 2023. These legislative documents have been segregated, indexed and compiled in a structured way at one place to aid the working of Hon'ble Court and members of the legal fraternity. It will also be available to the public at large.

This endeavor was undertaken in response to the growing need for an organized and structured repository of legislative instruments of this period.

The contents of this compilation are intended for informational purposes only. While every effort has been made to ensure accuracy and relevance, any errors that come to light may be informed by the esteemed readers. Those will be addressed and rectified, promptly.

Awadhesh Kumar Patel
C.D.O.-cum- Chief Librarian

Central Laws

Central Bills, 2023

(Arranged in Alphabetical)

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4	NA	Appropriation (No. 2) Bill, 2023	NA	NA
5	156	Appropriation (No. 3) Bill, 2023	12.12.2023	740-745
6	157	Appropriation (No. 4) Bill, 2023	12.12.2023	746-749
7	122	Bharatiya Nagarik Suraksha Sanhita, 2023	11.08.2023	382-659
8	174	Bharatiya Nagarik Suraksha (Second) Sanhita, 2023	12.12.2023	880-1187
9	121	Bharatiya Nyaya Sanhita, 2023	11.08.2023	260-381
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12	175	Bharatiya Sakshya (Second) Bill, 2023	12.12.2023	1188-1298
13	158	Biological Diversity (Amendment) Bill, 2023	25.07.2023	1292-1307
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15	159	Central Goods and Services Tax (Second Amendment) Bill, 2023	13.12.2023	1259-1261
16	141	Central Universities (Amendment) Bill, 2023	17.12.2023	1308-1312
17	57	Chief Election Commissioner and Other Election Commissioners (Appointment, Conditions Of Service and Term Of Office) Bill, 2023	28.12.2023	1313-1318
18	46	Cinematograph (Amendment) Bill, 2023	20.07.2023	240-245
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20	185	Competition (Amendment) Bill, 2023		1319-1359
21	124	Constitution (One Hundred and Twenty Eighth Amendment) Bill, 2023 (Women Reservation)	19.09.2023	730-733
22	91	Constitution (Scheduled Castes) Order (Amendment) Bill, 2023	12.08.2023	1366-1370
23	92	Constitution (Scheduled Tribes) Order (Amendment) Bill, 2023	12.08.2023	1360-1365
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28	80	Forest (Conservation) Amendment Bill, 2023	29.03.2023	220-224
29	112	Government of National Capital Territory of Delhi (Amendment) Bill, 2023	11.08.2023	1412-1425
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31	109	Indian Institutes of Management (Amendment) Bill, 2023	28.07.2023	246-256
32	120	Integrated Goods and Services Tax (Amendment) Bill, 2023	18.08.2023	1426-1431
33	62	Inter-Services Organisations (Command, Control and Discipline) Bill, 2023	15.03.2023	204-212
34	100	Jammu and Kashmir Reorganisation (Amendment) Bill, 2023	15.12.2023	1432-1438
35	172	Jammu and Kashmir Reorganisation (Second Amendment) Bill, 2023	12.12.2023	734-736
36	90	Jammu and Kashmir Reservation (Amendment) Bill, 2023	15.12.2023	1439-1442
37	299	Jan Vishwas (Amendment) Bill, 2023	NA	1704-1776
38	43	Mediation Bill, 2023	14.09.2023	1443-1494
39	101	Mines and Minerals (Development and Regulation) Amendment Bill, 2023	09.08.2023	1495-1503
40	215	Multi-State Co-Operative Societies (Amendment) Bill, 2023	03.08.2023	1504-1526
41	176	National Capital Territory of Delhi Laws (Special Provisions) (Second Amendment) Bill, 2023	13.12.2023	1265-1268
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47	53	Press and Registration of Periodicals Bill, 2023	28.12.2023	1630-1642
48	158	Provisional Collection of Taxes Bill, 2023	13.12.2023	1262-1264
49	93	Registration of Births and Deaths (Amendment) Bill, 2023	11.08.2023	1643-1657
50	290	Repealing and Amending Bill, 2023	17.12.2023	1777-1783
51	194	Telecommunication Bill, 2023	24.12.2023	1658-1703

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AS PASSED BY THE RAJYA SABHA
ON THE 3RD AUGUST, 2023

Bill No. LIV-C of 2023

THE ADVOCATES (AMENDMENT) BILL, 2023

(AS PASSED BY THE RAJYA SABHA)

A

BILL

further to amend the Advocates Act, 1961.

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

Short title and commencement.

1. (*1*) This Act may be called the Advocates (Amendment) Act, 2023.

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

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Insertion of new section 45A.

2. After section 45 of the Advocates Act, 1961 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:— 25 of 1961.

Power to frame and publish lists of touts.

'45A. (*1*) Every High Court, District Judge, Sessions Judge, District Magistrate, and every Revenue-officer, not being below the rank of a Collector of a district (each as regards their or his own Court and the Courts, if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction, or to the satisfaction of any subordinate Court as provided in sub-section (*3*) by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

Explanation.—The passing of a resolution, declaring any person to be or not to be a tout, by a majority of the members present at a meeting, specially convened for the purpose, of an association of persons entitled to practice as legal practitioners in any Court or revenue-office, shall be evidence of the general repute of such person for the purposes of this sub-section.

(*2*) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(*3*) Any authority empowered under sub-section (*1*) to frame and publish a list of touts may send to any Court subordinate to such authority the names of any persons alleged or suspected to be touts, and order that Court to hold an inquiry in regard to such persons; and the subordinate Court shall thereupon hold an inquiry into the conduct of such persons and, after giving each such person an opportunity of showing cause as provided in sub-section (*2*), shall report to the authority which has ordered the inquiry the name of each such person who has been proved to the satisfaction of the subordinate Court to be a tout; and that authority may include the name of any such person in the list of touts framed and published by that authority:

Provided that such authority shall hear any such person who, before his name has been so included, appears before it and desires to be heard.

(*4*) A copy of every such list shall be kept hung up in every Court to which the same relates.

(*5*) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

(*6*) Any person who acts as a tout whilst his name is included in any such list shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*7*) For the purposes of this section,—

(*a*) "Judge" means the presiding judicial officer in every Civil and Criminal Court, by whatever title he is designated;

(*b*) "subordinate Court" means all Courts subordinate to the High Court, including Courts of Small Causes established under any law for the time being in force;

(*c*) "revenue-office" includes all Courts (other than Civil Courts) trying suits under any law for the time being in force relating to landholders and their tenants or agents;

(*d*) "tout" means a person—

(*i*) who procures, in consideration of any remuneration moving from any legal practitioner, the employment of the legal practitioner in any legal business; or who proposes to any legal practitioner or to any person interested in any legal business to procure, in consideration of any remuneration moving from either of them, the employment of the legal practitioner in such business; or

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(*ii*) who for the purposes of such procurement frequents the precincts of Civil or Criminal Courts or of revenue-offices, or railway stations, landing stages, lodging places or other places of public resort.'.

Amendment of section 50.

3. In section 50 of the principal Act, after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*6*) On the date on which section 45A of the Advocates Act, 1961 comes into force, sections 1, 3 and 36 of the Legal Practitioners Act, 1879 shall stand repealed.".

25 of 1961.
18 of 1879.

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RAJYA SABHA

———

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BILL

further to amend the Advocates Act, 1961.

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(*As passed by the Rajya Sabha*)

MGIPMRND—216RS(S3)—03-08-2023.

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As introduced in Lok Sabha

Bill No. 115 of 2023

THE ANUSANDHAN NATIONAL RESEARCH FOUNDATION BILL, 2023

ARRANGEMENT OF CLAUSES

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Bill No. 115 of 2023

THE ANUSANDHAN NATIONAL RESEARCH FOUNDATION BILL, 2023

A

BILL

to establish the Anusandhan National Research Foundation to provide high level strategic direction for research, innovation and entrepreneurship in the fields of natural sciences including mathematical sciences, engineering and technology, environmental and earth sciences, health and agriculture, and scientific and technological interfaces of humanities and social sciences, to promote, monitor and provide support as required for such research and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Anusandhan National Research Foundation Act, 2023.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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Definitions.

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

(*a*) "appointed date" means such date as the Central Government may, by notification, appoint under sub-section (*2*) of section 1;

(*b*) "Chief Executive Officer" means the Chief Executive Officer of the Foundation;

(*c*) "Committees" means the Committees of the Executive Council referred to in section 12;

(*d*) "Executive Council" means the Council constituted under sub-section (*1*) of section 7;

(*e*) "Foundation" means the Anusandhan National Research Foundation established under section 3;

(*f*) "Funds" means the Funds referred to in sub-section (*2*) of section 13;

(*g*) "Governing Board" means the Governing Board of the Foundation constituted under section 5;

(*h*) "Member" means a Member of the Governing Board or the Executive Council and includes the President, Vice-President and Chairperson, as the case may be;

(*i*) "notification" means the notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(*j*) "prescribed" means prescribed by rules made under this Act; and

(*k*) "regulations" means the regulations made by the Executive Council under this Act.

CHAPTER II

Anusandhan National Research Foundation

Establishment of Foundation.

3. (*1*) With effect from such date as the Central Government may, by notification, appoint, there shall be established for the purposes of this Act, a Foundation to be known as the Anusandhan National Research Foundation.

(*2*) The Foundation, referred to in sub-section (*1*), shall be a body corporate, having perpetual succession and a common seal, with power subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

Objectives of Foundation.

4. (*1*) Subject to the provisions of this Act, the Foundation shall serve as the apex body to provide high level strategic direction for research, innovation and entrepreneurship in the fields of natural sciences including mathematical sciences, engineering and technology, environmental and earth sciences, health and agriculture, and scientific and technological interfaces of humanities and social sciences.

(*2*) Without prejudice to the provisions contained in sub-section (*1*), the Foundation shall undertake suitable initiatives including the following, namely:—

(*a*) preparing the roadmap for short, medium and long term research and development;

(*b*) seeding, growing and facilitating research at academic and research institutions, particularly at universities and colleges where research capacity is at a nascent stage, through programmes such as research and development projects, fellowships, academic chairs, and creation of centres of excellence;

(*c*) funding competitive peer-reviewed grant proposals to eligible persons;

(*d*) assisting in setting up research infrastructure and environment that is conducive for scientific pursuit with specific focus on matters of national priorities, emerging frontiers and strategic research;

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(*e*) increasing India's role and participation in key areas of national and global importance;

(*f*) supporting translation of research undertaken into capital intensive technologies;

(*g*) evolving nationally coordinated programmes to identify scientific and practical solutions for societal, developmental, financial and techno-economic challenges;

(*h*) coordinating across the Central Government, State Governments, public authorities, industries, and research institutions, to document and analyse the expenditure on scientific research and their outcomes during each financial year, and report the same to the Central Government;

(*i*) evolving participation in international collaborative projects and fostering exchange of scientific information;

(*j*) encouraging collaboration with scientists from within and outside India, including scientists of Indian origin, with a view to enrich the Indian scientific ecosystem; and

(*k*) encouraging the Public Sector Enterprises as well as the private sector entities to invest in the activities of the Foundation.

(*3*) In addition to the objectives referred to in sub-section (*2*), the Foundation shall also, to the extent practicable, either by itself, or through a suitable agency identified in this behalf, undertake an annual survey of outcomes of scientific research in India, with a view to create a central repository, for the collection, interpretation and analysis of information and data surrounding such research, and the aim of such a repository would include providing information for policy formulation and advising the Central Government and State Governments as well as the private sector:

Provided that the survey referred to in this sub-section shall exclude any strategic areas of research as determined by the Governing Board.

(*4*) The Foundation shall perform the aforesaid objectives through a Governing Board constituted under section 5.

Governing Board.

5. (*1*) There shall be constituted a Governing Board, which shall provide high level, perform strategic direction and monitor the implementation of the objectives of the Foundation.

(*2*) The Governing Board referred to in sub-section (*1*) shall consist of the following, namely:—

(*a*) the Prime Minister of India, *ex officio*—President;

(*b*) the Union Minister of Science and Technology, *ex officio*—Vice-President;

(*c*) the Union Minister of Education, *ex officio*—Vice-President;

(*d*) a Member from the NITI Aayog dealing with science and technology, *ex officio*—Member;

(*e*) Secretary to the Government of India in the Department of Science and Technology, *ex officio*—Member;

(*f*) Secretary to the Government of India in the Department of Scientific and Industrial Research, *ex officio*—Member;

(*g*) Secretary to the Government of India in the Department of Biotechnology, *ex officio*—Member;

(*h*) Secretary to the Government of India in the Department of Higher Education, *ex officio*—Member; and

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(*i*) the Principal Scientific Advisor to the Government of India, *ex officio*—Member-Secretary.

(*3*) The President of the Governing Board may nominate or appoint the following Members to the Governing Board, namely:—

(*a*) not exceeding two Members from the Prime Minister's Science, Technology and Innovation Council;

(*b*) not exceeding five Members from business organisation or industry;

(*c*) one Member from the field of humanities and social sciences;

(*d*) not exceeding two Members from institutions engaged in scientific and technological research and development; and

(*e*) not exceeding six experts who have specialised knowledge in the areas of health, mathematical and physical sciences, biological sciences, engineering and technology, innovation and partnership, computer and information sciences, and engineering.

(*4*) The qualifications, experience, honorarium and allowances payable to and the other terms and conditions of service of the Members and experts of the Governing Board referred to in sub-section (*3*) shall be such as may be prescribed.

Meetings of Governing Board.

6. (*1*) The Governing Board shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings including quorum at such meetings, as may be specified by the regulations.

(*2*) If the President for any reason is unable to attend a meeting of the Governing Board, any of the Vice-Presidents shall preside over the meeting.

Executive Council.

7. (*1*) The President of the Governing Board shall constitute an Executive Council to implement the provisions of this Act.

(*2*) The Executive Council referred to in sub-section (*1*) shall consist of the following, nominated by the President of the Governing Board, namely:—

(*a*) the Principal Scientific Advisor to the Government of India, *ex officio*—Chairperson;

(*b*) Secretary to the Government of India in the Department of Science and Technology, *ex officio*—Member;

(*c*) Secretary to the Government of India in the Department of Biotechnology, *ex officio*—Member;

(*d*) Secretary to the Government of India in the Department of scientific and Industrial Research, *ex officio*—Member;

(*e*) Secretary to the Government of India in the Ministry of Earth Sciences, *ex officio*—Member;

(*f*) Secretary to the Government of India in the Department of Higher Education, *ex officio*—Member;

(*g*) Secretary to the Government of India in the Department of Health Research, *ex officio*—Member;

(*h*) Secretary to the Government of India in the Department of Defence Research and Development, *ex officio*—Member;

(*i*) Secretary to the Government of India in the Department of Atomic Energy, *ex officio*—Member;

(*j*) Secretary to the Government of India in the Department of Space, *ex officio*—Member;

(*k*) Secretary to the Government of India in the Department of Agricultural Research and Education, *ex officio*—Member; and

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(*l*) the Chief Executive Officer of the Foundation appointed under section 11, *ex officio*—Member-Secretary.

(*3*) The President of the Governing Board may also nominate or appoint the following Members to the Executive Council, namely:—

(*a*) not exceeding two *ex officio* Members amongst Secretaries of such other Departments or Ministries of the Government of India, not referred to in sub-section (*2*), as may be notified by the Central Government; and

(*b*) not exceeding three Members amongst distinguished experts who have specialised knowledge in the areas of science and technology in academia, philanthropic sector, research laboratories and industries.

(*4*) The qualifications, experience, honorarium and allowances payable to and the other terms and conditions of service of the Members of the Executive Council referred to in clause (*b*) of sub-section (*3*) shall be such as may be prescribed.

Meetings of Executive Council.

8. (*1*) The Executive Council shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings including quorum at such meetings, as may be specified by the regulations.

(*2*) If the Chairperson for any reason is unable to attend a meeting of the Executive Council, the Member chosen by other Members shall preside over the meeting.

(*3*) The Chairperson shall, in addition to presiding over the meetings of the Executive Council, exercise and discharge such powers and duties, as may be delegated by the Governing Board.

Vacancies, etc., not to invalidate proceedings of Governing Board or Executive Council.

9. No act or proceeding of the Governing Board or the Executive Council shall be invalidated merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of the Governing Board or the Executive Council;

(*b*) any defect in the appointment of a person acting as a Member of the Governing Board or the Executive Council; and

(*c*) any irregularity in the procedure of the Governing Board or the Executive Council not affecting the merits of the case.

Functions of Executive Council.

10. The Executive Council shall implement the objectives of the Foundation based on the policy direction and guidance provided by the Governing Board, including the following functions, namely:—

(*a*) to consider applications for the grant of financial assistance in accordance with the eligibility criteria as determined necessary for such grants;

(*b*) to determine through regulations,—

(*i*) the requirements for registration, the form and manner for making of applications for financial assistance;

(*ii*) reports and certification to be furnished pursuant to availing the financial assistance;

(*iii*) the requirements of extension of financial assistance; and

(*iv*) the grounds for revocation of financial assistance;

(*c*) to facilitate and provide any assistance as may be required to ensure filing of applications for intellectual property rights pursuant to the research undertaken through financial assistance under this Act; and

(*d*) any other function as may be delegated to it from time to time by the Governing Board.

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Chief Executive Officer and other officers and employees of Foundation.

11. (*1*) The President of the Governing Board may appoint a Chief Executive Officer, not below the rank of Additional Secretary to the Government of India, for efficient administration of the Foundation.

(*2*) The qualifications, experience, salary and allowances payable to and the other terms and conditions of service of the Chief Executive Officer shall be such as may be prescribed.

(*3*) The Executive Council may appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(*4*) The qualifications, experience, salary and allowances payable to and the other terms and conditions of service of the other officers and employees of the Foundation shall be such as may be prescribed.

(*5*) The Executive Council may engage the services of such persons, both from within and outside India, as consultants and visiting scientists to the Foundation.

(*6*) The eligibility criteria and honorarium payable to the consultants and visiting scientists, referred to in sub-section (*5*), shall be such as may be specified by the regulations.

Constitution of Committees.

12. (*1*) The Executive Council may constitute such Committees as it may deem necessary for the efficient discharge of its duties and performance of its functions under this Act.

(*2*) The Executive Council may also co-opt persons, other than Members of the Governing Board or the Executive Council, as members of any Committees constituted under sub-section (*1*).

(*3*) The co-opted members shall have the right to attend the meetings of the Committees and take part in the proceedings of the Committees, but shall not have right to participate in decision making.

CHAPTER III

FINANCE, ACCOUNTS AND AUDIT

Funds of Foundation.

13. (*1*) The Foundation shall receive monies from the following sources, namely:—

(*a*) grants and loans of such sums of money as the Central Government may consider necessary, after due appropriation made by Parliament by law in this behalf;

(*b*) any sums received for research and development, including through donations from any other source, including from public sector enterprises, the private sector, philanthropist organisations, foundations or international bodies;

(*c*) recoveries made of the amounts granted to the Foundation;

(*d*) any income from investment of the amounts received by the Foundation;

(*e*) all amounts with the Fund for Science and Engineering Research under the Science and Engineering Research Board Act, 2008 as on the appointed date; and 9 of 2009.

(*f*) such other sources as may be prescribed.

(*2*) The Governing Board shall constitute the following Funds, into which it shall allocate, in the manner as it determines fit, the amounts received from clauses (*a*), (*b*), (*c*), (*d*) and (*f*) of sub-section (*1*), namely:—

(*a*) the Anusandhan National Research Foundation Fund, which shall be used for the financing of activities under the Act, including expenses, salaries, allowances and other administrative exigencies for achieving the objectives of the Foundation;

(*b*) the Innovation Fund for supporting outstanding creativity in the areas supported by the Foundation;

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(*c*) the Science and Engineering Research Fund for continuation of the projects and programmes initiated under the Science and Engineering Research Board Act, 2008; and

9 of 2009.

(*d*) one or more Special Purpose Funds for any specific project or research.

(*3*) The Governing Board shall maintain the Science and Engineering Research Fund referred to in clause (*c*) of sub-section (*2*) for such time as it may determine necessary, and allocate to such Fund, the following amounts, namely:—

(*a*) all amounts under clause (*e*) of sub-section (*1*); and

(*b*) any further amounts from any of the other sources of Funds received by the Foundation, as may be determined to be necessary for the implementation of such projects and programmes, based on a review and assessment by the Executive Council.

(*4*) The Central Government shall frame such financial rules for the utilisation of the amounts in the Funds established under this Act.

Budget.

14. The Executive Council shall prepare a budget, maintain proper accounts in such form and manner at such time and at such intervals as may be prescribed for the next financial year, showing the estimated receipts and expenditure of the Foundation, as approved by the Governing Board, and forward the same to the Central Government.

Annual report.

15. The Executive Council shall prepare, in such form and manner and at such time in every financial year, as may be prescribed, its annual report, giving a full account of the Foundation's activities during the previous financial year and submit a copy of the same to the Central Government.

Accounts and audit.

16. (*1*) The Executive Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(*2*) The Comptroller and Auditor-General of India or any other person appointed in connection with the auditing of the accounts of the Foundation under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government account and, in particular, shall have the right to demand the production of books, accounts connected vouchers and other documents and papers and to inspect any of the office of the Foundation under this Act.

(*3*) The accounts of the Foundation shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Foundation to the Comptroller and Auditor-General of India.

(*4*) The Executive Council shall furnish to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report.

Annual report and Auditor's report to be laid before Parliament.

17. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they have received, before each House of Parliament.

CHAPTER IV

MISCELLANEOUS

Certification and report to be furnished.

18. (*1*) Any person receiving financial assistance from the Foundation shall furnish certification and report to the Executive Council, in such form and manner and at such time as may be specified by the regulations.

(*2*) The Executive Council may authorise an officer to visit any academic institutions, research and development laboratories, industries and other organisations with which the

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person referred to in sub-section (*1*) is associated, at any time to verify the accuracy of the certification or report made under this section.

Power of Governing Board to delegate.

19. The Governing Board may, by general or special order in writing, published in the Official Gazette, delegate to the Executive Council, the Chairperson of the Executive Council or the Chief Executive Officer, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions including, but not limited to administrative and financial matters, as it may deem necessary.

Power of Governing Board to issue directions.

20. (*1*) Without prejudice to the foregoing provisions of this Act, the Executive Council shall, in discharge of its powers and performance of its functions under this Act, be bound by such directions as the Governing Board may give in writing to it from time to time.

(*2*) The Executive Council shall furnish to the Governing Board such information with respect to its activities as the Governing Board may, from time to time, require.

Application of other laws not barred.

21. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.

Protection of action taken in good faith.

22. No prosecution or other legal proceeding shall lie against the Central Government or the Governing Board or Executive Council or any Member of the Governing Board or Executive Council, or any Committee, officer or employee of the Foundation, or any other person authorised by the Central Government or the Foundation, for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Power to make rules.

23. (*1*) The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with the provisions of this Act, to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the qualifications, experience, honorarium and allowances payable to and the other terms and conditions of service of the Members and experts of the Governing Board under sub-section (*4*) of section 5;

(*b*) the qualifications, experience, honorarium and allowances payable to and the other terms and conditions of service of the Members of the Executive Council under sub-section (*4*) of section 7;

(*c*) the qualifications, experience, salary and allowances payable to and the other terms and conditions of service of the Chief Executive Officer under sub-section (*2*) of section 11;

(*d*) the qualifications, experience, salary and allowances payable to and the other terms and conditions of service of the other officers and employees under sub-section (*4*) of section 11;

(*e*) the other sources from where the Foundation receive monies under clause (*f*) of sub-section (*1*) of section 13;

(*f*) the financial rules for the utilisation of the amounts in the funds under sub-section (*4*) of section 13;

(*g*) the form, manner, time and interval for preparation of budget for the next financial year under section 14;

(*h*) the form, manner and time for preparation of annual report by the Executive Council under section 15;

(*i*) the form and manner of preparation of annual statement of accounts by the Executive Council under sub-section (*1*) of section 16;

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(*j*) the date of submission of audited copy of accounts together with the auditor's report under sub-section (*4*) of section 16;

(*k*) the manner of dealing with the monies transferred by the Board to the Foundation under second proviso to clause (*b*) of sub-section (*3*) of section 27; and

(*l*) any other matter which is to be or may be prescribed or in respect of which provision is to be made by rules.

Power of Executive Council to make regulations.

24. (*1*) The Executive Council may, by notification and with the prior approval of the Central Government, make regulations not inconsistent with the provisions of this Act and any rules made thereunder to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the time, place and the rules of procedure in regard to transaction of business at the meetings and quorum of the Governing Board under sub-section (*1*) of section 6;

(*b*) the time, place and the rules of procedure in regard to transaction of business at the meetings and quorum of Executive Council under sub-section (*1*) of section 8;

(*c*) the requirements for registration, form and manner for making applications for financial assistance, reports and certification to be furnished for the financial assistance, extension of financial assistance and grounds for revocation of financial assistance under clause (*b*) of section 10;

(*d*) the eligibility criteria and honorarium payable to the consultants and visiting scientists under sub-section (*6*) of section 11;

(*e*) the form, manner and time for furnishing certification and report to the Foundation under sub-section (*1*) of section 18; and

(*f*) any other matter which is required to be or may be specified by regulations or in respect of which provision is to be made by regulations.

Rules and regulations to be laid before Parliament.

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

Power to remove difficulties.

26. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, on the recommendations of the Foundation, by an order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may appear to it to be necessary or expedient for removing such difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

9 of 2009.

27. (*1*) The Science and Engineering Research Board Act, 2008 is hereby repealed and the Science and Engineering Research Board constituted under section 3 of the said Act (hereinafter referred to as the repealed Act) shall stand dissolved.

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(*2*) The repeal of the Science and Engineering Research Board Act, 2008 shall, however, not affect:— 9 of 2009.

(*a*) any action taken pursuant to sub-section (*3*) of section 13;

(*b*) previous operation or anything duly done under the repealed Act;

(*c*) any right, privilege, obligation or liability acquired or accrued or incurred under the repealed Act; and

(*d*) any proceeding pending or ongoing under the repealed Act.

(*3*) On the dissolution of the Science and Engineering Research Board—

(*a*) all assets, liabilities and other facilities forming part of or used in connection with the Science and Engineering Research Board, shall be deemed to be the assets of the Foundation; and

(*b*) any officer or employee who has been, immediately before the dissolution of the Science and Engineering research Board, employed on regular basis by the Science and Engineering Research Board, shall become, on and from such dissolution, the officer and employee, respectively, of the Foundation in such manner as may be notified by the Central Government, with the same rights and privileges as to pension, gratuity and other like matters as would have been admissible to him if the rights in relation to the Science and Engineering Research Board had not been transferred to, and vested in, the Foundation, and shall continue to do so unless and until his employment in the Foundation, is duly terminated or until his remuneration, terms and conditions of employment are duly altered by the Foundation:

Provided that notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee, employed in the Science and Engineering Research Board, to the Foundation shall not entitle such officer or other employee, any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority: 14 of 1947.

Provided further that where the Science and Engineering Research Board has established a provident fund, superannuation, welfare or other fund for the benefit of officers and other employees employed in the Science and Engineering Research Board, the monies relatable to the officers and other employees whose services have been transferred by or under this Act to the Foundation shall, out of the monies standing, on the dissolution of the Science and Engineering Research Board, to the credit of such provident fund, superannuation, welfare or other fund, stand transferred to, and vest in, the Foundation, and such monies which stand so transferred shall be dealt with by the said Foundation, in such manner as may be prescribed.

(*4*) The mention of the particular matters referred to in sub-section (*3*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal. 10 of 1897.

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STATEMENT OF OBJECTS AND REASONS

Research and development are the foundation for scientific discoveries, new technologies, and innovative applications. This is of crucial importance for lndia's success in a competitive global economy and in addressing challenges and opportunities across the various dimensions of science and technology. Development of a robust ecosystem is required in all fields of sciences. This includes mathematical sciences, engineering and technology, environmental and earth sciences, health and agriculture, as well as scientific and technological interfaces of humanities and social sciences.

2. The Science and Engineering Research Board Act, 2008 (the Science Act), has so far provided a good basis for promoting basic science and engineering research, through financial assistance to persons engaged in such research. However, the scale and scope of the Science and Engineering Research Board which was constituted through the Science Act are limited and it has not been able to bring decisive changes in the science and technology ecosystem of the country.

3. There is a need for integrated planning and coordination, through a more holistic approach to research and innovation. Our country has a vast pool of human resources trained in science and technology, many of whom may seek opportunities for scientific research in Universities and institutions outside India.

4. It is important to develop a robust and self-sustaining ecosystem, with an aim to give full expression to opportunities for all, and engender cutting-edge scientific research within India. This necessitates enhancing the ability of government institutions, Universities, higher educational institutions, as well as private sector organisations, to undertake such research. To ensure a financially viable research ecosystem, it is also necessary to tap into the financial resources of the private sector.

5. In the light of above, it is proposed to enact a new Legislation, namely, the Anusandhan National Research Foundation Bill, 2023 with a view to establish the Anusandhan National Research Foundation (Foundation) to provide high level strategic direction for research, innovation and entrepreneurship in the fields of natural sciences including mathematical sciences, engineering and technology, environmental and earth sciences, health and agriculture, as well as scientific and technological interfaces of humanities and social sciences, and to repeal the Science Act. The proposed new Legislation intends to enhance India's national research infrastructure, knowledge enterprise, and innovation potential, for scientific pursuit.

6. The salient features of the Anusandhan National Research Foundation Bill, 2023 seeks to create a very vibrant globally competent scientific ecosystem.

7. The notes on clauses explain in detail the various provisions contained in the Bill.

8. The Bill seeks to achieve the above objectives.

NEW DELHI; DR. JITENDRA SINGH.

The 29*th July,* 2023.

Notes on Clauses

Clause 1 of the Bill relates "Short title and commencement".

This clause seeks to provide for short title and commencement of the proposed Legislation.

Clause 2 of the Bill relates to "Definitions".

This clause seeks to provide for definition of certain expressions used in the proposed Legislation.

Clause 3 of the Bill relates to "Establishment of Anusandhan National Research Foundation".

This clause seeks to provide for establishment of a Foundation to be known as the Anusandhan National Research Foundation to carry out the objectives specified in clause 4 of the proposed Legislation.

Clause 4 of the Bill relates to "Objectives of Foundation".

This clause seeks to provide that the Foundation shall serve as the apex body to provide high-level strategic directions for research, innovation and entrepreneurship in the country.

Clause 5 of the Bill relates to "Governing Board".

This clause seeks to provide for the composition of the Governing Board of the Foundation to be headed by the Prime Minister which shall provide high-level strategic directions and monitor the implementation of objectives of Foundation.

Clause 6 of the Bill relates to "Meetings of Governing Board".

This clause seeks to provide for transactions of business at meetings of the Governing Board.

Clause 7 of the Bill relates to "Executive Council".

This clause seeks to provide for constitution of the Executive Council to implement the provisions of the proposed Legislation.

Clause 8 of the Bill relates to "Meetings of Executive Council".

This clause seeks to provide for transactions of business at meetings of the Executive Council.

Clause 9 of the Bill relates to "vacancies, etc., not to invalidate proceedings of the Governing Board or the Executive Council".

This clause seeks to provide for the grounds under which the vacancies, etc., not to invalidate proceedings of the Governing Board or the Executive Council.

Clause 10 of the Bill relates to the "Functions of the Executive Council".

This clause seeks to provide the various functions to be performed by the Executive Council specified in the said clause.

Clause 11 of the Bill relates to "Chief Executive Officer and other officers and employees of Foundation".

This clause seeks to provide for appointment of Chief Executive Officer, other officers and employees of the Executive Council and engaging services of consultants and visiting

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scientists and to provide for their qualifications, experience, terms and conditions of services and salary and allowances payable to them.

Clause 12 of the Bill relates to "Constitution of Committees".

This clause seeks to empower the Executive Council to constitute committees for efficient discharge of its duties and performance of functions and to co-opt expert persons to such committees.

Clause 13 of the Bill relates to "Funds of Foundation".

This clause seeks to provide for the constitution of Funds of the Foundation including the Anusandhan National Research Foundation Fund, Innovation Fund, Science and Engineering Research Fund and some Special Purpose Funds.

Clause 14 of the Bill relates to "Budget".

This clause seeks to enable the Executive Council to prepare the annual Budget of the Foundation for the ensuing financial year.

Clause 15 of the Bill relates to "Annual report".

This clause seeks to empower the Executive Council to prepare the Annual Report of the Foundation giving full account of the activities of the Foundation during the previous financial year.

Clause 16 of the Bill relates to "Accounts and audit".

This clause seeks to provide for maintenance of proper accounts and audit of the same annually by the Comptroller and Auditor-General of India.

Clause 17 of the Bill relates to "Annual report and Auditor's report to be laid before Parliament".

This clause seeks to provide that the Annual Report and Auditor's Report shall be required to be laid every year before both Houses of Parliament.

Clause 18 of the Bill relates to "Certification and report to be furnished".

This clause seeks to provide that any person getting any financial assistance from the Foundation shall be bound to submit to the Executive Council the utilisation certificate regarding such financial assistance and the report in respect of the research work done through the same.

Clause 19 of the Bill relates to "Power of Governing Board to delegate".

This clause seeks to provide that the Governing Board may delegate its certain powers and functions, subject to certain conditions and limitations, to the Executive Council, the Chairperson of the Council or Chief Executive Officer.

Clause 20 of the Bill relates to "Power of Governing Board to issue directions".

This clause seeks to empower the Governing Board to issue directions to the Executive Council.

Clause 21 of the Bill relates to "Application of other laws not barred".

This clause seeks to provide that the provisions of the proposed legislation shall be in addition to the provisions of any other law for the time being in force.

Clause 22 of the Bill relates to "Protection of action taken in good faith".

This clause seeks to provide that no prosecution or legal action shall be taken under the provisions of the proposed Legislation against the Central Government, Members of the Governing Board, Executive Council or any Committee and officers and employees of the Foundation for anything done in good faith.

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Clause 23 of the Bill relates to "Power to make rules".

This clause seeks to empower the Central Government to make rules for carrying out the purposes of the proposed Legislation.

Clause 24 of the Bill relates to "Power of Executive Council to make regulations".

This clause seeks to empower the Executive Council to make regulations for carrying out the purposes of the proposed Legislation.

Clause 25 of the Bill relates to "Rules and regulations to be laid before Parliament".

This clause seeks to provide for the rules and regulations made under the proposed Legislation to be laid before each House of Parliament.

Clause 26 of the Bill relates to "Power to remove difficulties".

This clause seeks to empower the Central Government to remove, within a period of two years, any difficulty arising in giving effect to the provisions of the Act.

Clause 27 of the Bill relates to "Repeal and savings".

This clause seeks to provide for repeal of the Science and Engineering Research Board Act, 2008 and for saving of actions taken thereunder.

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FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for objectives of the Anusandhan National Research Foundation which include funding of matters related to implementation of its objectives.

Sub-clause (*4*) of clause 5 of the Bill makes provision for honorarium and allowances of nominated Members of the Governing Board.

Clause 7 of the Bill seeks to establish the Executive Council. Sub-clause (*4*) of the said clause provides for honorarium and allowances of the expert Members of the Executive Council.

Clause 11 of the Bill seeks to appoint the Chief Executive Officer and other officers and employees. Sub-clause (*2*) of the said clause makes provision for salary and allowances payable to the Chief Executive Officer. Sub-clause (*4*) of the said clause makes provision for salary and allowances payable to other officers and employees of the Executive Council. Sub-clause (*5*) of the said clause provides for engagement of consultants and visiting scientists. Sub-clause (*6*) of said clause makes provision for honorarium payable to the consultants and visiting scientists.

Clause 13 of the Bill provides that after the appropriation made by Parliament, by law, the Central Government may make to the Foundation by way of grants and loans, of such sums of money as that Government may consider necessary, for being utilised for the purposes of the proposed Legislation. The said clause further provides that the Foundation may receive sums through donations, recoveries, investment and the amounts with the 'Fund for Science and Engineering Research' constituted under the Science and Engineering Research Board Act, 2008.

Clause 16 of the Bill seeks to provide for maintenance of accounts and other records of the Foundation. Sub-clause (*3*) of the said clause provides that any expenditure incurred in connection with the audit of the Foundation shall be payable to the Comptroller and Auditor-General of India.

2. The provisions of the proposed Legislation, if enacted, would involve recurring and non-recurring expenditure of Fourteen thousand crore rupees for over a five-year period from and out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Anusandhan National Research Foundation Bill, 2023 (the Bill) empowers the Central Government to make rules. These matters, *inter alia*, include:

(*a*) the qualifications, experience, honorarium and allowances payable to and other terms and conditions of the Members of the Governing Board under sub-section (*4*) of section 5;

(*b*) the qualifications, experience, honorarium and allowances payable to and the other terms and conditions of the Members of the Executive Council under sub-section (*4*) of section 7;

(*c*) the qualifications, experience, salary and allowances payable to and the other terms and conditions of the Chief Executive Officer under sub-section (*2*) of section 11;

(*d*) the qualifications, experience, salary and allowances payable to and the other terms and conditions of the other oflicers and employees under sub-section (*4*) of section 11;

(*e*) the other sources from where the Foundation receive monies under clause (*f*) of sub-section (*1*) of section 13;

(*f*) the financial rules for the utilisation of the amounts in the funds under sub-section (*4*) of Section 13;

(*g*) the form, manner, time and interval for preparation of budget for the next financial year under section 14;

(*h*) the form, manner and time for preparation of annual report by the Executive Council under section 15;

(*i*) the form and manner of preparation of annual statement of accounts by the Executive Council under sub-section (*1*) of section 16;

(*j*) the date of submission of audited copy of accounts together with the auditor's report under sub-section (*4*) of section 16;

(*k*) the manner of dealing with the monies transferred by the Board to the Foundation under second proviso to clause (*b*) of sub-section (*3*) of section 27; and

(*l*) any other matter which is to be or may be prescribed or in respect of which provision is to be made by rules.

2. Clause 24 of the Bill empowers the Executive Council to make regulations. The matters in respect of which the Executive Council may make regulations, *inter alia*, include:

(*a*) the time, place and the procedure in regard to transaction of business at the meetings of the Governing Board under sub-section (*1*) of section 6;

(*b*) the time, place and the procedure in regard to transaction of business at the meetings of Executive Council under sub-section (*1*) of section 8;

(*c*) the requirements for registration, form and manner for making applications for financial assistance, as well as reports and certification to be furnished under clause (*b*) of section 10;

(*d*) the eligibility criteria and honorarium payable to the consultants and visiting scientists under sub-section (*6*) of section 11;

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(*e*) the form, manner and time for furnishing certification and report to the Foundation under sub-section (*1*) of section 18; and

(*f*) any other matter which is required to be or may be specified by regulations or in respect of which provision is to be made by regulations.

3. The matters in respect of which rules and regulations may be made under the aforesaid provisions are matters of detail and it is not practicable to provide them in the Bill itself. The delegation of legislative powers is, therefore, of a normal character.

LOK SABHA

A

BILL

to establish the Anusandhan National Research Foundation to provide high level strategic direction for research, innovation and entrepreneurship in the fields of natural sciences including mathematical sciences, engineering and technology, environmental and earth sciences, health and agriculture, and scientific and technological interfaces of humanities and social sciences, to promote, monitor and provide support as required for such research and for matters connected therewith or incidental thereto.

(*Dr. Jitendra Singh, Minister of State for Science and Technology, Prime Minister's Office, Personnel, Public Grievances and Pensions, Department of Atomic Energy and Department of Space*)

MGIPMRND—209LS(S3)—02-08-2023.

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AS PASSED BY LOK SABHA
ON 25.07.2023

Bill No. 158-C of 2021

THE BIOLOGICAL DIVERSITY (AMENDMENT) BILL, 2023

A

BILL

further to amend the Biological Diversity Act, 2002.

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

Short title and commencement.

1. (*1*) This Act may be called the Biological Diversity (Amendment) Act, 2023.

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

Amendment of preamble.

18 of 2003.

2. In the Biological Diversity Act, 2002 (hereinafter referred to as the principal Act), in the preamble,—

(*a*) for the word "party", the word "Party" shall be substituted;

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(*b*) for the words beginning with "AND WHEREAS it is considered necessary", and ending with "give effect to the said Convention", the following shall be substituted, namely:—

"AND WHEREAS India is a Party to the Nagoya Protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation to the convention on Biological Diversity which was adopted on the 29th October, 2010 in Nagoya, Japan;

AND WHEREAS it is considered necessary to provide for conservation, sustainable utilisation, fair and equitable sharing of the benefits arising out of utilisation of biological resources and also to give effect to the said Convention.".

Amendment of section 2.

3. In section 2 of the principal Act,—

(*i*) for clause (*a*), the following clauses shall be substituted, namely:—

'(*a*) "access" means collecting, procuring or possessing any biological resource occurring in or obtained from India or traditional knowledge associated thereto, for the purposes of research or bio-survey or commercial utilisation;

(*aa*) "benefit claimers" means the conservers of biological resources, their by-products, creators or holders of traditional knowledge associated thereto (excluding codified traditional knowledge only for Indians) and information relating to the use of such biological resources, innovations and practices associated with such use and application;';

(*ii*) in clause (*b*), after the words "biological diversity", the words 'or "biodiversity" ' shall be inserted;

(*iii*) for clause (*c*), the following clause shall be substituted, namely:—

'(*c*) "biological resources" include plants, animals, micro-organisms or parts of their genetic material and derivatives (excluding value added products), with actual or potential use or value for humanity, but does not include human genetic material;';

(*iv*) after clause (*e*), the following clause shall be inserted, namely:—

'(*ea*) "codified traditional knowledge" means the knowledge derived from authoritative books specified in the First Schedule to the Drugs and Cosmetics Act, 1940;';

23 of 1940.

(*v*) after clause (*f*), the following clause shall be inserted, namely:—

'(*fa*) "derivative" means a naturally occurring biochemical compound or metabolism of biological resources, even if it does not contain functional units of heredity;';

(*vi*) after clause (*g*), the following clauses shall be inserted, namely:—

'(*ga*) "folk variety" means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;

(*gb*) "India" means the territory of India as referred to in Article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as refferred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, and the air space above its territory;

80 of 1976.

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(*gc*) "landrace" means primitive cultivar that was grown by ancient farmers and their successors;';

(*vii*) after clause (*i*), the following clause shall be inserted, namely:—

'(*ia*) "Member-Secretary" means the full time Secretary of the National Biodiversity Authority, or of the State Biodiversity Board, as the case may be;'.

4. In Chapter II of the principal Act, in the Chapter heading, for the word "DIVERSITY", the word "RESOURCES" shall be substituted. Amendment of heading of Chapter II.

5. In section 3 of the principal Act, in sub-section (*2*), in clause (*c*), for sub-clause (*ii*), the following sub-clause shall be substituted, namely:— Amendment of section 3.

"(*ii*) incorporated or registered in India under any law for the time being in force, which is controlled by a foreigner within the meaning of clause (*27*) of section 2 of the Companies Act, 2013.". 18 of 2013.

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

"4. No person or entity shall share or transfer any result of the research on any biological resource occurring in, or obtained or accessed from, India or traditional knowledge associated thereto, for monetary consideration or otherwise, to a person or body corporate referred to in sub-section (*2*) of section 3, without the prior written approval of the National Biodiversity Authority, except the codified traditional knowledge which is only for Indians: Results of research not to be transferred to certain persons without approval of National Biodiversity Authority.

Provided that the provisions of this section shall not apply if publication of research papers or dissemination of knowledge in any seminar or workshop involving financial benefit is as per the guidelines issued by the Central Government:

Provided further that where the results of research are used for further research, then, the registration with National Biodiversity Authority shall be necessary:

Provided also that if the results of research are used for commercial utilisation or for obtaining any intellectual property rights, within or outside India, prior approval of National Biodiversity Authority shall be required to be taken in accordance with the provisions of this Act.".

7. In section 5 of the Principal Act,— Amendment of section 5.

(*i*) in marginal heading, for the words and figures "Sections 3 and 4", the words "Certain provisions" shall be substituted;

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

"(*1*) The provisions of section 3 shall not apply to collaborative research projects involving transfer or exchange of biological resource or traditional knowledge associated thereto between institutions, including Government sponsored institutions of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section (*3*).".

8. In section 6 of the Principal Act,— Amendment of section 6.

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

"(*1*) Any person or entity covered under sub-section (*2*) of section 3 applying for an intellectual property right, by whatever name called, in or outside

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India, for any invention based on any research or information on a biological resource which is accessed from India, including those deposited in repositories outside India, or traditional knowledge associated thereto, shall obtain prior approval of the National Biodiversity Authority before grant of such intellectual property rights.

(*1A*) Any person covered under section 7 applying for any intellectual property right, by whatever name called, in or outside India, for any invention based on any research or information on a biological resource which is accessed from India, including those deposited in repositories outside India, or traditional knowledge asociated thereto, shall register with the National Biodiversity Authority before grant of such intellectual property rights.

(*1B*) Any person covered under section 7 who has obtained intellectual property right, by whatever name called, in or outside India, for any invention based on any research or information on a biological resource which is accessed from India, including those deposited in repositories outside India, or traditional knowledge associated thereto, shall obtain prior approval of the National Biodivesity Authority at the time of commercialization.".

(*b*) in sub-section (*3*) the words "enacted by the Parliament" shall be omitted.

Substitution of new section for section 7.

9. For section 7 of the principal Act, the following section shall be substituted, namely:—

Prior intimation to State Biodiversity Board for accessing biological resource for certain purposes.

"7. (*1*) No person, other than the person covered under sub-section (*2*) of section 3, shall access any biological resource and its associated knowledge for commercial utilization, without giving prior intimation to the concerned State Biodiversity Board, but such access shall be subject to the provisions of clause (*b*) of section 23 and sub-section (*2*) of section 24:

Provided that the provisions of this section shall not apply to the codified traditional knowledge, cultivated medicinal plants and its products, local people and communities of the area, including growers and cultivators of biodiversity and to vaids, hakims and registered AYUSH practitioners only who have been practicing indigenous medicines, including Indian systems of medicine as profession for sustenance and livelihood.

(*2*) In the case of cultivated medicinal plants, the exemption under sub-section (*1*) shall be available only if a certificate of origin is obtained from the Biodiversity Management Committee in such manner as may be prescribed.

(*3*) The Biodiversity Management Committee shall, on the basis of entries made in such books, maintained in such manner, issue the certificate of origin under sub-section (*2*) in such manner as may be prescribed.".

Amendment of section 8.

10. In section 8 of the principal Act,—

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

"(*3*) The Head Office of the National Biodiversity Authority shall be at Chennai and the Central Government may, by notification in the Official Gazette, establish regional offices in other places in India.";

(*b*) in sub-section (*4*),—

(*i*) for clause (*a*), (*b*) and (*c*), the following clauses shall be substituted, namely:—

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"(*a*) a Chairperson, who shall be an eminent person having adequate knowledge, expertise and experience in the conservation and sustainable use of biological diversity and in matters relating to fair and equitable sharing of benefits, to be appointed by the Central Government;

(*b*) sixteen *ex officio* members to be appointed by the Central Government, representing the Ministries dealing with—

(*i*) Agricultural Research and Education;

(*ii*) Agriculture and Farmers Welfare;

(*iii*) Ayurveda, Unani, Siddha, Sowa Rigpa, Yoga and Naturopathy and Homeopathy;

(*iv*) Biotechnology;

(*v*) Environment and Climate Change;

(*vi*) Forests and Wildlife;

(*vii*) Indian Council of Forestry Research and Education;

(*viii*) Earth Sciences;

(*ix*) Pachayati Raj;

(*x*) Science and Technology;

(*xi*) Scientific and Industrial Research;

(*xii*) Tribal Affairs;

(*c*) four representatives from State Biodiversity Boards on rotational basis;

(*ii*) in clause (*d*),—

(*A*) for the word "specialists", the words "experts including legal experts" shall be substituted;

(*B*) for the word "equitable", the words "fair and equitable" shall be substituted;

(*iii*) after clause (*d*), the following clause shall be inserted, namely:—

"(*e*) a Member-Secretary, who shall have experience in matters relating to biodiversity conservation, to be appointed by the Central Government.".

Amendment of section 9.

11. In section 9 of the principal Act,—

(*a*) in the Marginal heading, for the words "Chairperson and members", the words "Chairperson, Members and Member Secretary" shall be substituted;

(*b*) after the words "National Biodiversity Authority", the words "and of Member Secretary" shall be inserted.

Insertion of new section 10A.

12. After section 10 of the principal Act, the following section shall be inserted, namely:—

Member-Secretary.

"10A. (*1*) The Member-Secretary shall be the chief coordinating officer and the convener of the National Biodiversity Authority and shall assist that Authority in the discharge of its functions under this Act.

(*2*) The Member-Secretary shall perform such other functions as may be prescribed."

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Amendment of section 13.

13. In section 13 of the principal Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The National Biodiversity Authority may also constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act.".

Amendment of section 15.

14. In section 15 of the principal Act,—

(*i*) after the words "signature of the Chairperson", the words "or Member-Secretary" shall be inserted;

(*ii*) for the words "signature of an officer", the words "signature of Member-Secretary or an officer" shall be substituted.

Amendment of section 16.

15. In section 16 of the principal Act, after the words "delegate to any member", the words "or Member Secretary" shall be inserted.

Amendment of section 18.

16. In section 18 of the principal Act,—

(*a*) for sub-section (*1*) and (*2*), the following sub-sections shall be substituted, namely:—

"(*1*) The National Biodiversity Authority shall, with the approval of the Central Government, make regulations to provide for access to biological resources and traditional knowledge associated thereto, and for determination of fair and equitable sharing of benefits.

(*2*) It shall be the duty of the National Biodiversity Authority to regulate any activity referred to in sections 3, 4 and 6 by granting or rejecting approvals.

(*b*) in sub-section (*3*),—

(*i*) in clause (*a*), for the word "equitable", the words "fair and equitable" shall be substituted;

(*ii*) in clause (*b*), for the words "heritage sites", the words "biodiversity heritage sites" shall be substituted;

(*iii*) after clause (*b*), the following clause shall be inserted, namely:—

"(*ba*) advise the State Biodiversity Boards on any matter relating to the implementation of the Act;";

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

"(*4*) The National Biodiversity Authority may, on behalf of the Central Government, take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource which is found in or brought from India, including those deposited in repositories outside India, or traditional knowledge associated thereto accessed.".

Amendment of section 19.

17. In section 19 of the principal Act,—

(*a*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

(*2*) Any person referred to in sub-section (*2*) of section 3 who intends to apply for a patent or any other form of intellectual property rights, whether in India or outside India, referred to in sub-section (*1*) of section 6, may make an application to the National Biodiversity Authority in such form, on payment of such fee, and in such manner, as may be prescribed.

(*2A*) Any person referred to in sub-section (*1A*) of section 6 shall register with National Biodiversity Authority at the time of making application under sub-section (*2*), and persons referred to in sub-section (*1B*) of section 6 shall obtain prior approval from the National Biodiversity Authority at the time of commercialisation.";

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(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) The National Biodiversity Authority shall, while granting approval under this section, determine the benefit sharing in such manner as may be specified by regulations made in this behalf:

Provided that if the National Biodiversity Authority is of the opinion that such an activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or fair and equitable sharing of benefits arising out of such activity, it may, by order for reasons to be recorded in writing, prohibit or restrict any such activity:

Provided further that no such order for rejection shall be made without giving an opportunity of being heard to the person concerned.".

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

"(*4*) The National Biodiversity Authority shall place in public domain details of every approval granted or rejected under this section.".

Amendment of section 20.

18. In section 20 of the principal Act,—

(*i*) in the marginal heading, for the words "biological resource or knowledge", the words "results of research" shall be substituted;

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

"(*1*) Any persons or entity who intends to transfer the results of any research on biological resources, which are found in or brought from India, including those deposited in repositories outside India or *traditional knowledge associated thereto, to persons referred to under sub-section (*2*) of section 3 for monetary consideration or otherwise, he shall make an application to the National Biodiversity Authority in such form, and on payment of such fee, as may be prescribed.";

(*iii*) in sub-section (*2*), for the words "any biological resource or knowledge associated thereto", the words "the results of research" shall be substituted;

(*iv*) for sub-section (*3*) and (*4*), the following sub-sections shall be substituted, namely:—

"(*3*) on receipt of an application under sub-section (*2*), the National Biodiversity Authority may, after making such enquiries, as it deems fit, by order grant approval, subject to such terms and conditions as it may deem fit, including benefit sharing or otherwise, as per the guidelines or for reasons to be recorded in writing, or reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person concerned.

(*4*) The National Biodiversity Authority shall place in public domain the details of every approval granted or rejected under this section.".

Amendment of section 21.

19. In section 21 of the principal Act,—

(*a*) in the marginal heading, for the word "equitable", the words "fair and equitable" shall be substituted;

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

"(*1*) The National Biodiversity Authority shall, while determining benefit sharing for the approval granted under this Act, ensure that the terms and conditions subject to which the approval is granted secures fair and equitable sharing of benefits arising out of the use of accessed biological resources, their derivatives, innovations and practices associated with their use and applications

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and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, and the Biodiversity Management Commitee represented by the National Biodiversity Authority.".

(*c*) in sub-section (*3*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that where biological resource or associated knowledge was a result of access from an individual or group of individuals or organisations, the National Biodiversity Authority may direct that the amount shall be paid directly to such benefit claimer or organisation in accordance with the terms of any agreement and in such manner as it deems fit.".

Amendment of section 22.

20. In section 22 of the principal Act,—

(*i*) in sub-section (*2*), in the proviso, after the words " group of persons", the words "or body" shall be inserted;

(*ii*) in sub-section (*4*), for clauses (*a,*) (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(*a*) a Chairperson, who shall be an eminent person having adequate knowledge, expertise and experience in the conservation and sustainable use of biological diversity and in matters relating to fair and equitable sharing of benefits, to be appointed by the State Government;

(*b*) not more than seven *ex officio* members to be appointed by the State Government to represent the concerned department of the State Government, including departments dealing Panchayati Raj and tribal affiairs;

(*c*) not more than five non-official members to be appointed from amongst experts, including legal experts, scientists having special knowledge, expertise and work experience in matters relating to conservation of biological diversity, sustainable use of biological resources and fair and equitable sharing of benefits arising out of the use of biological resources.".

Amendment of section 23.

21. In section 23 of the principal Act, for clauses (*a*) and (*b*) the following clauses shall be substituted, namely:—

"(*a*) advise the State Government on matters relating to the conservation of biodiversity, sustainble use of its components and fair and equitable sharing of benefits arising out of the utilisation of biological resources or traditional knowledge associated thereto, in conformity with the regulations or guidelines if any, issued by the Central Government or the National Biodiversity Authority;

(*b*) regulate any activity referred to in section 7 by granting or rejecting approvals;

(*ba*) determine the fair and equitable sharing of benefits as provided under the regulations made in this behalf by the National Biodiversity Authority while granting approvals;".

Amendment of section 24.

22. In section 24 of the principapal Act,—

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

"(*1*) Any person other than the person referred to in sub-section (*2*) of section 3, intending to undertake any activity covered under section 7, shall give prior intimation to the State Biodiversity Board, in such forms as may be prescribed by the State Government.";

(*b*) for sub-sections (*3*), the following sub-sections shall be substituted, namely:—

"(*2*) If the State Biodiversity Board is of the opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of

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biodiversity of fair and equitable sharing of benefits arising out of such activity, it may by order, restrict or reject such activity:

Provided that no such order or rejection shall be made without giving an opportunity of being heard to the person concerned.

(*3*) The State Biodiversity Board shall place in public domain the details of every approval granted or rejected under this section.".

Amendment of section 27.

23. In section 27 of the principal Act,—

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

"(*b*) all sums including charges and benefit sharing amount received by the National Biodiversity Authority;";

(*ii*) in sub-section (*2*),—

(*A*) in the opening portion, for the word "applied", the word "utilised" shall be substituted;

(*B*) for clauses (*b*) and (*c*), the following clauses shall be substituted, namely:—

"(*b*) conservation, and sustainable use of biological resources;

(*c*) socio-economic development of areas from where such biological resources or traditional knowledge associated thereto have been accessed in consultation with the Biodiversity Management Committee:

Provided that when it is not possible to identify the area from where the biological resources or traditional knowledge associated thereto have been accessed, the fund shall be utilised for socio-economic development of the area where such biological resources occur;

(*d*) activities to meet the purposes of the Act.

Amendment of section 32.

24. In section 32 of the principal Act,—

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

"(*c*) all sums including charges and benefit sharing amount received by the State Biodiversity Board and from such other sources as may be decided by the Stae Government;";

(*ii*) in sub-section (*2*),—

(*A*) in the opening portion, for the word "applied", the word "utilised" shall be substituted;

(*B*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) channelling benefits to the benefit claimers;";

(*C*) for clause (*c*) the following clause shall be substituted, namely:—

(*c*) conservation, promotion and sustainable use of biological resources;";

(*D*) for clause (*d*), the following clause shall be substituted, namely:—

"(*d*) socio-economic development of areas from where such biological resources or traditional knowledge associated thereto have been accessed in consultation with the Biodiversity Management Committee or local body concerned:

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Provided that when it is not possible to identity the area from where the biological resources or associated knowledge have been accessed, the fund shall be utilised for socio-economic development of the area where such biological resources occur.".

(*E*) for clause (*e*), the following clauses shall be substituted, namely:—

"(*e*) making grants or loans to the Biodiversity Management Committees;

(*f*) the activities to meet the purposes of the Act.".

Amendment of section 36.

25. In section 36 of the principal Act,—

(*i*) for the marginal heading, the following shall be substituted, namely:—

"Central Government to develop national strategies and plans for conservation, promotion and sustainable use of biological diversity";

(*ii*) in sub-section (*1*),—

(*a*) after the words "The Central Government shall", the words "in consultation with the State Government and Union territories", shall be inserted:

(*b*) for the words "conservation of biological resources, incentives", the words "conservation of biological resources, including cultivars, folk varieties and landraces, incentives" shall be substituted;

(*iii*) in sub-section (*3*), for the words "sectoral or cross-sectoral plans, programmes and policies", the words "sectoral policies or cross-sectoral plans and programmes" shall be substituted.

(*iv*) after sub-section (*5*) and before the *Explanation,* the following sub-section shall be inserted, namely:—

"(*6*) The Central Government shall involve the National Biodiversity Authority or State Biodiversity Boards to undertake measures for conservation and sustainable use of biological diversity or traditional knowledge associated thereto.".

Insertion of new section 36A and 36B.

26. After section 36 of the principal Act, the following sections shall be inserted, namely:—

Measures to be taken by National Biodiversity Authority.

"**36A.** The Central Government may authorise National Biodiversity Authority or any other organisation to take any measures necessary to monitor and regulate within the territory of India, the access and utilisation of biological resources obtained from a foreign country in order to meet the international obligations to which India is a signatory.

State Government to develop strategies and plans for conservation and sustainable use of biological diversity.

"**36B.** (*1*) The State Government shall develop strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity, including measures for indentification and monitoring of areas rich in biological resources, promotion of *in situ,* and *ex situ,* conservation of biological resources, including cultivars, folk varieties and landraces, incentives for research, training and public education to increase awareness with respect to biodiversity, in conformity with the national strategies, plans and programmes.

(*2*) The State Government shall, as far as practicable, wherever it deems appropriate, integrate the conservation, promotion and sustainable use of biological diversity into relevant sectoral policies or cross-sectoral plans and programmes.".

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Amendment of section 37.

27. In section 37 of the principal Act,—

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

"(*1*) Without prejudice to any other law for the time being in force, based on the recommendations of the State Biodiversity Board, the State Government may, from time to time, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act:

Provided that the State Biodiversity Board shall consult the local body and the Biodiversity Management Committee concerned before making such recommendations.";

(*b*) in sub-section (*2*), for the words "heritage sites", the words "biodiversity heritage sites" shall be substituted.

Amendment of section 38.

28. In section 38 of the principal Act, the following provisos shall be inserted, namely:—

"Provided that the Central Government may delegate such power to the State Government:

Provided further that where such power is delegated to the State Government, it shall consult the National Biodiversity Authority before issuing any such notification.".

Substitution of new section for section 40.

29. For section 40 of the principal Act, the following section shall be substituted, namely:—

Provisions of this Act not to apply in certain cases.

"**40.** Notwithstanding anything contained in this Act, the Central Government may, in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall not apply to biological resources when normally traded as commodities or to the items derived from them, including agricultural wastes, as notified and cultivated medicinal plants and their products for entities covered under section 7, registered as per the regulations made or as prescribed:

Provided that no exemption shall be made for the activities referred to in sub-sections (*1*) and (*2*) of section 6.".

Amendment of section 41.

30. In section 41 of the principal Act,—

(*a*) for sub-section (*1*), the followings sub-sections shall be substituted, namely:—

"(*1*) Every local body at the Gram Panchayat level in the rural areas and at the Nagar Panchayat or Municipal Committee at Municipal Corporation level in the urban areas shall constitute a Biodiversity Management Committee (by whatever name called) within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of landraces, folk varieties farmers' varieties, and cultivars, domesticated stocks and breeds of animals, living things in water bodies and microorganisms and chronicling of knowledge relating to biological diversity:

Provided that the State Government may constitute Biodiversity Management Committees at the intermediate or district Panchayat level for achieving the objectives of the Act.

(*1A*) The functions of Biodiversity Management Committee so constituted shall include conservation, sustainable use and documentation of biological diversity, including conservation of habitats, landraces, folk varieties, cultivars, domesticated breeds of animals, and microorganisms, and chronicling of traditional knowledge associated thereto relating to biological diversity.

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(*1B*) The composition of the Biodiversity Management Committee shall be such as may be prescribed by the State Government:

Provided that the number of members of the said Committee shall not be less than seven and not exceeding eleven.";

(*b*) in sub-section (*2*), for the words " and knowledge associated with such resources", the words "or traditional knowledge associated thereto" shall be substituted.

(*c*) the following *Explanation* shall be inserted, namely:—

"*Explanation.*—For the purposes of this section—

(*a*) "cultivar" means a veriety of plant that has originated and persisted under cultivation or was specifically bred for the purpose of cultivation;

(*b*) "folk variety" means a cultivated variety of plant that was developed, grown and exchanged informally among farmers;

(*c*) "landrace" means primitive cultivar that was grown by ancient farmers and their successors.

(*d*) "farmers' variety" means a veriety which—

(*i*) has been traditionally cultivated and evolved by the farmers in their field; or

(*ii*) is a wild relative or landrace of a veriety about which the farmers possess the common knowledge.".

Amendment of section 43.

31. In section 43 of the principal Act, in sub-section (*1*), for clause (*e*), the following clause shall be substituted, namely:—

"(*e*) benefit sharing amount and all other sums received by the Local Biodiversity Fund from such other sources as may be decided by the State Government.".

Substitution of new section for section 44.

32. For section 44 of the principal Act, the following section shall be substiututed, namely:—

Application of Local Biodiversity Fund.

"**44.** (*1*) The Local Biodiversity Fund shall be utilised in accordance with the regulations and the guidelines made in this behalf, for—

(*a*) the conservation and promotion of biodiversity including restoration of areas falling within the jurisdiction of concerned local body;

(*b*) the socio-economic development of the community without compromising the conservation concerns; and

(*c*) the administrative expenses of the Biodiversity Management Committee.

(*2*) The Fund shall be utilised in such manner as may be prescribed by the State Government.".

Substitution of new section for section 45.

33. For section 45 of the principal Act, the following section shall be substituted, namely:—

Annual statement of Biodiversity Management Committees.

"**45.** The custodian of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed by the State Government, its annual statement giving a full account of its activities during the previous financial year, and submit the same to the local body concerned with a copy to the State Biodiversity Board."

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Substitution of new section for section 46.

34. For section 46 of the prinicpal Act, the following section shall be substituted, namely:—

Audit of accounts of Biodiversity Management Committees.

"**46.** (*1*) The Biodiversity Management Committee shall maintain the accounts which shall be audited in such manner as may be prescribed by the State Government.

(*2*) The Biodiversity Management Committee shall furnish to the local body concerned and to the State Biodiversity Board, before such date as may be prescribed by the State Government, its audited copy of accounts together with auditor's report thereon."

Amendment of section 50.

35. In section 50 of the principal Act, in the marginal heading, the words "between the State Biodiversity Board" shall be omitted.

Amendment of section 52.

36. In section 52 of the principl Act, in sub-section (*1*), for the words "benefit sharing or order", the words "fair and equitable sharing of benefits or order or direction" shall be substituted—

Amendment of section 53.

37. In section 53 of the principal Act,—

(*i*) for the words "benefit sharing", the words "fair and equitable sharing of benefits" shall be substituted;

(*ii*) after the words "order made by the High Court", the words "or the National Green Tribunal" shall be inserted;

(*iii*) after the words "Registrar of the High Court", the words "or the Registrar of the National Green Tribunal" shall be inserted;

(*iv*) in the *Explanation,* after the words "group of persons", wherever they occur, the words "or body" shall be substituted.

Substitution of new section 55, 55A and 55B for section 55.

38. For section 55 of the principal Act, the following sections shall be substituted, namely:—

Penalties.

"**55.** If any person or entity covered under sub-section (*2*) of section 3 or section 7 contravenes or attempts to contravene or abets the contravention of the provisions of section 3 or section 4 or section 6 or section 7, such person shall be liable to pay penalty which shall not be less than one lakh rupees, but which may extend to fifty lakh rupees, but where the damage caused exceeds the amount of penalty, such penalty shall be commensurate with the damage caused, and in case, the failure or contravention continues, an additional penalty may be imposed, which shall not exceed one crore rupees and such penalty shall be decided by the adjudicating officer appointed under section 55A.

Adjudication of penalties.

55A. (1) For the purposes of determining the penalities under section 55, the Central Government may appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold inquiry in the prescribed manner and to impose the penalty so determined:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

(*2*) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry

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and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of section 3 or section 4 or section 6 or section 7, he may impose such penalty as he thinks fit in accordance the provisions of section 55:

Provided that no such penalty shall be imposed without giving the person concerned an opportunity of being heard in the matter.

(*3*) Any person aggrieved by the order made by the adjudicating officer under sub-section (*2*) may prefer an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010. 19 of 2010.

(*4*) Every appeal under sub-section (*3*) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.

(*5*) The National Green Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.

Power to enter, inspect, survey, etc.

55B. Any authority or officer empowered by the Central Government may, for the purposes of carrying out inspection, survey or any such activity, have all or any of the following powers, namely:—

(*a*) the power to enter upon any land, vehicle, or premises and to inspect, investigate, survey and collect information and make a map of the same and seize the materials and records;

(*b*) the powers of a civil court to compel the attendance of anyone, including witnesses and production of documents and materials objects;

(*c*) the power to issue a search-warrant;

(*d*) the power to hold an inquiry and in the course of such inquiry, receive and record evidence;

(*e*) such other power as may be prescribed.".

Omission of section 58.

39. Section 58 of the principal Act shall be omitted.

Insertion of new section 59A.

40. After section 59 of the principal Act, the following section shall be inserted, namely:—

Act not to apply to certain persons.

"**59A.** The provision of this Act shall not apply to any person who has been given any approval or granted any right under any law relating to protection of plant varieties enacted by Parliament to the extent that such approvals or rights given under that Act does not require similar approval under this Act.

Amendment of section 61.

41. In section 61 of the principal Act,—

(*a*) in the opening portion, for the word "complaint", the words "written complaint" shall be substituted;

(*b*) in clause (*b*), for the words "any benefit claimer", the words "any person or a benefit claimer" shall be substituted.

Amendment of section 62.

42. In section 62 of the principal Act, in sub-section (*2*),—

(*i*) for clause (*a*), the following clauses shall be substituted, namely:—

(*a*) the manner of obtaining the certificate of origin under sub-section (*2*) of section 7;

(*aa*) the books on the basis of which the certificate of origin to be issued, the manner of maintaining such books and the manner of issuing such certificate under sub-section (*3*) of section 7;

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(*ab*) the terms and conditions of service of the Chairperson, Member-Secretary and other members under section 9;";

(*ii*) after clause (*b),* the following clause shall be inserted namely:—

"(*ba*) the other functions to be performed by the Member-Secretary;";

(*iii*) in clause (*e*), after the word "application", the word "and payment of fees" shall be inserted;

(*iv*) after clause (*e*), the following clause shall be inserted, namely:—

"(*ea*) form of application and payment of fees under sub-section (*1*) of section 20;

(*v*) after clause (*j*), the following clauses shall be inserted, namely:—

"(*ja*) the manner of holding inquiry by the adjudicating officer under section 55A;

"(*jb*) the other power under clause (*e*) of section 55B;".

Amendment of section 63.

43. In section 63 of the principal Act, in sub-section (*2*),—

(*i*) after clause (*e*), the following clause shall be inserted, namely:—

"(*ea*) the composition of the Biodiversity Management Committee under sub-section (*1B*) of section 41;

(*ii)* in clause (*f*), for the word "applied", the word "utilised" shall be substituted;

(*iii*) in clause (*g*), for the words "annual report", the words "annual statement" shall be substituted.

LOK SABHA

A

BILL

further to amend the Biological Diversity Act, 2002.

(*As passed by Lok Sabha*)

MGIPMRND—162LS(S3)—25-07-2023.

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AS INTRODUCED IN LOK SABHA

Bill No. 141 of 2023

THE CENTRAL UNIVERSITIES (AMENDMENT) BILL, 2023

A

BILL

further to amend the Central Universities Act, 2009.

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

Short title and commencement.

1. (*1*) This Act may be called the Central Universities (Amendment) Act, 2023.

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

25 of 2009.

Insertion of new section 3G.

2. In the Central Universities Act, 2009 (hereinafter referred to as the principal Act), after section 3F, the following section shall be inserted, namely:—

Establishment of Sammakka Sarakka Central Tribal University.

"3G. There shall be established a Tribal University, which shall be a body corporate, to be known as the Sammakka Sarakka Central Tribal University, having its territorial jurisdiction extending to the whole of the State of Telangana, as specified in the First Schedule to this Act, to provide avenues of higher education and research facilities primarily for the tribal population of India.".

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Amendment of First Schedule.

3. In the First Schedule to the principal Act, after serial number 16 and the entries relating thereto, the following serial number and entries shall be inserted, namely: —

"17.	Telangana	Sammakka Sarakka Central Tribal University	Whole of the State of Telangana.".

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STATEMENT OF OBJECTS AND REASONS

The Central Universities Act, 2009 was enacted to establish and incorporate universities for teaching and research in various States and for matters connected therewith or incidental thereto.

2. Establishment of Central Tribal University in the State of Telangana will cater to the regional aspirations for years to come. It will increase access and quality of higher education and facilitate and promote higher education and research facilities for the people of the State. It will also promote advanced knowledge by providing instructional and research facilities in tribal art, culture and customs and advancement in technology to the tribal population of India. Apart from bringing focus to tribal education, the Central Tribal University shall carry out all educational and other activities like any other Central University. Moreover, the establishment of a Central Tribal University in the State of Telangana is obligatory under the Andhra Pradesh Reorganisation Act, 2014. Therefore, the Government has decided to establish a new Central Tribal University in the State of Telangana namely, the "Sammakka Sarakka Central Tribal University".

3. Accordingly, it is proposed to amend the Central Universities Act, 2009 to provide for the establishment of a Central University by the name of "Sammakka Sarakka Central Tribal University" in the State of Telangana.

4. The Bill seeks to achieve the above objects.

NEW DELHI;
The 24*th November,* 2023.

DHARMENDRA PRADHAN.

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FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to insert a new section 3G in the Central Universities Act, 2009 which provides for the establishment of a new University, to be known as the Sammakka Sarakka Central Tribal University, as a body corporate having territorial jurisdiction extending to the whole of the State of Telangana.

2. The University will be set up with a budgetary provision of rupees 889.07 crores for seven years in two phases. The said expenditure shall be met from the Consolidated Fund of India through the budgetary provisions of the Ministry of Education.

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LOK SABHA

A

BILL

further to amend the Central Universities Act, 2009.

(*Shri Dharmendra Pradhan, Minister of Education; Skill Development & Entrepreneurship*)

MGIPMRND—434LS(S3)—30-11-2023.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

AS PASSED BY THE RAJYA SABHA
ON 12TH DECEMBER 2023

Bill No. LVII–C of 2023

THE CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS (APPOINTMENT, CONDITIONS OF SERVICE AND TERM OF OFFICE) BILL, 2023

(AS PASSED BY THE RAJYA SABHA)

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BILL

to regulate the appointment, conditions of service and term of office of the Chief Election Commissioner and other Election Commissioners, the procedure for transaction of business by the Election Commission and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Chief Election Commissioner and other Election Commissioners (Appointment, Conditions of Service and Term of Office) Act, 2023.

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

Definitions.

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

(*a*) "Chief Election Commissioner" means the Chief Election Commissioner appointed under clause (2) of article 324 of the Constitution and in accordance with this Act;

(*b*) "Election Commission" means the Election Commission referred to in clause (1) of article 324 of the Constitution;

(*c*) "Election Commissioner" means any other Election Commissioner appointed under clause (2) of article 324 of the Constitution and in accordance with this Act;

(*d*) "Search Committee" means the Search Committee for preparation of panel of persons for consideration for appointment as Chief Election Commissioner and other Election Commissioners; and

(*e*) "Selection Committee" means the Selection Committee that recommends appointment of Chief Election Commissioner and other Election Commissioners.

CHAPTER II

APPOINTMENT AND TERM OF CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS

Election Commission.

3. The Election Commission shall consist of—

(*a*) Chief Election Commissioner; and

(*b*) such number of other Election Commissioners as the President may fix from time to time.

Appointment of Chief Election Commissioner and other Election Commissioners.

4. The Chief Election Commissioner and other Election Commissioners shall be appointed by the President by warrant under his hand and seal.

Qualifications of Chief Election Commissioner and other Election Commissioners.

5. The Chief Election Commissioner and other Election Commissioners shall be appointed from amongst persons who are holding or have held a post equivalent to the rank of Secretary to the Government of India and shall be persons of integrity, who have knowledge of and experience in management and conduct of elections.

Search Committee.

6. A Search Committee headed by the Minister of Law and Justice and comprising two other members not below the rank of Secretary to the Government of India, shall prepare a panel of five persons for consideration of the Selection Committee, for appointment as the Chief Election Commissioner and other Election Commissioners.

Selection Committee.

7. (*1*) The Chief Election Commissioner and other Election Commissioners shall be appointed by the President on the recommendation of a Selection Committee consisting of—

(*a*) the Prime Minister—Chairperson;

(*b*) the Leader of Opposition in the House of the People—Member;

(*c*) a Union Cabinet Minister to be nominated by the Prime Minister—Member.

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the leader of the single largest party in opposition of the

Government in the House of the People shall be deemed to be the Leader of Opposition.

(*2*) The appointment of Chief Election Commissioner and other Election Commissioners shall not be invalid merely by reason of any vacancy in or any defect in the constitution of, the Selection Committee.

Power of Selection Committee to regulate its own procedure.

8. (*1*) The Selection Committee shall regulate its own procedure in a transparent manner for selecting the Chief Election Commissioner or other Election Commissioners.

(*2*) The Selection Committee may also consider any other person than those included in the panel by the Search Committee.

Term of office.

9. (*1*) The Chief Election Commissioner and other Election Commissioners shall hold office for a term of six years from the date on which he assumes his office or till he attains the age of sixty-five years, whichever is earlier.

(*2*) The Chief Election Commissioner and other Election Commissioners shall not be eligible for re-appointment.

(*3*) Where an Election Commissioner is appointed as Chief Election Commissioner, his term of office shall not be more than six years in aggregate as the Election Commissioner and the Chief Election Commissioner.

CHAPTER III

SALARY, ALLOWANCES AND OTHER CONDITIONS OF SERVICE OF CHIEF ELECTION COMMISSIONER AND OTHER ELECTION COMMISSIONERS

Salary, etc.

10. (*1*) The Chief Election Commissioner and other Election Commissioners shall be paid a salary which is equal to the salary of a Judge of the Supreme Court:

Provided that the Salary, allowances and other conditions of service of the Chief Election Commissioner and other Election Commissioners, holding office immediately before the date of commencement of this Act shall not be varied to their disadvantage.

(*2*) If a person who, immediately before the date of assuming office as the Chief Election Commissioner or an Election Commissioner, was in receipt of, or being eligible so to do, had elected to draw, a pension (other than a disability or wound pension) in respect of any previous service under the Central Government or a State Government, his salary in respect of service as the Chief Election Commissioner or an Election Commissioner shall be reduced—

(*a*) by the amount of that pension; and

(*b*) if he had, before assuming office, received, *in lieu* of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension.

(*3*) The Chief Election Commissioner and other Election Commissioners shall be entitled to dearness allowance as may be admissible to Judge of the Supreme Court.

(*4*) The Chief Election Commissioner and other Election Commissioners shall be entitled to encashment of fifty per cent. of earned leave to his credit at the time of completion of tenure.

(*5*) Where the Chief Election Commissioner or an Election Commissioner had retired from the service of the Central Government or a State Government prior to appointment as such, the aggregate period for which the encashment of

unutilised earned leave he shall be entitled, shall be subject to a maximum period as admissible in accordance with the rules for the time being applicable to the service to which he belonged before his appointment as Chief Election Commissioner or an Election Commissioner.

Resignation and removal.

11. (*1*) The Chief Election Commissioner or an Election Commissioner may, at any time, by writing under his hand addressed to the President, resign his office.

(*2*) The Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court.

(*3*) The other Election Commissioners shall not be removed from office except on the recommendation of the Chief Election Commissioner.

Leave.

12. (*1*) The Chief Election Commissioner or an Election Commissioner may be granted leave in accordance with the rules for the time being applicable to the service to which he belonged before the date of his appointment and he shall be entitled to carry forward the leave standing at his credit on such date, irrespective of the provisions contained in section 13.

(*2*) The power to grant or refuse leave to the Chief Election Commissioner or an Election Commissioner and to revoke or curtail leave granted to him, shall vest in the President.

Pension.

13. (*1*) Where the Chief Election Commissioner or an Election Commissioner was in service of Government, he shall be deemed to have retired from the service on the date on which he enters upon office as the Chief Election Commissioner or an Election Commissioner, as the case may be.

(*2*) The Chief Election Commissioner or other Election Commissioners who at the time of his appointment as such, was in service of the Central Government or a State Government, shall at his option to be exercised within a period of six months from the date of such appointment, be entitled to draw his pension and other retirement benefits under the rules applicable to the service to which he belonged, with effect from the date of his appointment as the Chief Election Commissioner or other Election Commissioners.

(*3*) Except where the Chief Election Commissioner or an Election Commissioner demits office by resignation, he shall be deemed, for the purposes of this Act, to have demitted his office only if,—

(*a*) he has completed the term of office specified in section 9; or

(*b*) he has attained the age of sixty-five years; or

(*c*) his demission of office is medically certified to be necessitated by ill-health.

Right to subscribe to General Provident Fund.

14. Every person holding office as the Chief Election Commissioner or an Election Commissioner shall be entitled to subscribe to the General Provident Fund under the General Provident Fund (Central Services) Rules, 1960.

Other conditions of service.

15. Save as otherwise provided in this Act, the President may by rules determine the conditions of service relating to travelling allowance, medical facilities, leave travel concession, conveyance facilities, and such other conditions of service relating to the Chief Election Commissioner and other Election Commissioners.

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Protection of Chief Election Commissioner and other Election Commissioners.

16. Notwithstanding anything contained in any other law for the time being in force, no Court shall entertain or continue any civil or criminal proceedings against any person who is or was a Chief Election Commissioner or an Election Commissioner for any act, thing or word, committed, done or spoken by him when, or in the course of acting or purporting to act in the discharge of his official duty or function.

CHAPTER IV
TRANSACTION OF BUSINESS OF ELECTION COMMISSION

Transaction of business.

17. The business of the Election Commission shall be transacted in accordance with the provisions of this Act.

Disposal of business.

18. (*1*) The Election Commission may, by unanimous decision, regulate the procedure for transaction of its business and also allocation of its business amongst the Chief Election Commissioner and other Election Commissioners.

(*2*) All business of the Election Commission shall, as far as possible, be transacted unanimously, and if the Chief Election Commissioner and other Election Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

CHAPTER V
MISCELLANEOUS

Power to remove difficulties.

19. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, within a period of five years from the date of commencement of this Act, by order not inconsistent with the provisions of this Act, remove the difficulty.

(*2*) Every order made under sub-section (*1*) shall, as soon as may be after it is made, be laid before each House of Parliament.

Laying.

20. Every rule and order 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 expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or order, or both Houses agree that the rule or order should not be made, the rule or order 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 be without prejudice to the validity of anything previously done under that rule or order.

Repeal and saving.

21. (*1*) The Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991 is hereby repealed. 11 of 1991.

(*2*) Anything done or any action taken or purported to have been done or taken under the Act hereby repealed shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

(*3*) The mention of particular matters in sub-section (*2*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal. 10 of 1897.

RAJYA SABHA

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BILL
to regulate the appointment, conditions of service and term of office of the Chief Election Commissioner and other Election Commissioners, the procedure for transaction of business by the Election Commission and for matters connected therewith or incidental thereto.

(*As passed by the Rajya Sabha*)

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AS INTRODUCED IN LOK SABHA

Bill No. 185 of 2022

THE COMPETITION (AMENDMENT) BILL, 2022

A

BILL

further to amend the Competition Act, 2002.

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

Short title and commencement.

1. (*1*) This Act may be called the Competition (Amendment) Act, 2022.

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

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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Substitution of references to certain expressions by certain other expressions.

2. In the Competition Act, 2002 (hereinafter referred to as the principal Act),— 12 of 2003.

(*a*) for the words and figures "the Companies Act, 1956", wherever they occur, the words and figures "the Companies Act, 2013" shall be substituted; 1 of 1956. 18 of 2013.

(*b*) for the figures and word "1 of 1956", wherever they occur, the figures and word "18 of 2013" shall be substituted.

Amendment of section 2.

3. In section 2 of the principal Act,—

(*a*) after clause (*e*), the following clause shall be inserted, namely:—

'(*ea*) "commitment" means the commitment referred to in section 48B;';

(*b*) in clause (*h*), for the portion beginning with the words "a person or a department of the Government" and ending with the words "defence and space", the following words shall be substituted, namely:—

"a person or a department of the Government, including units, divisions, subsidiaries, who or which is, or has been, engaged in any economic activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, of any kind, or in investment, or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, either directly or through one or more of its units or divisions or subsidiaries, but does not include any activity of the Government relatable to the sovereign functions of the Government including all activities carried on by the departments of the Central Government dealing with atomic energy, currency, defence and space;";

(*c*) after clause (*k*), the following clause shall be inserted, namely:—

'(*ka*) "party" includes a consumer or an enterprise or a person or an information provider, or a consumer association or a trade association, or the Central Government or any State Government or any statutory authority, as the case may be, and shall include an enterprise or a person against whom any inquiry or proceeding is instituted; and any enterprise or person impleaded by the Commission to join the proceedings;';

(*d*) in clause (*l*), in sub-clause (*vi*), for the words and figures "section 617 of the Companies Act, 1956", the words, brackets and figures "clause (*45*) of section 2 of the Companies Act, 2013" shall be substituted; 1 of 1956. 18 of 2013.

(*e*) for clause (*p*), the following clause shall be substituted, namely:—

'(*p*) "public financial institution" means public financial institution as defined in clause (*72*) of section 2 of the Companies Act, 2013 and includes a State Financial Corporation, State Industrial Corporation or State Investment Corporation;'; 18 of 2013.

(*f*) for clause (*t*), the following clause shall be substituted, namely:—

'(*t*) "relevant product market" means a market comprising of all those products or services—

(*i*) which are regarded as inter-changeable or substitutable by the consumer, by reason of characteristics of the products or services, their prices and intended use; or

(*ii*) the production or supply of, which are regarded as inter-changeable or substitutable by the supplier, by reason of the ease of switching production between such products and services and marketing them in the short term without incurring significant additional costs or risks in response to small and permanent changes in relative prices;';

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(*g*) after clause (*u*), the following clause shall be inserted, namely:—

'(*ua*) "settlement" means the settlement referred to in section 48A;'.

4. In section 3 of the principal Act,— Amendment of section 3.

(*a*) in sub-section (*3*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that an enterprise or association of enterprises or a person or association of persons though not engaged in identical or similar trade shall also be presumed to be part of the agreement under this sub-section if it actively participates in the furtherance of such agreement.";

(*b*) in sub-section (*4*),—

(*i*) for the words "Any agreement amongst enterprises or persons", the words "Any other agreement amongst enterprises or persons including but not restricted to agreement amongst enterprises or persons" shall be substituted;

(*ii*) in clause (*b*), for the word "supply", the word "dealing" shall be substituted;

(*iii*) before the *Explanation,* the following proviso shall be inserted, namely:—

"Provided that nothing contained in this sub-section shall apply to an agreement entered into between an enterprise and an end consumer.";

(*iv*) in the *Explanation,*—

(*i*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

'(*a*) "tie-in arrangement" includes any agreement requiring a purchaser of goods or services, as a condition of such purchase, to purchase some other distinct goods or services;

(*b*) "exclusive dealing agreement" includes any agreement restricting in any manner the purchaser or the seller, as the case may be, in the course of his trade from acquiring or selling or otherwise dealing in any goods or services other than those of the seller or the purchaser or any other person, as the case may be;';

(*ii*) in clause (*c*), after the word "goods", at both the places where it occurs, the words "or services" shall be inserted;

(*iii*) in clause (*d*), after the word "goods", at both the places where it occurs, the words "or services" shall be inserted;

(*iv*) in clause (*e*), for the words "includes any agreement to sell goods on condition", the words "includes, in case of any agreement to sell goods or provide services, any direct or indirect restriction" shall be substituted;

(*c*) in sub-section (*5*), in clause (*i*), after sub-clause (*f*), the following sub-clause shall be inserted, namely,—

"(*g*) any other law for the time being in force relating to the protection of other intellectual property rights.".

5. In section 4 of the principal Act, in sub-section (*2*), in clause (*a*), in the *Explanation,* for the words "discriminatory condition or price", the words "condition or price" shall be substituted. Amendment of section 4.

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Amendment of section 5.

6. In section 5 of the principal Act,—

(*A*) in clause (*c*), in sub-clause (*ii*), in item (*B*), for the word "India.", the words "India; or" shall be substituted;

(*B*) after clause (*c*), the following clauses shall be inserted, namely:—

"(*d*) value of any transaction, in connection with acquisition of any control, shares, voting rights or assets of an enterprise, merger or amalgamation exceeds rupees two thousand crore:

Provided that the enterprise which is a party to the transaction has such substantial business operations in India as may be specified by regulations.

(*e*) notwithstanding anything contained in clause (*a*) or clause (*b*) or clause (*c*), where either the value of assets or turnover of the enterprise being acquired, taken control of, merged or amalgamated in India is not more than such value as may be prescribed, such acquisition, control, merger or amalgamation, shall not constitute a combination under section 5.";

(*C*) for the *Explanation,* the following *Explanation* shall be substituted, namely:—

'*Explanation*.—For the purposes of this section,—

(*a*) "control" means the ability to exercise material influence, in any manner whatsoever, over the management or affairs or strategic commercial decisions by—

(*i*) one or more enterprises, either jointly or singly, over another enterprise or group; or

(*ii*) one or more groups, either jointly or singly, over another group or enterprise;

(*b*) "group" means two or more enterprises where one enterprise is directly or indirectly, in a position to—

(*i*) exercise twenty-six per cent. or such other higher percentage as may be prescribed, of the voting rights in the other enterprise; or

(*ii*) appoint more than fifty per cent. of the members of the board of directors in the other enterprise; or

(*iii*) control the management or affairs of the other enterprise;

(*c*) "turnover" means the turnover certified by the statutory auditor on the basis of the last available audited accounts of the company in the financial year immediately preceding the financial year in which the notice is filed under sub-section (*2*) or sub-section (*4*) of section 6 and such turnover in India shall be determined by excluding intra-group sales, indirect taxes, trade discounts and all amounts generated through assets or business from customers outside India, as certified by the statutory auditor on the basis of the last available audited accounts of the company in the financial year immediately preceding the financial year in which the notice is filed under sub-section (*2*) or sub-section (*4*) of section 6;

(*d*) "value of transaction" includes every valuable consideration, whether direct or indirect, or deferred for any acquisition, merger or amalgamation;

(*e*) the value of assets shall be determined by taking the book value of the assets as shown, in the audited books of account of the enterprise, in the financial year immediately preceding the financial year in which the date of proposed combination falls and if such financial statement has not yet become due to be filed with the Registrar under the Companies Act, 2013 then as per the statutory auditor's report made on the basis of the last available audited accounts of the company in the financial year

18 of 2013.

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immediately preceding the financial year in which the notice is filed under sub-section (*2*) or sub-section (*4*) of section 6, as reduced by any depreciation, and the value of assets shall include the brand value, value of goodwill, or value of copyright, patent, permitted use, collective mark, registered proprietor, registered trade mark, registered user, homonymous geographical indication, geographical indications, design or layout-design or similar other commercial rights under the laws provided in sub-section (*5*) of section 3;

(*f*) where a portion of an enterprise or division or business is being acquired, taken control of, merged or amalgamated with another enterprise, the value of assets or turnover or value of transaction as may be applicable, of the said portion or division or business or attributable to it, shall be the relevant assets or turnover or relevant value of transaction for the purpose of applicability of the thresholds under section 5.'.

Amendment of section 6.

7. In section 6 of the principal Act,—

(*a*) in sub-section (*2*),—

(*i*) for the words "within thirty days of", the words "after any of the following, but before consummation of the combination" shall be substituted;

(*ii*) in clause (*a*), after the word, brackets and letter "clause (*c*)", the words, brackets and letter "and clause (*d*)" shall be inserted;

(*iii*) in clause (*b*), after the word, brackets and letter "clause (*a*)", the words, brackets and letter "and clause (*d*)" shall be inserted;

(*iv*) the following *Explanation* shall be inserted, namely:—

'Explanation.—For the purposes of this sub-section, "other document" means any document, by whatever name called, conveying an agreement or decision to acquire control, shares, voting rights or assets or if the acquisition is without the consent of the enterprise being acquired, any document executed by the acquiring enterprise, by whatever name called, conveying a decision to acquire control, shares or voting rights or where a public announcement has been made in accordance with the provisions of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 made under the Securities and Exchange Board of India Act, 1992 for acquisition of shares, voting rights or control such public document.';

15 of 1992.

(*b*) in sub-section (*2A*),—

(*i*) for the words "two hundred and ten days", the words "one hundred and fifty days" shall be substituted;

(*ii*) the following proviso shall be inserted, namely:—

"Provided that in case the party to the combination requests for additional time to furnish relevant information or remove defects to the notice filed under sub-section (*2*), the Commission may, by order, grant additional time which shall not be more than thirty days for furnishing relevant information or removing defects, as the case may be.";

(*c*) in sub-section (*3*), for the words and figures "sections 29, 30 and 31", the words, figures and letter "sections 29, 29A, 30 and 31" shall be substituted;

(*d*) for sub-sections (*4*) and (*5*) and the *Explanation,* the following shall be substituted, namely:—

'(*4*) Notwithstanding anything contained in sub-sections (*2A*) and (*3*) and section 43A, if a combination fulfils such criteria as may be prescribed and is not

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otherwise exempted under this Act from the requirement to give notice to the Commission under sub-section (*2*), then notice for such combination may be given to the Commission in such form and on payment of such fee as may be specified by regulations, disclosing the details of the proposed combination and thereupon a separate notice under sub-section (*2*) shall not be required to be given for such combination.

(*5*) Upon filing of a notice under sub-section (*4*) and acknowledgement thereof by the Commission, the proposed combination shall be deemed to have been approved by the Commission under sub-section (*1*) of section 31 and no other approval shall be required under sub-section (*2*) or sub-section (*2A*).

(*6*) If within the period referred to in sub-section (*1*) of section 20, the Commission finds that the combination notified under sub-section (*4*) does not fulfil the requirements specified under that sub-section or the information or declarations provided are materially incorrect or incomplete, the approval under sub-section (*5*) shall be void *ab initio* and the Commission may pass such order as it may deem fit:

Provided that no such order shall be passed unless the parties to the combination have been given an opportunity of being heard.

(*7*) Notwithstanding anything contained in this section and section 43A, upon fulfilment of such criteria as may be prescribed, certain categories of combinations shall be exempted from the requirement to comply with sub-sections (*2*), (*2A*) and (*4*).

(*8*) Notwithstanding anything contained in sub-sections (*4*), (*5*), (*6*) and (*7*)—

(*i*) the rules and regulations made under this Act on the matters referred to in these sub-sections as they stood immediately before the commencement of the Competition (Amendment) Act, 2022 and in force at such commencement, shall continue to be in force, till such time as the rules or regulations, as the case may be, made under this Act; and

(*ii*) any order passed or any fee imposed or combination consummated or resolution passed or direction given or instrument executed or issued or thing done under or in pursuance of any rules and regulations made under this Act shall, if in force at the commencement of the Competition (Amendment) Act, 2022, continue to be in force, and shall have effect as if such order passed or such fee imposed or such combination consummated or such resolution passed or such direction given or such instrument executed or issued or done under or in pursuance of this Act.

(*9*) The provisions of this section shall not apply to share subscription or financing facility or any acquisition, by a public financial institution, foreign portfolio investor, bank or Category I alternative investment fund, pursuant to any covenant of a loan agreement or investment agreement.

Explanation.—For the purposes of this section, the expression—

(*a*) "Category I alternative investment fund" has the same meaning as assigned to it under the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992; 15 of 1992.

(*b*) "foreign portfolio investor" has the same meaning as assigned to it under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act,1992;'. 15 of 1992.

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8. After section 6 of the principal Act, the following section shall be inserted, namely:— Insertion of a new section 6A.

'6A. Nothing contained in sub-section (*2A*) of section 6 and section 43A shall prevent the implementation of an open offer or an acquisition of shares or securities convertible into other securities from various sellers, through a series of transactions on a regulated stock exchange from coming into effect, if— Open offers, etc.

(*a*) the notice of the acquisition is filed with the Commission within such time and in such manner as may be specified by regulations; and

(*b*) the acquirer does not exercise any ownership or beneficial rights or interest in such shares or convertible securities including voting rights and receipt of dividends or any other distributions, except as may be specified by regulations, till the Commission approves such acquisition in accordance with the provisions of sub-section (*2A*) of section 6 of the Act.

Explanation.—For the purposes of this section, "open offer" means an open offer made in accordance with the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011 made under the Securities and Exchange Board of India Act,1992.'.

15 of 1992.

9. In section 8 of the principal Act, in sub-section (*2*), after the word "industry,", the word "technology," shall be inserted. Amendment of section 8.

10. In section 9 of the principal Act, in sub-section (*1*), in clause (*d*), after the word, "industry,", the word "technology," shall be inserted. Amendment of section 9.

11. For section 12 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 12.

"12. (*1*) The Chairperson and other Members shall, for a period of two years from the date on which they cease to hold office, not accept any employment in or advise as a consultant, retainer or in any other capacity whatsoever, or be connected with the management or administration of— Restriction on employment of Chairperson and other members.

(*a*) any enterprise which is or has been a party to a proceeding before the Commission under this Act; or

(*b*) any person who appears or has appeared before the Commission under section 35.

(*2*) Notwithstanding anything contained in section 35, the Chairperson or any other member after retirement or otherwise ceasing to be in service for any reason shall not represent for any person or enterprise before the Commission:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in clause (*45*) of section 2 of the Companies Act, 2013.".

18 of 2013.

12. In section 16 of the principal Act, in sub-section (*1*), for the words "Central Government may, by notification", the words "Commission may, with the prior approval of the Central Government," shall be substituted. Amendment of section 16.

13. For section 18 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 18.

"18. Subject to the provisions of this Act, it shall be the duty of the Commission to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade carried on by other participants, in markets in India: Duties and functions of Commission.

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Provided that the Commission may, for the purpose of discharging its duties or performing its functions under this Act, enter into any memorandum or arrangement with the prior approval of the Central Government, with any agency of any foreign country:

Provided further that, the Commission may, for the purpose of discharging its duties or performing its functions under this Act, enter into any memorandum or arrangement with any statutory authority or department of Government.".

Amendment of section 19.

14. In section 19 of the principal Act,—

(*a*) in sub-section (*1*), the following provisos shall be inserted, namely:—

"Provided that the Commission shall not entertain an information or a reference unless it is filed within three years from the date on which the cause of action has arisen:

Provided further that an information or a reference may be entertained after the period specified in the first proviso if the Commission is satisfied that there had been sufficient cause for not filing the information or the reference within such period after recording its reasons for condoning such delay.";

(*b*) in sub-section (*3*),—

(*i*) in clause (*c*), the words "by hindering entry into the market" shall be omitted;

(*ii*) in clause (*d*), for the words "accrual of benefits", the words "benefits or harm" shall be substituted;

(*c*) in sub-section (*6*), after clause (*h*), the following clauses shall be inserted, namely:—

"(*i*) characteristics of goods or nature of services;

(*j*) costs associated with switching supply or demand to other areas.";

(*d*) in sub-section (*7*),—

(*i*) in clause (*a*), after the words "end-use of goods", the words "or the nature of services" shall be inserted;

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

"(*g*) costs associated with switching demand or supply to other goods or services;

(*h*) categories of customers;".

Amendment of section 20.

15. In section 20 of the principal Act,—

(*a*) in sub-section (*1*), for the words, brackets and letter "clause (*c*) of that section", the words, brackets, letters and figure "clause (*c*) of section 5 or acquisition of any control, shares, voting right or assets of an enterprise, merger or amalgamation referred to in clause (*d*) of that section" shall be substituted;

(*b*) in sub-section (*3*), after the words "value of turnover", the words "or the value of transaction" shall be inserted;

(*c*) in sub-section (*4*), in clause (*c*), for the word "combination", the word "concentration" shall be substituted.

Amendment of section 21.

16. In section 21 of the principal Act, in sub-section (*1*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that any statutory authority, may, *suo motu,* make a reference to the

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Commission on any issue that involves any provision of this Act or is related to promoting the objectives of this Act, as the case may be.".

Amendment of section 21A.

17. In section 21A of the principal Act, in sub-section (*1*),—

(*a*) for the words "this Act", the words "an Act" shall be substituted;

(*b*) for the proviso, the following proviso shall be substituted, namely:—

"Provided that the Commission, may, *suo motu*, make a reference to a statutory authority on any issue that involves provisions of an Act whose implementation is entrusted to that statutory authority.".

Amendment of section 22.

18. In section 22 of the principal Act, in sub-section (*3*), the words "and in the event of equality of votes, the Chairperson or in his absence, the Member presiding, shall have a second or casting vote" shall be omitted.

Amendment of section 26.

19. In section 26 of the principal Act,—

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

"(*2A*) The Commission may not inquire into agreement referred to in section 3 or conduct of an enterprise or group under section 4, if the same or substantially the same facts and issues raised in the information received under section 19 or reference from the Central Government or a State Government or a statutory authority has already been decided by the Commission in its previous order.";

(*b*) after sub-section (*3*), the following sub-sections shall be inserted, namely:—

"(*3A*) If, after consideration of the report of the Director General referred to in sub-section (*3*), the Commission is of the opinion that further investigation is required, it may direct the Director General to investigate further into the matter.

(*3B*) The Director General shall, on receipt of direction under sub-section (*3A*), investigate the matter and submit a supplementary report on his findings within such period as may be specified by the Commission.";

(*c*) in sub-section (*4*), for the word, brackets and figure "sub-section (*3*)", at both the places where they occur, the words, brackets, figures and letter "sub-sections (*3*) and (*3B*)" shall be substituted;

(*d*) in sub-section (*5*), for the word, brackets and figure "sub-section (*3*)", the words, brackets, figures and letter "sub-sections (*3*) and (*3B*)" shall be substituted;

(*e*) in sub-section (*8*), for the word, brackets and figure "sub-section (*3*)", the words, brackets, figures and letter "sub-sections (*3*) and (*3B*)" shall be substituted;

(*f*) after sub-section (*8*), the following sub-section shall be inserted, namely:—

"(*9*) Upon completion of the investigation or inquiry under sub-section (*7*) or sub-section (*8*), as the case may be, the Commission may pass an order closing the matter or pass an order under section 27, and send a copy of its order to the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be:

Provided that before passing such order, the Commission shall issue a show-cause notice indicating the contraventions alleged to have been committed and such other details as may be specified by regulations and give a reasonable opportunity of being heard to the parties concerned.".

Amendment of section 27.

20. In section 27 of the principal Act, for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) impose such penalty, as it may deem fit which shall be not more than ten per cent. of the average of the turnover or income, as the case may be, for the last three

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preceding financial years, upon each of such person or enterprise which is a party to such agreement or has abused its dominant position:

Provided that in case any agreement referred to in section 3 has been entered into by a cartel, the Commission may impose upon each producer, seller, distributor, trader or service provider included in that cartel, a penalty of up to three times of its profit for each year of the continuance of such agreement or ten per cent. of its turnover or income, as the case may be, for each year of the continuance of such agreement, whichever is higher.

Explanation.—For the purposes of this clause, the expression "turnover" or "income", as the case may be, shall be determined in such manner as may be specified by regulations.'.

Amendment of section 29.

21. In section 29 of the principal Act,—

(*a*) in sub-section (*1*), for the words "within thirty days", the words "within fifteen days" shall be substituted;

(*b*) after sub-section (*1A*), the following sub-section shall be inserted, namely:—

"(*1B*) The Commission shall, within twenty days of receipt of notice under sub-section (*2*) of section 6, form its *prima facie* opinion referred to in sub-section (*1*).";

(*c*) in sub-section (*2*),—

(*i*) for the words "within seven working days", the words "within seven days" shall be substituted;

(*ii*) for the words "within ten working days", the words "within seven days" shall be substituted;

(*d*) in sub-section (*3*), for the words "within fifteen working days", the words "within ten days" shall be substituted;

(*e*) in sub-section (*4*), for the words "within fifteen working days", the words "within seven days" shall be substituted;

(*f*) in sub-section (*5*), for the words "within fifteen days", the words "within ten days" shall be substituted;

(*g*) for sub-section (*6*), the following sub-sections shall be substituted, namely:—

"(*6*) After receipt of all information, the Commission shall proceed to deal with the case in accordance with the provisions contained in section 29A or section 31, as the case may be.

(*7*) Notwithstanding anything contained in this section, the Commission may accept appropriate modifications offered by the parties to the combination or *suo motu* propose modifications, as the case may be, before forming a *prima facie* opinion under sub-section (*1*).".

Insertion of new section 29A.

22. After section 29 of the principal Act, the following section shall be inserted, namely:—

Issue of statement of objections by Commission and proposal of modifications.

"29A. (*1*) Upon completion of the process under section 29, where the Commission is of the opinion that the combination has, or is likely to have, an appreciable adverse effect on competition, it shall issue a statement of objections to the parties identifying such appreciable adverse effect on competition and direct the parties to explain within twenty-five days of receipt of the statement of objections, why such combination should be allowed to take effect.

(*2*) Where the parties to the combination consider that such appreciable adverse effect on competition can be eliminated by suitable modification to such combination,

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they may submit an offer of appropriate modification to the combination along with their explanation to the statement of objections issued under sub-section (*1*) in such manner as may be specified by regulations.

(*3*) If the Commission does not accept the modification submitted by the parties under sub-section (*2*) it shall, within seven days from the date of receipt of the proposed modifications under that sub-section, communicate to the parties as to why the modification is not sufficient to eliminate the appreciable adverse effect on competition and call upon the parties to furnish, within twelve days of the receipt of the said communication, revised modification, if any, to eliminate the appreciable adverse effects on competition:

Provided that the Commission shall evaluate such proposal for modification within twelve days from receipt of such proposal:

Provided further that the Commission may *suo motu* propose appropriate modifications to the combination which may be considered by the parties to the combination.".

Amendment of section 31.

23. In section 31 of the principal Act,—

(*a*) in the marginal heading, the word "certain" shall be omitted;

(*b*) in sub-section (*1*), the words "including the combination" shall be omitted;

(*c*) after sub-section (*1*), the following proviso shall be inserted, namely:—

"Provided that if the Commission does not form a *prima facie* opinion as provided under sub-section (*1B*) of section 29, the combination shall be deemed to have been approved and no separate order shall be required to be passed.";

(*d*) for sub-sections (*3*), (*4*), (*5*) and (*6*), the following sub-sections shall be substituted, namely:—

"(*3*) Where the Commission is of the opinion that any appreciable adverse effect on competition that the combination has, or is likely to have, can be eliminated by modification proposed by the parties or the Commission, as the case may be, under sub-section (*7*) of section 29 or sub-section (*2*) or sub-section (*3*) of section 29A, it may approve the combination subject to such modifications as it thinks fit.

(*4*) Where a combination is approved by the Commission under sub-section (*3*), the parties to the combination shall carry out such modification within such period as may be specified by the Commission.

(*5*) Where—

(*a*) the Commission has directed under sub-section (*2*) that the combination shall not take effect; or

(*b*) the parties to the combination, fail to carry out the modification within such period as may be specified by the Commission under sub-section (*4*); or

(*c*) the Commission is of the opinion that the combination has, or is likely to have, an appreciable adverse effect on competition which cannot be eliminated by suitable modification to such combination,

then, without prejudice to any penalty which may be imposed or any prosecution which may be initiated under this Act, the Commission may order that such combination shall not be given effect to, or be declared void, or frame a scheme to be implemented by the parties to address the appreciable adverse effect on competition, as the case may be.

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(*6*) If no order is passed or direction issued by the Commission in accordance with the provisions of sub-section (*1*) or sub-section (*2*) or sub-section (*3*) or sub-section (*5*), as the case may be, within a period of one hundred and fifty days from the date of notice given to the Commission under sub-section (*2*) of section 6, the combination shall be deemed to have been approved by the Commission:

Provided that the Commission may, by order, extend the said period of one hundred and fifty days by such further period as it thinks fit, but not exceeding thirty days in case parties to the combination request for additional time to furnish relevant information or remove defects to the notice filed under sub-section (*2*) of section 6.".

(*e*) sub-sections (*7*), (*8*), (*9*), (*10*), (*11*) and (*12*) shall be omitted.

Amendment of section 32.

24. In section 32 of the principal Act, for the figures and word "29 and 30", the figures, letter and word "29, 29A and 30" shall be substituted.

Amendment of section 35.

25. Section 35 of the principal Act shall be numbered as sub-section (*1*) thereof,—

(*a*) in sub-section (*1*) as so numbered, for the words "A person or an enterprise", the words "A party" shall be substituted;

(*b*) after sub-section (*1*) as so numbered, the following sub-section shall be inserted, namely:—

"(*2*) Without prejudice to sub-section (*1*), a party may call upon experts from the fields of economics, commerce, international trade or from any other discipline to provide an expert opinion in connection with any matter related to a case.".

Amendment of section 41.

26. In section 41 of the principal Act,—

(*a*) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) Without prejudice to sub-section (*2*), it shall be the duty of all officers, other employees and agents of a party which are under investigation—

(*a*) to preserve and to produce all information, books, papers, other documents and records of, or relating to, the party which are in their custody or power to the Director General or any person authorised by it in this behalf; and

(*b*) to give all assistance in connection with the investigation to the Director General.

(*4*) The Director General may require any person other than a party referred to in sub-section (*3*) to furnish such information or produce such books, papers, other documents or records before it or any person authorised by it in this behalf if furnishing of such information or the production of such books, papers, other documents or records is relevant or necessary for the purposes of its investigation.

(*5*) The Director General may keep in his custody any information, books, papers, other documents or records produced under sub-section (*3*) or sub-section (*4*) for a period of one hundred and eighty days and thereafter shall return the same to the person by whom or on whose behalf the information, books, papers, other documents or records were produced:

Provided that the information, books, papers, other documents or records may be called for by the Director General if they are needed again for a further period of one hundred and eighty days by an order in writing:

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Provided further that the certified copies of the information, books, papers, other documents or records, as may be applicable, produced before the Director General may be provided to the party or person on whose behalf the information, books, papers, other documents or records are produced at their own cost.

(*6*) The Director General may examine on oath—

(*a*) any of the officers and other employees and agents of the party being investigated; and

(*b*) with the previous approval of the Commission, any other person,

in relation to the affairs of the party being investigated and may administer an oath accordingly and for that purpose may require any of those persons to appear before it personally.

(*7*) The examination under sub-section (*6*) shall be recorded in writing and shall be read over to or by, and signed by, the person examined and may thereafter be used in evidence against it.

(*8*) Where in the course of investigation, the Director General has reasonable grounds to believe that information, books, papers, other documents or records of, or relating to, any party or person, may be destroyed, mutilated, altered, falsified or secreted, the Director General may make an application to the Chief Metropolitan Magistrate, Delhi for an order for seizure of such information, books, papers, other documents or records.

(*9*) The Director General may make requisition of the services of any police officer or any officer of the Central Government to assist him for all or any of the purposes specified in sub-section (*10*) and it shall be the duty of every such officer to comply with such requisition.

(*10*) The Chief Metropolitan Magistrate, Delhi may, after considering the application and hearing from the Director General, by order, authorise the Director General—

(*a*) to enter, with such assistance, as may be required, the place or places where such information, books, papers, other documents or records are kept;

(*b*) to search that place or places in the manner specified in the order; and

(*c*) to seize information, books, papers, other documents or records as it considers necessary for the purpose of the investigation:

Provided that certified copies of the seized information, books, papers, other documents or records, as the case may be, may be provided to the party or person from whose place or places such documents have been seized at its cost.

(*11*) The Director General shall keep in his custody such information, books, papers, other documents or records seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the party or person from whose custody or power they were seized and inform the Chief Metropolitan Magistrate, of such return:

Provided that the Director General may, before returning such information, books, papers, other documents or records take copies of, or extracts thereof or place identification marks on them or any part thereof.

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(*12*) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to search or seizure made under that Code."; 2 of 1974.

(*b*) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

'*Explanation*.—For the purposes of this section,—

(*a*) "agent", in relation to any person, means, any one acting or purporting to act for or on behalf of such person, and includes the bankers and legal advisers of, and persons employed as auditors by, such person;

(*b*) "officers", in relation to any company or body corporate, includes any trustee for the debenture holders of such company or body corporate;

(*c*) any reference to officers and other employees or agents shall be construed as a reference to past as well as present officers and other employees or agents, as the case may be.'.

Amendment of section 42.

27. In section 42 of the principal Act,—

(*a*) in sub-section (*2*), for the words, figures and letters "sections 27, 28, 31, 32, 33, 42A and 43A of the Act, he shall be punishable with fine", the words, figures and letters "sections 6, 27, 28, 31, 32, 33, 42A, 43, 43A, 44 and 45 of the Act, he shall be liable to a penalty" shall be substituted;

(*b*) in sub-section (*3*), for the words, brackets and figure "pay the fine imposed under sub-section (*2*)", the words, brackets and figure "pay the penalty imposed under sub-section (*2*)" shall be substituted.

Amendment of section 42A.

28. In section 42A of the principal Act, for the words and figures "under sections 27", the words and figures "under sections 6, 27" shall be substituted.

Amendment of section 43.

29. In section 43 of the principal Act, for the words "shall be punishable with fine", the words "shall be liable to a penalty" shall be substituted.

Substitution of new section for section 43A.

30. For section 43A of the principal Act, the following section shall be substituted,—

Power to impose penalty for non-furnishing of information on combination.

"43A. If any person or enterprise fails to give notice to the Commission under sub-section (*2*) or sub-section (*4*) of section 6 or contravenes sub-section (*2A*) of section 6 or submit information pursuant to an inquiry under sub-section (*1*) of section 20, the Commission may impose on such person or enterprise, a penalty which may extend to one per cent., of the total turnover or assets or the value of transaction referred to in clause (*d*) of section 5, whichever is higher, of such a combination:

Provided that in case any person or enterprise has given a notice under sub-section (*4*) of section 6 and such notice is found to be void *ab initio* under sub-section (*6*) of section 6, then a notice under sub-section (*2*) of section 6 may be given by the acquirer or parties to the combination, as may be applicable, within a period of thirty days of the order of the Commission under sub-section (*6*) of that section and no action under this section shall be taken by the Commission till the expiry of such period of thirty days.".

Amendment of section 44.

31. In section 44 of the principal Act, for the words "rupees one crore", the words "rupees five crore" shall be substituted.

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Amendment of section 45.

32. In section 45 of the principal Act,—

(*a*) in the marginal heading, for the word "offences", the word "contraventions" shall be substituted;

(*b*) in sub-section (*1*),—

(*i*) after the words "Without prejudice to the provisions of", the words, brackets and figures "sub-section (*6*) of section 6 and" shall be inserted;

(*ii*) for the words "punishable with fine", the words "liable to a penalty" shall be substituted.

Substitution of new section for section 46.

33. For section 46 of the principal Act, the following section shall be substituted, namely:—

Power to impose lesser penalty.

"46. (*1*) The Commission may, if it is satisfied that any producer, seller, distributor, trader or service provider included in any cartel, which is alleged to have violated section 3, has made a full and true disclosure in respect of the alleged violations and such disclosure is vital, impose upon such producer, seller, distributor, trader or service provider a lesser penalty as may be specified by regulations, than leviable under this Act or the rules or the regulations made under this Act:

Provided that lesser penalty shall not be imposed by the Commission in cases where the report of investigation directed under section 26 has been received before making of such disclosure:

Provided further that lesser penalty shall be imposed by the Commission only in respect of a producer, seller, distributor, trader or service provider included in the cartel, who has made the full, true and vital disclosures under this section:

Provided also that lesser penalty shall not be imposed by the Commission if the person making the disclosure does not continue to co-operate with the Commission till the completion of the proceedings before the Commission:

Provided also that the Commission may, if it is satisfied that such producer, seller, distributor, trader or service provider included in the cartel had in the course of proceedings,—

(*a*) not complied with the condition on which the lesser penalty was imposed by the Commission; or

(*b*) had given false evidence; or

(*c*) the disclosure made is not vital,

and thereupon such producer, seller, distributor, trader or service provider may be tried for the contravention with respect to which the lesser penalty was imposed and shall also be liable to the imposition of penalty to which such person has been liable, had lesser penalty not been imposed.

(*2*) The Commission may allow a producer, seller, distributor, trader or service provider included in the cartel, to withdraw its application for lesser penalty under this section, in such manner and within such time as may be specified by regulations.

(*3*) Notwithstanding anything contained in sub-section (*2*), the Director General and the Commission shall be entitled to use for the purposes of this Act, any evidence submitted by a producer, seller, distributor, trader or service provider in its application for lesser penalty, except its admission.

(*4*) Where during the course of the investigation, a producer, seller, distributor, trader or service provider who has disclosed a cartel under sub-section (*1*), makes a full, true and vital disclosure under sub-section (*1*) with respect to another cartel in which it is alleged to have violated section 3, which enables the Commission to form a *prima facie* opinion under sub-section (*1*) of section 26 that there exists another cartel, then the Commission may impose upon such producer, seller,

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distributor, trader or service provider a lesser penalty as may be specified by regulations, in respect of the cartel already being investigated, without prejudice to the producer, seller, distributor, trader or service provider obtaining lesser penalty under sub-section (*1*) regarding the newly disclosed cartel.".

Amendment of section 47.

34. For section 47 of the principal Act, after the word "penalties", the words "and recovery of legal costs by the Commission" shall be inserted.

Substitution of new sections for section 48.

35. For section 48 of the principal Act, the following sections shall be substituted, namely:—

Contravention by companies.

'48. (*1*) Where a person committing contravention of any of the provisions of this Act or of any rule, regulation, order made or direction issued thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be in contravention of this Act and unless otherwise provided in this Act, the Commission may impose such penalty on such persons, as it may deem fit which shall not be more than ten per cent. of the average of the income for the last three preceding financial years:

Provided that in case any agreement referred to in sub-section (*3*) of section 3 has been entered into by a cartel, the Commission may unless otherwise provided in this Act, impose upon such persons referred to in sub-section (*1*), a penalty of up to ten per cent. of the income for each year of the continuance of such agreement.

(*2*) Nothing contained in sub-section (*1*) shall render any such person liable to any penalty if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(*3*) Notwithstanding anything contained in sub-section (*1*), where a contravention of any of the provisions of this Act or of any rule, regulation, order made or direction issued thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be in contravention of the provisions of this Act and unless otherwise provided in this Act, the Commission may impose such penalty on such persons, as it may deem fit which shall not be more than ten per cent. of the average of the income for the last three preceding financial years:

Provided that in case any agreement referred to in sub-section (*3*) of section 3 has been entered into by a cartel, the Commission may, unless otherwise provided under this Act, impose upon such person a penalty as it may deem fit which shall not exceed ten per cent. of the income for each year of the continuance of such agreement.

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate and includes a firm or other association of individuals;

(*b*) "director", in relation to a firm, means a partner in the firm;

(*c*) "income", in relation to a person, shall be determined in such manner as may be specified by regulations.'.

Settlement.

48A. (*1*) Any enterprise, against whom any inquiry has been initiated under sub-section (*1*) of section 26 for contravention of sub-section (*4*) of section 3 or section 4, may, for settlement of the proceeding initiated for the alleged contraventions, submit an application in writing to the Commission in such form and upon payment of such fee as may be specified by regulations.

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(*2*) An application under sub-section (*1*) may be submitted at any time after the receipt of the report of the Director General under sub-section (*4*) of section 26 but prior to such time before the passing of an order under section 27 or section 28 as may be specified by regulations.

(*3*) The Commission may, after taking into consideration the nature, gravity and impact of the contraventions, agree to the proposal for settlement, on payment of such amount by the applicant or on such other terms and manner of implementation of settlement and monitoring as may be specified by regulations.

(*4*) While considering the proposal for settlement, the Commission shall provide an opportunity to the party concerned, the Director General, or any other party to submit their objections and suggestions, if any.

(*5*) If the Commission is of the opinion that the settlement offered under sub-section (*1*) is not appropriate in the circumstances or if the Commission and the party concerned do not reach an agreement on the terms of the settlement within such time as may be specified by regulations, it shall, by order, reject the settlement application and proceed with its inquiry under section 26.

(*6*) The procedure for conducting the settlement proceedings under this section shall be such as may be specified by regulations.

(*7*) No appeal shall lie under section 53B against any order passed by the Commission under this section.

(*8*) All settlement amounts, realised under this Act shall be credited to the Consolidated Fund of India.

Commitment.

48B. (*1*) Any enterprise, against whom any inquiry has been initiated under sub-section (*1*) of section 26 for contravention of sub-section (*4*) of section 3 or section 4, as the case may be, may submit an application in writing to the Commission, in such form and on payment of such fee as may be specified by regulations, offering commitments in respect of the alleged contraventions stated in the Commission's order under sub-section (*1*) of section 26.

(*2*) An offer for commitments under sub-section (*1*) may be submitted at any time after an order under sub-section (*1*) of section 26 has been passed by the Commission but within such time prior to the receipt by the party of the report of the Director General under sub-section (*4*) of section 26 as may be specified by regulations.

(*3*) The Commission may, after taking into consideration the nature, gravity and impact of the alleged contraventions and effectiveness of the proposed commitments, accept the commitments offered on such terms and the manner of implementation and monitoring as may be specified by regulations.

(*4*) While considering the proposal for commitment, the Commission shall provide an opportunity to the party concerned, the Director General, or any other party to submit their objections and suggestions, if any.

(*5*) If the Commission is of the opinion that the commitment offered under sub-section (*1*) is not appropriate in the circumstances or if the Commission and the party concerned do not reach an agreement on the terms of the commitment, it shall pass an order rejecting the commitment application and proceed with its inquiry under section 26 of the Act.

(*6*) The procedure for commitments offered under this section shall be such as may be specified by regulations.

(*7*) No appeal shall lie under section 53B against any order passed by the Commission under this section.

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Revocation of the settlement or commitment order and penalty.

48C. If an applicant fails to comply with the order passed under section 48A or section 48B or it comes to the notice of the Commission that the applicant has not made full and true disclosure or there has been a material change in the facts, the order passed under section 48A or section 48B, as the case may be, shall stand revoked and withdrawn and such enterprise shall be liable to pay legal costs incurred by the Commission which may extend to rupees one crore and the Commission may restore or initiate the inquiry in respect of which the order under section 48A or section 48B was passed.'.

Amendment of section 49.

36. In section 49 of the principal Act, in sub-section (*3*), after the words "competition advocacy", the words "or culture" shall be inserted.

Amendment of section 51.

37. In section 51 of the principal Act, in sub-section (*1*), after clause (*d*), the following clause shall be inserted, namely:—

"(*e*) all sums received by the Commission from such other sources as may be decided upon by the Government.".

Amendment of section 53A.

38. In section 53A of the principal Act, in sub-section (*1*), in clause (*a*), for the words, brackets and figures "sub-sections (*2*) and (*6*) of section 26", the words, brackets, figures and letter "sub-section (*6*) of section 6, sub-sections (*2*), (*2A*), (*6*) and (*9*) of section 26", shall be substituted.

Amendment of section 53B.

39. In section 53B, in sub-section (*2*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the Commission, shall be entertained by the Appellate Tribunal unless the appellant has deposited twenty-five per cent. of that amount in the manner as directed by the Appellate Tribunal.".

Amendment of section 53N.

40. In section 53N of the principal Act,—

(*a*) in sub-section (*1*), for the words, brackets, figures and letter "under sub-section (*2*) of section 53Q", the words, brackets, figures and letters "under sub-section (*2*) of section 53Q or the orders of the Supreme Court in an appeal against the findings of the Appellate Tribunal under section 53T" shall be substituted;

(*b*) in sub-section (*2*), after the words "findings of the Commission", the words "or Appellate Tribunal or the Supreme Court" shall be inserted;

(*c*) in the *Explanation*,—

(*i*) in clause (*a*), after the words, brackets, figures and letter "sub-section (*1*) of section 53A", the words, figures and letter "or the Supreme Court on appeal under section 53T" shall be inserted;

(*ii*) in clause (*b*), after the words "or the Appellate Tribunal", the words "or the Supreme Court," shall be inserted.

Amendment of section 53Q.

41. In section 53Q of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Without prejudice to the provisions of this Act, if any person contravenes, without any reasonable ground, any order of the Appellate Tribunal, he shall be liable for contempt proceeding under section 53U.".

Insertion of new section 59A.

42. After section 59 of the principal Act, the following section shall be inserted, namely:—

Compounding of certain offences.

"59A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with 2 of 1974.

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imprisonment only or imprisonment and also with fine, may either before or after the institution of any proceeding, be compounded by the Appellate Tribunal or a court before which such proceeding is pending.".

Amendment of section 63.

43. In section 63 of the principal Act, in sub-section (*2*),—

(*i*) clause (*a*) shall be re-lettered as clause (*ae*) thereof, and before clause (*ae*) as so re-lettered, the following clauses shall be inserted, namely:—

"(*a*) the value of the assets or turnover of the enterprise acquired, taken control of, merged or amalgamated in India under clause (*e*) of section 5;

(*ab*) the percentage of voting rights higher than twenty-six per cent. under sub-clause (*i*) of clause (*b*) of the *Explanation* to section 5;

(*ac*) the criteria of combinations under sub-section (*4*) of section 6;

(*ad*) the criteria under sub-section (*7*) of section 6;";

(*ii*) after clause (*mf*), the following clause shall be inserted, namely:—

"(*mg*) the form of the publication of guidelines under sub-section (*5*) of section 64B;".

Amendment of section 64.

44. In section 64 of the principal Act, in sub-section (*2*),—

(*i*) for clause (*c*), the following clauses shall be substituted, namely:—

"(*c*) the manner of determination of substantial business operations in India under clause (*d*) of section 5;

(*ca*) the form and fee for notice for combination under sub-section (*4*) of section 6;

(*cb*) the time and manner for filing notice of acquisition under clause (*a*) of section 6A;

(*cc*) the manner and circumstance in which the acquirer may exercise the ownership or beneficial right or interest in shares or convertible securities including voting right and receipt of dividends or any other distributions as an exception under clause (*b*) of section 6A;";

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

"(*fa*) other details to be indicated in the show-cause notice under sub-section (*9*) of section 26;

(*fb*) the manner of determining turnover or income under the *Explanation* to clause (*b*) of section 27;

(*fc*) the manner in which modification may be proposed by parties to the combination to the Commission under sub-section (*2*) of section 29A;";

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

"(*ga*) the lesser penalty to be imposed on producer, seller, distributor, trader or service provider under sub-section (*1*) of section 46;

(*gb*) the manner and time for withdrawal of application for lesser penalty under sub-section (*2*) of section 46;

(*gc*) the lesser penalty to be imposed on producer, seller, distributor, trader or service provider under sub-section (*4*) of section 46;

(*gd*) the manner of determining income under clause (*c*) of *Explanation* to section 48;

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(*ge*) the form of application and fee under sub-section (*1*), the time under sub-section (*2*), the terms and manner of implementations and monitoring under sub-section (*3*) and the procedure for conducting settlement proceedings under sub-section (*6*) of section 48A;

(*gf*) the form of application and fee under sub-section (*1*), the time under sub-section (*2*), the terms and manner of implementations and monitoring under sub-section (*3*) and the procedure for commitments offered under sub-section (*6*) of section 48B;

(*gg*) the other details to be published along with draft regulations and the period for inviting public comments under clause (*a*) of section 64A;".

Insertion of new sections 64A and 64B.

45. After section 64 of the principal Act, the following sections shall be inserted, namely:—

Process of issuing regulations.

"64A. The Commission shall ensure transparency while making regulations under section 64, by—

(*a*) publishing draft regulations along with such other details as may be specified on its website and inviting public comments for a specified period prior to issuing regulations;

(*b*) publishing a general statement of its response to the public comments, not later than the date of notification of the regulations;

(*c*) periodically reviewing such regulations:

Provided that if the Commission is of the opinion that certain regulations are required to be made or existing regulations are required to be amended urgently in public interest or the subject matter of the regulation relates solely to the internal functioning of the Commission, it may make regulations or amend the existing regulations, as the case may be, without following the provisions stated in this section recording the reason for doing so.

Commission to issue guidelines.

64B. (*1*) The Commission may publish guidelines on the provisions of this Act or the rules and regulations made thereunder either on a request made by a person or on its own motion.

(*2*) Guidelines issued under sub-section (*1*) shall not be construed as determination of any question of fact or law by the Commission, its Members or officers and shall not be binding on the Commission, its Members or officers.

(*3*) Without prejudice to anything contained in sub-section (*1*), the Commission shall publish guidelines as to the appropriate amount of any penalty for any contravention of provision of this Act.

(*4*) While imposing penalty under clause (*b*) of section 27 or under section 43A or section 48 for any contravention of provision of this Act, the Commission shall consider the guidelines under sub-section (*3*) and provide reasons in case of any divergence from such guidelines.

(*5*) The guidelines under sub-sections (*1*) and (*3*) shall be published in such form as may be prescribed.".

STATEMENT OF OBJECTS AND REASONS

The Competition Act, 2002 (hereinafter referred to as the said Act) was enacted in the year 2002, to provide for establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants, in India, and for matters connected therewith or incidental thereto.

2. There has been a significant growth of Indian markets and a paradigm shift in the way businesses operate in the last decade. In view of the economic development, emergence of various business models and the experience gained out of the functioning of the Commission, the Government of India constituted Competition Law Review Committee, to examine and suggest the modifications in the said Act. After review of the recommendations proposed by the Committee, public consultations and with a view to provide regulatory certainty and trust-based business environment, it is considered imperative to amend the said Act.

3. The Competition (Amendment) Bill, 2022, *inter alia*, provides for the following, namely:—

(a) changes in certain definitions like "enterprise", "relevant product market", "Group", "Control", etc., to provide clarity;

(b) broadening the scope of anti-competitive agreements and inclusion of a party facilitating an anti-competitive horizontal agreement under such agreements;

(c) provisions for reduction of time-limit for approval of combinations from two hundred and ten days to one hundred and fifty days and forming a *prima facie* opinion by the Commission within twenty days for expeditious approval of combinations;

(d) provisions for "value of transaction" as another criteria for notifying combinations to the Commission;

(*e*) limitation period of three years for filing information on anti-competitive agreements and abuse of dominant position before the Commission;

(f) appointment of the Director General by the Commission with the prior approval of the Central Government;

(g) introduction of Settlement and Commitment framework to reduce litigations;

(h) incentivising parties in an ongoing cartel investigation in terms of lesser penalty to disclose information regarding other cartels;

(i) substitution of a provision which provides for penalty up to rupees one crore or imprisonment up to three years or both in case of contravention of any order of the National Company Law Appellate Tribunal with provision for contempt;

(j) issuance of guidelines including on penalties to be imposed by the Commission.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 28*th July,* 2022.

NIRMALA SITHARAMAN

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Notes on Clauses

Clause 1 of the Bill seeks to provide for short title and commencement of the Act.

Clause 2 of the Bill seeks to substitute the reference of Companies Act, 1956 to Companies Act, 2013 throughout the Act.

Clause 3 of the Bill seeks to amend certain definitions of the Act such as 'enterprise', 'relevant product market', etc.

Clause 4 of the Bill seeks to amend section 3 of the Act to broaden the scope of anti-competitive agreements and also to include a party facilitating an anti-competitive horizontal agreement under such agreements.

Clause 5 of the Bill seeks to amend section 4 of the Act to omit the word "discriminatory" in the *Explanation* to clause (*a*) of sub-section (*2*) of the said section.

Clause 6 of the Bill seeks to amend section 5 of the Act to insert new clauses (*d*) and (e) to provide that if the value of any transaction in connection with acquisition of any control, shares, voting rights, etc., exceeds Rs. 2,000 crore, it would require filing a notice of combination before the Commission and to empower the Central Government to exempt certain transactions from the requirement to file combination notice under the Act. It further provides to substitute the *Explanation* to define the terms of turnover, value of transaction, etc.

Clause 7 of the Bill seeks to amend section 6 of the Act to omit the reference of 30 days and to reduce the overall time limit of assessment of combinations to a period of 150 days from 210 days. It further provides to enable the Commission to extend the time limit up to a maximum period of 30 days to accommodate the request of parties to file additional information or to remove defects in the notice. It also provides to introduce a separate channel for certain combinations which shall be eligible for deemed approval upon filing of a notice under sub-section (*4*) of section 6 of the Act.

Clause 8 of the Bill seeks to insert a new section 6A after section 6 of the Act to provide that the provisions contained in sub-section (*2A*) shall not prevent the implementation of an open offer or an acquisition of shares or securities convertible into other securities from various sellers through a series of transactions on a regulated stock exchange from coming into effect with certain conditions.

Clause 9 of the Bill seeks to amend section 8 of the Act which refers to the composition of the Commission to amend sub-section (*2*) by including additional qualification for such Members in the field of technology.

Clause 10 of the Bill seeks to amend section 9 of the Act which refers to the composition of the selection committee for Chairperson and Members and also seeks to introduce knowledge and experience in the field of technology as additional criteria for the members of the selection committee.

Clause 11 of the Bill seeks to substitute section 12 of the Act to restrict the acceptance of employment by Chairperson and Members of the Commission within a period of 2 years from the date of ceasing the office.

Clause 12 of the Bill seeks to amend section 16 of the Act to empower the Commission to appoint the Director General with the prior approval of the Central Government.

Clause 13 of the Bill seeks to substitute section 18 of the Act to enable the Commission to eliminate practices having adverse effect on competition, promote and sustain competition,

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protect the interest of consumers and enter into a memorandum or arrangement with department of Government or statutory bodies.

Clause 14 of the Bill seeks to amend section 19 of the Act to provide that the Commission shall not entertain any information or reference beyond the period of three years from the date of cause of action. However, the Commission may condone the delay if it is satisfied with the reasons given by the parties.

Clause 15 of the Bill seeks to amend section 20 of the Act to substitute the term "combination" with "concentration" and insert "value of transaction".

Clause 16 of the Bill seeks to amend section 21 of the Act in order to broaden the grounds on which the statutory authorities may *suo motu* make a reference to the Commission.

Clause 17 of the Bill seeks to amend section 21A of the Act to allow the statutory authority to make a reference *suo motu* to the Commission on any issue which involves any provision of the Act or is relating to promoting the objectives of this Act.

Clause 18 of the Bill seeks to amend section 22 of the Act to omit certain references.

Clause 19 of the Bill seeks to amend section 26 of the Act to enable the Commission to pass orders without conducting an inquiry for closure of certain cases; to direct the Director General to investigate the matter and to submit a supplementary report on his finding to enable the Commission to pass an order in this regard.

Clause 20 of the Bill seeks to amend section 27 to empower the Commission to pass orders in relation to anti-competitive agreements and the abuse of dominant position by inserting a reference to income.

Clause 21 of the Bill seeks to amend section 29 of the Act to provide that the Commission shall form *prima facie* opinion within 20 days of receipt of notice under sub-section (*2*) of section 6 and further to reduce the period of the completion of investigation within 150 days instead of 210 days.

Clause 22 of the Bill seeks to insert a new section 29A for issuance of statement of objections by the Commission and proposal of modifications.

Clause 23 of the Bill seeks to amend section 31 of the Act to omit the word "certain" and provides that combination shall be deemed to have been approved and no separate order shall be required if the Commission does not form a *prima facie* opinion within 20 days as provided under sub-section (*IB*) of section 29.

Clause 24 of the Bill seeks to amend section 32 of the Act to make a reference of 29A therein.

Clause 25 of the Bill seeks to amend section 35 of the Act to insert sub-section (*2*) to enable a party to call upon experts from the fields of economics, commerce, international trade or any other discipline for an expert opinion in relation to a case before the Commission.

Clause 26 of the Bill seeks to amend section 41 of the Act to provide procedure for investigation, inquiry, etc. and powers of the Director General to investigate the contravention of any provision of the Act.

Clause 27 of the Bill seeks to amend section 42 of the Act to substitute the words "punishable with fine" with the words "liable to a penalty" and to make a reference of sections 6, 43, 44 and 45 of the Act.

Clause 28 of the Bill seeks to amend section 42A of the Act to make a reference of section 6.

Clause 29 of the Bill seeks to amend section 43 of the Act to substitute the words "punishable with fine" with the words "liable to a penalty".

Clause 30 of the Bill seeks to amend section 43A of the Act to empower the Commission to impose penalty for non-furnishing of information in relation to combination.

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Clause 31 of the Bill seeks to amend section 44 of the Act to enhance the penalty from rupees one crore to rupees five crore.

Clause 32 of the Bill seeks to amend section 45 of the Act to substitute the word "offences" with the word "contraventions" and to make a reference of sub-section (*6*) of section 6 and to substitute the words "punishable with fine" with the words "liable to a penalty".

Clause 33 of the Bill seeks to substitute section 46 of the Act which empower the Commission to impose lesser penalty as may be specified by regulation.

Clause 34 of the Bill seeks to amend section 47 of the Act to empower the Commission to recover legal cost in addition to penalty.

Clause 35 of the Bill seeks to substitute section 48 of the Act to provide for the liability of a person in case of contravention made by the company for contravention of any provisions of the Act, rules, regulations, order or directions issued or made thereunder, to a penalty which shall not be more than ten per cent. of the average of the income for the last three preceding financial years and with certain other provisions. It further seeks to insert new sections 48A, 48B and 48C to provide for various provisions with regard to settlement, commitment, order and, payment of legal costs with its revocation.

Clause 36 of the Bill seeks to amend section 49 of the Act to insert the word "or culture" after the words, "competition advocacy" in order to broaden the grounds of competition advocacy.

Clause 37 of the Bill seeks to amend section 51 of the Act to insert a new clause (*e*) in sub-section (*1*) to receive sums by the Commission from other sources as may be decided by the Government.

Clause 38 of the Bill seeks to amend section 53 of the Act to make reference of certain sub-sections of section 26.

Clause 39 of the Bill seeks to amend section 53B of the Act to insert a proviso in sub-section (*2*) to empower the appellate tribunal not to entertain an appeal unless the appellant deposits twenty-five per cent. of the amount of penalty imposed by the Commission.

Clause 40 of the Bill seeks to amend section 53N of the Act to allow the parties to file the application for compensation from orders of the Supreme Court in an appeal against the findings of the Appellate Tribunal under section 53T of the Act.

Clause 41 of the Bill seeks to amend section 53Q of the Act to provide contempt proceeding under section 53U if any person contraventions any order of the Appellate Tribunal.

Clause 42 of the Bill seeks to insert new section 59A of the Act to provide the offences punishable under this Act, not being an offence punishable with the imprisonment only or imprisonment and also with fine shall be compoundable.

Clause 43 of the Bill seeks to amend section 63 of the Act to provide certain provisions for the purpose of making rules by the Central Government.

Clause 44 of the Bill seeks to amend section 64 of the Act to provide certain provisions for the purpose of making regulations by the Commission.

Clause 45 of the Bill seeks to insert new sections 64A and 64B to provide for process of issuing regulations and guidelines.

FINANCIAL MEMORANDUM

The Bill does not involve any expenditure, recurring or non-recurring, from the Consolidated Fund of India.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 43 of the Bill seeks to amend section 63 of the Competition Act, 2002.This clause empowers the Central Government to make rules for the purposes of carrying out the provisions of the proposed legislation. Such rules, may, *inter alia,* provide for (*i*) the value of the assets or turnover of the enterprise to be acquired, taken control of, merged or amalgamated in India under clause (*e*) of section 5; (*ii*) the percentage of voting rights higher than twenty-six percentage under sub-clause (*i*) of clause (*b*) of the *Explanation* of section 5; (*iii*) the criteria for combinations under sub-section (*4*) of section 6; (*iv*) the criteria under sub-section (*7*) of section 6; (*v*) the form for the publication of guidelines under sub-section (*5*) of section 64B.

Clause 44 of the Bill seeks to amend section 64 of the Competition Act, 2002. This clause empowers the Competition Commission of India to make regulations, consistent with the provisions of the Bill and rules made thereunder, for the purposes of carrying out the provisions of the proposed legislation. Such regulations may, *inter alia*, provide for (*i*) the manner of determination of substantial business operations in India under clause (*d*) of section 5; (*ii*) the form and fees for notice for combination under sub-section (*4*) of section 6; (*iii*) the time and manner for filing notice of acquisition under clause (*a*) of section 6A; (*iv*) the manner and circumstance in which the acquirer may exercise the ownership or beneficial right or interest in shares or convertible securities including voting right and receipt of dividends or any other distributions as an exception under clause (*b*) of section 6A; (*v*) the other details to be indicated in the show-cause notice under sub-section (*9*) of section 26; (*vi*) the manner of determining turnover or income under the *Explanation* to clause (*b*) of section 27; (*vii*) the manner in which modification may be proposed by parties to the combination to the Commission under sub-section (*2*) of section 29A; (*viii*) the lesser penalty to be imposed on producer, seller, distributor, trader or service provider under sub-section (*1*) of section 46; (*ix*) the manner and time for withdrawal of application for lesser penalty under sub-section (*2*) of section 46; (*x*) the lesser penalty to be imposed on producer, seller, distributor, trader or service provider under sub-section (*4*) of section 46; (*xi*) the manner of determining income under clause (*c*) of *Explanation* to section 48; (*xii*) the form of application and fee under sub-section (*1*), the time under sub-section (*2*) and the terms and manner of implementation and monitoring under sub-section (*3*) and the procedure for conducting settlement proceedings under sub-section (*6*) of section 48A, (*xiii*) the form of application and fee under sub-section (*1*), the time under sub-section (*2*), terms and manner of implementations and monitoring under sub-section (*3*) and procedure for commitments offered under sub-section (*6*) of section 48B; (*xiv*) the other details to be published along with draft regulations and the period for inviting public comments under clause (*a*) of section 64A.

The rules and regulations made under the proposed legislation shall be required to be laid before each House of Parliament.

The matter in respect of which rules and regulations may be made under the aforesaid provisions are matters of detail or of procedural in nature and administrative details and it is not practical to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE COMPETITION ACT, 2002

(12 OF 2003)

* * * * *

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

* * * * *

(*h*) "enterprise" means a person or a department of the Government, who or which is, or has been, engaged in any activity, relating to the production, storage, supply, distribution, acquisition or control of articles or goods, or the provision of services, of any kind, or in investment, or in the business of acquiring, holding, underwriting or dealing with shares, debentures or other securities of any other body corporate, either directly or through one or more of its units or divisions or subsidiaries, whether such unit or division or subsidiary is located at the same place where the enterprise is located or at a different place or at different places, but does not include any activity of the Government relatable to the sovereign functions of the Government including all activities carried on by the departments of the Central Government dealing with atomic energy, currency, defence and space.

* * * * *

(*l*) "person" includes—

* * * * *

(*vi*) any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the
1 of 1956. Companies Act, 1956;

* * * * *

(*p*) "public financial institution" means a public financial institution specified
1 of 1956. under section 4A of the Companies Act, 1956 and includes a State Financial, Industrial or Investment Corporation;

* * * * *

(*t*) "relevant product market" means a market comprising all those products or services which are regarded as interchangeable or substitutable by the consumer, by reason of characteristics of the products or services, their prices and intended use;

* * * * *

CHAPTER II

PROHIBITION OF CERTAIN AGREEMENTS, ABUSE OF DOMINANT POSITION AND REGULATION OF COMBINATIONS

Prohibition of agreements

3. (*1*)* * * * * Anti-competitive agreements.

(*3*) Any agreement entered into between enterprises or associations of enterprises or persons or associations of persons or between any person and enterprise or practice carried on, or decision taken by, any association of enterprises or association of persons, including cartels, engaged in identical or similar trade of goods or provision of services, which—

(*a*) directly or indirectly determines purchase or sale prices;

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(*b*) limits or controls production, supply, markets, technical development, investment or provision of services;

(*c*) shares the market or source of production or provision of services by way of allocation of geographical area of market, or type of goods or services, or number of customers in the market or any other similar way;

(*d*) directly or indirectly results in bid rigging or collusive bidding, shall be presumed to have an appreciable adverse effect on competition:

Provided that nothing contained in this sub-section shall apply to any agreement entered into by way of joint ventures if such agreement increases efficiency in production, supply, distribution, storage, acquisition or control of goods or provision of services.

Explanation.—For the purposes of this sub-section, "bid rigging" means any agreement, between enterprises or persons referred to in sub-section (*3*) engaged in identical or similar production or trading of goods or provision of services, which has the effect of eliminating or reducing competition for bids or adversely affecting or manipulating the process for bidding.

(*4*) Any agreement amongst enterprises or persons at different stages or levels of the production chain in different markets, in respect of production, supply, distribution, storage, sale or price of, or trade in goods or provision of services, including—

(*a*) tie-in arrangement;

(*b*) exclusive supply agreement;

(*c*) exclusive distribution agreement;

(*d*) refusal to deal;

(*e*) resale price maintenance,

shall be an agreement in contravention of sub-section (*1*) if such agreement causes or is likely to cause an appreciable adverse effect on competition in India.

Explanation.—For the purposes of this sub-section,—

(*a*) "tie-in arrangement" includes any agreement requiring a purchaser of goods, as a condition of such purchase, to purchase some other goods;

(*b*) "exclusive supply agreement" includes any agreement restricting in any manner the purchaser in the course of his trade from acquiring or otherwise dealing in any goods other than those of the seller or any other person;

(*c*) "exclusive distribution agreement" includes any agreement to limit, restrict or withhold the output or supply of any goods or allocate any area or market for the disposal or sale of the goods;

(*d*) "refusal to deal" includes any agreement which restricts, or is likely to restrict, by any method the persons or classes of persons to whom goods are sold or from whom goods are bought;

(*e*) "resale price maintenance" includes any agreement to sell goods on condition that the prices to be charged on the resale by the purchaser shall be the prices stipulated by the seller unless it is clearly stated that prices lower than those prices may be charged.

* * * * *

Prohibition of abuse of dominant position

Abuse of dominant position.

4. (*1*)* * * * *

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(*2*) There shall be an abuse of dominant position under sub-section (*1*), if an enterprise or a group,—

(*a*) directly or indirectly, imposes unfair or discriminatory—

* * * * *

Explanation.—For the purposes of this clause, the unfair or discriminatory condition in purchase or sale of goods or service referred to in sub-clause (*i*) and unfair or discriminatory price in purchase or sale of goods (including predatory price) or service referred to in sub-clause (*ii*) shall not include such discriminatory condition or price which may be adopted to meet the competition; or

* * * * *

Regulation of combinations

5. The acquisition of one or more enterprises by one or more persons or merger or amalgamation of enterprises shall be a combination of such enterprises and persons or enterprises, if— Combination.

* * * * *

(*c*) any merger or amalgamation in which—

* * * * *

(*ii*) the group, to which the enterprise remaining after the merger or the enterprise created as a result of the amalgamation, would belong after the merger or the amalgamation, as the case may be, have or would have,—

* * * * *

(*B*) in India or outside India, in aggregate, the assets of the value of more than two billion US dollars, including at least rupees five hundred crores in India, or turnover more than six billion US dollars, including at least rupees fifteen hundred crores in India.

Explanation.—For the purposes of this section,—

(*a*) "control" includes controlling the affairs or management by—

(*i*) one or more enterprises, either jointly or singly, over another enterprise or group;

(*ii*) one or more groups, either jointly or singly, over another group or enterprise;

(*b*) "group" means two or more enterprises which, directly or indirectly, are in a position to—

(*i*) exercise twenty-six per cent. or more of the voting rights in the other enterprise; or

(*ii*) appoint more than fifty per cent. of the members of the board of directors in the other enterprise; or

(*iii*) control the management or affairs of the other enterprise;

(*c*) the value of assets shall be determined by taking the book value of the assets as shown, in the audited books of account of the enterprise, in the financial year immediately preceding the financial year in which the date of proposed merger falls, as reduced by any depreciation, and the value of assets shall include the brand value, value of goodwill, or value of copyright, patent, permitted use, collective mark, registered proprietor,

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registered trade mark, registered user, homonymous geographical indication, geographical indications, design or layout-design or similar other commercial rights, if any, referred to in sub-section (*5*) of section 3.

Regulation of combinations.

6. (*1*)* * * * *

(*2*) Subject to the provisions contained in sub-section (*1*), any person or enterprise, who or which proposes to enter into a combination, shall give notice to the Commission, in the form as may be specified, and the fee which may be determined, by regulations, disclosing the details of the proposed combination, within thirty days of—

(*a*) approval of the proposal relating to merger or amalgamation, referred to in clause (*c*) of section 5, by the board of directors of the enterprises concerned with such merger or amalgamation, as the case may be;

(*b*) execution of any agreement or other document for acquisition referred to in clause (*a*) of section 5 or acquiring of control referred to in clause (*b*) of that section.

(*2A*) No combination shall come into effect until two hundred and ten days have passed from the day on which the notice has been given to the Commission under sub-section (*2*) or the Commission has passed orders under section 31, whichever is earlier.

(*3*) The Commission shall, after receipt of notice under sub-section (*2*), deal with such notice in accordance with the provisions contained in sections 29, 30 and 31.

(*4*) The provisions of this section shall not apply to share subscription or financing facility or any acquisition, by a public financial institution, foreign institutional investor, bank or venture capital fund, pursuant to any covenant of a loan agreement or investment agreement.

(*5*) The public financial institution, foreign institutional investor, bank or venture capital fund, referred to in sub-section (*4*), shall, within seven days from the date of the acquisition, file, in the form as may be specified by regulations, with the Commission the details of the acquisition including the details of control, the circumstances for exercise of such control and the consequences of default arising out of such loan agreement or investment agreement, as the case may be.

Explanation.—For the purposes of this section, the expression—

(*a*) "foreign institutional investor" has the same meaning as assigned to it in clause (*a*) of the *Explanation* to section 115AD of the Income-tax Act, 1961; 43 of 1961.

(*b*) "venture capital fund" has the same meaning as assigned to it in clause (*b*) of the *Explanation* to clause (*23 FB*) of section 10 of the Income-tax Act, 1961. 43 of 1961.

* * * * *

Composition of Commission.

8. (*1*)* * * * *

(*2*) The Chairperson and every other Member shall be a person of ability, integrity and standing and who has special knowledge of, and such professional experience of not less than fifteen years in, international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters, including competition law and policy, which in the opinion of the Central Government, may be useful to the Commission.

* * * * *

Selection Committee for Chairperson and Members of Commission.

9. (*1*) The Chairperson and other Members of the Commission shall be appointed by the Central Government from a panel of names recommended by a Selection Committee consisting of—

* * * * *

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(*d*) two experts of repute who have special knowledge of, and professional experience in international trade, economics, business, commerce, law, finance, accountancy, management, industry, public affairs or competition matters including competition law and policy…….Members.

* * * * *

Restriction on employment of Chairperson and other Members in certain cases.

12. The Chairperson and other Members shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any enterprise which has been a party to a proceeding before the Commission under this Act:

Provided that nothing contained in this section shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956.

1 of 1956.

* * * * *

Appointment of Director General, etc.

16. (*1*) The Central Government may, by notification, appoint a Director General for the purposes of assisting the Commission in conducting inquiry into contravention of any of the provisions of this Act and for performing such other functions as are, or may be, provided by or under this Act.

* * * * *

CHAPTER IV

Duties, powers and functions of Commission

Duties of Commission.

18. Subject to the provisions of this Act, it shall be the duty of the Commission to eliminate practices having adverse effect on competition, promote and sustain competition, protect the interests of consumers and ensure freedom of trade carried on by other participants, in markets in India:

Provided that the Commission may, for the purpose of discharging its duties or performing its functions under this Act, enter into any memorandum or arrangement with the prior approval of the Central Government, with any agency of any foreign country.

Inquiry into certain agreements and dominant position of enterprise.

19. (*1*) The Commission may inquire into any alleged contravention of the provisions contained in sub-section (*1*) of section 3 or sub-section (*1*) of section 4 either on its own motion or on—

(*a*) receipt of any information, in such manner and accompanied by such fee as may be determined by regulations, from any person, consumer or their association or trade association; or

(*b*) a reference made to it by the Central Government or a State Government or a statutory authority.

* * * * *

(*3*) The Commission shall, while determining whether an agreement has an appreciable adverse effect on competition under section 3, have due regard to all or any of the following factors, namely:—

* * * * *

(*c*) foreclosure of competition by hindering entry into the market;

(*d*) accrual of benefits to consumers;

* * * * *

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(*7*) The Commission shall, while determining the "relevant product market", have due regard to all or any of the following factors, namely:—

(*a*) physical characteristics or end-use of goods;

* * * * *

Inquiry into combination by Commission.

20. (*1*) The Commission may, upon its own knowledge or information relating to acquisition referred to in clause (*a*) of section 5 or acquiring of control referred to in clause (*b*) of section 5 or merger or amalgamation referred to in clause (*c*) of that section, inquire into whether such a combination has caused or is likely to cause an appreciable adverse effect on competition in India:

Provided that the Commission shall not initiate any inquiry under this sub-section after the expiry of one year from the date on which such combination has taken effect.

* * * * *

(*3*) Notwithstanding anything contained in section 5, the Central Government shall, on the expiry of a period of two years from the date of commencement of this Act and thereafter every two years, in consultation with the Commission, by notification, enhance or reduce, on the basis of the wholesale price index or fluctuations in exchange rate of rupee or foreign currencies, the value of assets or the value of turnover, for the purposes of that section.

(*4*) For the purposes of determining whether a combination would have the effect of or is likely to have an appreciable adverse effect on competition in the relevant market, the Commission shall have due regard to all or any of the following factors, namely:—

* * * * *

(*c*) level of combination in the market;

* * * * *

Reference by statutory authority.

21. (*1*) Where in the course of a proceeding before any statutory authority an issue is raised by any party that any decision which such statutory authority has taken or proposes to take, is or would be, contrary to any of the provisions of this Act, then such statutory authority may make a reference in respect of such issue to the Commission:

Provided that any statutory authority, may, *suo motu*, make such a reference to the Commission.

* * * * *

Reference by Commission.

21A. (*1*) Where in the course of a proceeding before the Commission an issue is raised by any party that any decision which, the Commission has taken during such proceeding or proposes to take, is or would be contrary to any provision of this Act whose implementation is entrusted to a statutory authority, then the Commission may make a reference in respect of such issue to the statutory authority:

Provided that the Commission, may, *suo motu*, make such a reference to the statutory authority.

* * * * *

Meetings of Commission.

22. (*1*)* * * * *

(*3*) All questions which come up before any meeting of the Commission shall be decided by a majority of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the Member presiding, shall have a second or casting vote:

Provided that the quorum for such meeting shall be three Members.

* * * * *

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26. (*1*)* * * * * Procedure for inquiry under section 19.

(*4*) The Commission may forward a copy of the report referred to in sub-section (*3*) to the parties concerned:

Provided that in case the investigation is caused to be made based on reference received from the Central Government or the State Government or the statutory authority, the Commission shall forward a copy of the report referred to in sub-section (*3*) to the Central Government or the State Government or the statutory authority, as the case may be.

(*5*) If the report of the Director General referred to in sub-section (*3*) recommends that there is no contravention of the provisions of this Act, the Commission shall invite objections or suggestions from the Central Government or the State Government or the statutory authority or the parties concerned, as the case may be, on such report of the Director General.

* * * * *

(*8*) If the report of the Director General referred to in sub-section (*3*) recommends that there is contravention of any of the provisions of this Act, and the Commission is of the opinion that further inquiry is called for, it shall inquire into such contravention in accordance with the provisions of this Act.

27. Where after inquiry the Commission finds that any agreement referred to in section 3 or action of an enterprise in a dominant position, is in contravention of section 3 or section 4, as the case may be, it may pass all or any of the following orders, namely:— Orders by Commission after inquiry into agreements or abuse of dominant position.

* * * * *

(*b*) impose such penalty, as it may deem fit which shall be not more than ten per cent. of the average of the turnover for the last three preceding financial years, upon each of such person or enterprises which are parties to such agreements or abuse:

Provided that in case any agreement referred to in section 3 has been entered into by a cartel, the Commission may impose upon each producer, seller, distributor, trader or service provider included in that cartel, a penalty of up to three times of its profit for each year of the continuance of such agreement or ten per cent. of its turnover for each year of the continuance of such agreement, whichever is higher.

* * * * *

29. (*1*) Where the Commission is of the *prima facie* opinion that a combination is likely to cause, or has caused an appreciable adverse effect on competition within the relevant market in India, it shall issue a notice to show cause to the parties to combination calling upon them to respond within thirty days of the receipt of the notice, as to why investigation in respect of such combination should not be conducted. Procedure for investigation of combinations.

* * * * *

(*2*) The Commission, if it is *prima facie* of the opinion that the combination has, or is likely to have, an appreciable adverse effect on competition, it shall, within seven working days from the date of receipt of the response of the parties to the combination or the receipt of the report from Director General called under sub-section (*1A*), whichever is later, direct the parties to the said combination to publish details of the combination within ten working days of such direction, in such manner, as it thinks appropriate, for bringing the combination to the knowledge or information of the public and persons affected or likely to be affected by such combination.

(*3*) The Commission may invite any person or member of the public, affected or likely to be affected by the said combination, to file his written objections, if any, before the Commission within fifteen working days from the date on which the details of the combination were published under sub-section (*2*).

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(*4*) The Commission may, within fifteen working days from the expiry of the period specified in sub-section (*3*), call for such additional or other information as it may deem fit from the parties to the said combination.

(*5*) The additional or other information called for by the Commission shall be furnished by the parties referred to in sub-section (*4*) within fifteen days from the expiry of the period specified in sub-section (*4*).

(*6*) After receipt of all information and within a period of forty-five working days from the expiry of the period specified in sub-section (*5*), the Commission shall proceed to deal with the case in accordance with the provisions contained in section 31.

* * * * *

Orders of Commission on certain combinations.

31. (*1*) Where the Commission is of the opinion that any combination does not, or is not likely to, have an appreciable adverse effect on competition, it shall, by order, approve that combination including the combination in respect of which a notice has been given under sub-section (*2*) of section 6.

* * * * *

(*3*) Where the Commission is of the opinion that the combination has, or is likely to have, an appreciable adverse effect on competition but such adverse effect can be eliminated by suitable modification to such combination, it may propose appropriate modification to the combination, to the parties to such combination.

(*4*) The parties, who accept the modification proposed by the Commission under sub-section (*3*), shall carry out such modification within the period specified by the Commission.

(*5*) If the parties to the combination, who have accepted the modification under sub-section (*4*), fail to carry out the modification within the period specified by the Commission, such combination shall be deemed to have an appreciable adverse effect on competition and the Commission shall deal with such combination in accordance with the provisions of this Act.

(*6*) If the parties to the combination do not accept the modification proposed by the Commission under sub-section (*3*), such parties may, within thirty working days of the modification proposed by the Commission, submit amendment to the modification proposed by the Commission under that sub-section.

(*7*) If the Commission agrees with the amendment submitted by the parties under sub-section (*6*), it shall, by order, approve the combination.

(*8*) If the Commission does not accept the amendment submitted under sub-section (*6*), then, the parties shall be allowed a further period of thirty working days within which such parties shall accept the modification proposed by the Commission under sub-section (*3*).

(*9*) If the parties fail to accept the modification proposed by the Commission within thirty working days referred to in sub-section (*6*) or within a further period of thirty working days referred to in sub-section (*8*), the combination shall be deemed to have an appreciable adverse effect on competition and be dealt with in accordance with the provisions of this Act.

(*10*) Where the Commission has directed under sub-section (*2*) that the combination shall not take effect or the combination is deemed to have an appreciable adverse effect on competition under sub-section (*9*), then, without prejudice to any penalty which may be imposed or any prosecution which may be initiated under this Act, the Commission may order that—

(*a*) the acquisition referred to in clause (*a*) of section 5; or

(*b*) the acquiring of control referred to in clause (*b*) of section 5; or

(*c*) the merger or amalgamation referred to in clause (*c*) of section 5,

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

shall not be given effect to:

Provided that the Commission may, if it considers appropriate, frame a scheme to implement its order under this sub-section.

(*11*) If the Commission does not, on the expiry of a period of two hundred and ten days from the date of notice given to the Commission under sub-section (*2*) of section 6, pass an order or issue direction in accordance with the provisions of sub-section (*1*) or sub-section (*2*) or sub-section (*7*), the combination shall be deemed to have been approved by the Commission.

Explanation.—For the purposes of determining the period of two hundred and ten days specified in this sub-section, the period of thirty working days specified in sub-section (*6*) and a further period of thirty working days specified in sub-section (*8*) shall be excluded.

(*12*) Where any extension of time is sought by the parties to the combination, the period of ninety working days shall be reckoned after deducting the extended time granted at the request of the parties.

* * * * *

Acts taking place outside India but having an effect on competition in India.

32. The Commission shall, notwithstanding that,—

(*a*) an agreement referred to in section 3 has been entered into outside India; or

(*b*) any party to such agreement is outside India; or

(*c*) any enterprise abusing the dominant position is outside India; or

(*d*) a combination has taken place outside India; or

(*e*) any party to combination is outside India; or

(*f*) any other matter or practice or action arising out of such agreement or dominant position or combination is outside India,

have power to inquire in accordance with the provisions contained in sections 19, 20, 26, 29 and 30 of the Act into such agreement or abuse of dominant position or combination if such agreement or dominant position or combination has, or is likely to have, an appreciable adverse effect on competition in the relevant market in India and pass such orders as it may deem fit in accordance with the provisions of this Act.

* * * * *

Appearance before Commission.

35. A person or an enterprise or the Director General may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of his or its officers to present his or its case before the Commission.

Explanation.—For the purposes of this section,—

(*a*) "chartered accountant" means a chartered accountant as defined in clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (*1*) of section 6 of that Act; 38 of 1949.

(*b*) "company secretary" means a company secretary as defined in clause (*c*) of sub-section (*1*) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (*1*) of section 6 of that Act; 56 of 1980.

(*c*) "cost accountant" means a cost accountant as defined in clause (*b*) of sub-section (*1*) of section 2 of the Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice under sub-section (*1*) of section 6 of that Act; 23 of 1959.

(*d*) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

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CHAPTER V

DUTIES OF DIRECTOR GENERAL

Director General to investigate contraventions.

41. (*1*)* * * * *

(*3*) Without prejudice to the provisions of sub-section (*2*), sections 240 and 240A of the Companies Act, 1956, so far as may be, shall apply to an investigation made by the Director General or any other person investigating under his authority, as they apply to an inspector appointed under that Act. 1 of 1956.

Explanation.—For the purposes of this section,—

(*a*) the words "the Central Government" under section 240 of the Companies Act,1956 shall be construed as "the Commission"; 1 of 1956.

(*b*) the word "Magistrate" under section 240A of the Companies Act, 1956 shall be construed as "the Chief Metropolitan Magistrate, Delhi". 1 of 1956.

CHAPTER VI

PENALTIES

Contravention of orders of Commission.

42. (*1*)* * * * *

(*2*) If any person, without reasonable clause, fails to comply with the orders or directions of the Commission issued under sections 27, 28, 31, 32, 33, 42A and 43A of the Act, he shall be punishable with fine which may extend to rupees one lakh for each day during which such non-compliance occurs, subject to a maximum of rupees ten crore, as the Commission may determine.

(*3*) If any person does not comply with the orders or directions issued, or fails to pay the fine imposed under sub-section (*2*), he shall, without prejudice to any proceeding under section 39, be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to rupees twenty-five crore, or with both, as the Chief Metropolitan Magistrate, Delhi may deem fit:

Provided that the Chief Metropolitan Magistrate, Delhi shall not take cognizance of any offence under this section save on a complaint filed by the Commission or any of its officers authorised by it.

Compensation in case of contravention of orders of Commission.

42A. Without prejudice to the provisions of this Act, any person may make an application to the Appellate Tribunal for an order for the recovery of compensation from any enterprise for any loss or damage shown to have been suffered, by such person as a result of the said enterprise violating directions issued by the Commission or contravening, without any reasonable ground, any decision or order of the Commission issued under sections 27, 28, 31, 32 and 33 or any condition or restriction subject to which any approval, sanction, direction or exemption in relation to any matter has been accorded, given, made or granted under this Act or delaying in carrying out such orders or directions of the Commission.

Penalty for failure to comply with directions of Commission and Director General.

43. If any person fails to comply, without reasonable cause, with a direction given by—

(*a*) the Commission under sub-sections (*2*) and (*4*) of section 36; or

(*b*) the Director General while exercising powers referred to in sub-section (*2*) of section 41,

such person shall be punishable with fine which may extend to rupees one lakh for each day during which such failure continues subject to a maximum of rupees one crore, as may be determined by the Commission.

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Power to impose penalty for non-furnishing of information on combinations.

43A. If any person or enterprise who fails to give notice to the Commission under sub-section (*2*) of section 6, the Commission shall impose on such person or enterprise a penalty which may extend to one per cent. of the total turnover or the assets, whichever is higher, of such a combination.

Penalty for making false statement or omission to furnish material information.

44. If any person, being a party to a combination,—

* * * * *

(*b*) omits to state any material particular knowing it to be material,

such person shall be liable to a penalty which shall not be less than rupees fifty lakhs but which may extend to rupees one crore, as may be determined by the Commission.

Penalty for offences in relation to furnishing of information.

45. (*1*) Without prejudice to the provisions of section 44, if a person, who furnishes or is required to furnish under this Act any particulars, documents or any information,—

(*a*) makes any statement or furnishes any document which he knows or has reason to believe to be false in any material particular; or

(*b*) omits to state any material fact knowing it to be material; or

(*c*) wilfully alters, suppresses or destroys any document which is required to be furnished as aforesaid,

such person shall be punishable with fine which may extend to rupees one crore as may be determined by the Commission.

* * * * *

Power to impose lesser penalty.

46. The Commission may, if it is satisfied that any producer, seller, distributor, trader or service provider included in any cartel, which is alleged to have violated section 3, has made a full and true disclosure in respect of the alleged violations and such disclosure is vital, impose upon such producer, seller, distributor, trader or service provider a lesser penalty as it may deem fit, than leviable under this Act or the rules or the regulations:

Provided that lesser penalty shall not be imposed by the Commission in cases where the report of investigation directed under section 26 has been received before making of such disclosure:

Provided further that lesser penalty shall be imposed by the Commission only in respect of a producer, seller, distributor, trader or service provider included in the cartel, who has made the full, true and vital disclosures under this section:

Provided also that lesser penalty shall not be imposed by the Commission if the person making the disclosure does not continue to cooperate with the Commission till the completion of the proceedings before the Commission:

Provided also that the Commission may, if it is satisfied that such producer, seller, distributor, trader or service provider included in the cartel had in the course of proceedings,—

(*a*) not complied with the condition on which the lesser penalty was imposed by the Commission; or

(*b*) had given false evidence; or

(*c*) the disclosure made is not vital,

and thereupon such producer, seller, distributor, trader or service provider may be tried for the offence with respect to which the lesser penalty was imposed and shall also be liable to the imposition of penalty to which such person has been liable, had lesser penalty not been imposed.

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Crediting sums realised by way of penalties to Consolidated Fund of India.

47. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

Contravention by companies.

48. (*1*) Where a person committing contravention of any of the provisions of this Act or of any rule, regulation, order made or direction issued thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(*2*) Notwithstanding anything contained in sub-section (*1*), where a contravention of any of the provisions of this Act or of any rule, regulation, order made or direction issued thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

CHAPTER VII

Competition Advocacy

Competition Advocacy.

49. (*1*)* * * * *

(*3*) The Commission shall take suitable measures for the promotion of competition advocacy, creating awareness and imparting training about competition issues.

* * * * *

CHAPTER VIIIA

Appellate Tribunal

Appellate Tribunal.

53A. The National Company Law Appellate Tribunal constituted under section 410 of the Companies Act, 2013 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Tribunal for the purposes of this Act and the said Appellate Tribunal shall— 18 of 2013. 7 of 2017.

(*a*) hear and dispose of appeals against any direction issued or decision made or order passed by the Commission under sub-sections (*2*) and (*6*) of section 26, section 27, section 28, section 31, section 32, section 33, section 38, section 39, section 43, section 43A, section 44, section 45 or section 46 of this Act; and

* * * * *

Appeal to Appellate Tribunal.

53B. (*1*)* * * * *

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(*2*) Every appeal under sub-section (*1*) shall be filed within a period of sixty days from the date on which a copy of the direction or decision or order made by the Commission is received by the Central Government or the State Government or a local authority or enterprise or any person referred to in that sub-section and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of sixty days if it is satisfied that there was sufficient cause for not filing it within that period.

* * * * *

53N. (*1*) Without prejudice to any other provisions contained in this Act, the Central Government or a State Government or a local authority or any enterprise or any person may make an application to the Appellate Tribunal to adjudicate on claim for compensation that may arise from the findings of the Commission or the orders of the Appellate Tribunal in an appeal against any findings of the Commission or under section 42A or under sub-section (*2*) of section 53Q of the Act, and to pass an order for the recovery of compensation from any enterprise for any loss or damage shown to have been suffered, by the Central Government or a State Government or a local authority or any enterprise or any person as a result of any contravention of the provisions of Chapter II, having been committed by enterprise. Awarding compensation.

(*2*) Every application made under sub-section (*1*) shall be accompanied by the findings of the Commission, if any, and also be accompanied with such fees as may be prescribed.

* * * * *

Explanation.—For the removal of doubts, it is hereby declared that—

(*a*) an application may be made for compensation before the Appellate Tribunal only after either the Commission or the Appellate Tribunal on appeal under clause (*a*) of sub-section (*1*) of section 53A of the Act, has determined in a proceeding before it that violation of the provisions of the Act has taken place, or if provisions of section 42A or sub-section (*2*) of section 53Q of the Act are attracted;

(*b*) enquiry to be conducted under sub-section (*3*) shall be for the purpose of determining the eligibility and quantum of compensation due to a person applying for the same, and not for examining afresh the findings of the Commission or the Appellate Tribunal on whether any violation of the Act has taken place.

* * * * *

53Q. (*1*) Without prejudice to the provisions of this Act, if any person contravenes, without any reasonable ground, any order of the Appellate Tribunal, he shall be liable for a penalty of not exceeding rupees one crore or imprisonment for a term up to three years or with both as the Chief Metropolitan Magistrate, Delhi may deem fit: Contravention of orders of Appellate Tribunal.

Provided that the Chief Metropolitan Magistrate, Delhi shall not take cognizance of any offence punishable under this sub-section, save on a complaint made by an officer authorised by the Appellate Tribunal.

* * * * *

63. (*1*)* * * * * Power to make rules.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the term of the Selection Committee and the manner of selection of panel of names under sub-section (*2*) of section 9;

* * * * *

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Power to make regulations.

64. (*1*)* * * * *

(*2*) In particular, and without prejudice to the generality of the foregoing provisions, such regulations may provide for all or any of the following matters, namely:—

* * * * *

(*c*) the form in which details of the acquisition shall be filed under sub-section (*5*) of section 6;

* * * * *

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LOK SABHA

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BILL

further to amend the Competition Act, 2002.

———

(*Smt. Nirmala Sitharaman, Minister of Finance and Corporate Affairs*)

MGIPMRND—779LS(S3)—02-08-2022.

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AS INTRODUCED IN LOK SABHA

Bill No. 92 of 2023

THE CONSTITUTION (JAMMU AND KASHMIR) SCHEDULED TRIBES ORDER (AMENDMENT) BILL, 2023

A

BILL

further to amend the Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989.

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

Short title.

1. This Act may be called the Constitution (Jammu and Kashmir) Scheduled Tribes Order (Amendment) Act, 2023.

C.O.142.

Substitution of Schedule to Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989.

2. In the Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989, for the Schedule, the following Schedule shall be substituted, namely:—

"THE SCHEDULE

PART I.—*Union territory of Jammu and Kashmir*

1. Bakarwal
2. Balti
3. Beda
4. Bot, Boto
5. Brokpa, Drokpa, Dard, Shin
6. Changpa
7. Gadda Brahmin
8. Gaddi
9. Garra
10. Gujjar
11. Koli
12. Mon
13. Paddari Tribe
14. Pahari Ethnic Group
15. Purigpa
16. Sippi.

PART II.—*Union territory of Ladakh*

1. Bakarwal
2. Balti
3. Beda
4. Bot, Boto
5. Brokpa, Drokpa, Dard, Shin
6. Changpa
7. Gaddi
8. Garra
9. Gujjar
10. Mon
11. Purigpa
12. Sippi.".

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STATEMENT OF OBJECTS AND REASONS

Scheduled Tribes have been defined in clause (25) of article 366 of the Constitution as such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of the Constitution.

2. Article 342 of the Constitution provides as under:—

"342. Scheduled Tribes.—(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.".

3. In accordance with the said Constitutional provisions, the first list of Scheduled Tribes in respect of the erstwhile State of Jammu and Kashmir was notified *vide* the Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989. The said list of Scheduled Tribes was amended *vide* the Constitution (Scheduled Tribes) Order (Amendment) Act, 1991. By virtue of the provisions of the Jammu and Kashmir Reorganisation Act, 2019, the said list of Scheduled Tribes, presently applies to both the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

4. The Administration of the Union territory of Jammu and Kashmir has requested to include the communities of "Gadda Brahmin", "Koli", "Paddari Tribe" and "Pahari Ethnic Group" in the list of Scheduled Tribes in respect of the Union territory of Jammu and Kashmir. On the basis of the recommendation of the Administration of the Union territory of Jammu and Kashmir and after consultation with the Registrar General of India and the National Commission for Scheduled Tribes, it is proposed to amend the Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989.

5. Accordingly, the Constitution (Jammu and Kashmir) Scheduled Tribes Order (Amendment) Bill, 2023 proposes to amend the Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989, to include the communities of "Gadda Brahmin", "Koli", "Paddari Tribe" and "Pahari Ethnic Group" in the list of Scheduled Tribes in respect of the Union territory of Jammu and Kashmir.

6. The Bill seeks to achieve the aforesaid objects.

NEW DELHI; ARJUN MUNDA.

The 17*th July*, 2023.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

FINANCIAL MEMORANDUM

The Bill seeks to amend the Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989 to include the communities of "Gadda Brahmin", "Koli", "Paddari Tribe" and "Pahari Ethnic Group" in the list of Scheduled Tribes in respect of the Union territory of Jammu and Kashmir. The amendment in the list of Scheduled Tribes in respect of the Union territory of Jammu and Kashmir may entail additional expenditure on account of benefits to be provided to persons belonging to the said communities proposed in the Bill under the continuing schemes meant for the welfare of the Scheduled Tribes.

2. It is not possible to estimate the likely additional expenditure to be incurred on this account at this stage. However, the expenditure, if any, will be accommodated within the approved budgetary outlay of the Government.

ANNEXURE

EXTRACT FROM THE CONSTITUTION (JAMMU AND KASHMIR) SCHEDULED TRIBES ORDER, 1989

(C.O. 142)

* * * * *

THE SCHEDULE

1. Balti
2. Beda
3. Bot, Boto
4. Brokpa, Drokpa, Dard, Shin
5. Changpa
6. Garra
7. Mon
8. Purigpa
9. Gujjar
10. Bakarwal
11. Gaddi
12. Sippi.

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LOK SABHA

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further to amend the Constitution (Jammu and Kashmir) Scheduled Tribes Order, 1989.

(*Shri Arjun Munda, Minister of Tribal Affairs*)

MGIPMRND—140LS(S3)—18-07-2023.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

AS INTRODUCED IN LOK SABHA

Bill No. 91 of 2023

THE CONSTITUTION (SCHEDULED CASTES) ORDER (AMENDMENT) BILL, 2023

A

BILL

further to amend the Constitution (*Scheduled Castes*) *Order,* 1950 *to modify the list of Scheduled Castes in the State of Chhattisgarh.*

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

Short title.

1. This Act may be called the Constitution (Scheduled Castes) Order (Amendment) Act, 2023.

Amendment of Constitution (Scheduled Castes) Order, 1950.

C.O. 19.

2. In the Constitution (Scheduled Castes) Order, 1950, in the Schedule, in Part XXIII.—*Chhattisgarh*, for entry 33, the following entry shall be substituted, namely:—

"33. Mahar, Mahara, Mahra, Mehar, Mehra".

STATEMENT OF OBJECTS AND REASONS

In accordance with the provisions of clause (*1*) of article 341 of the Constitution, six Presidential Orders were issued specifying Scheduled Castes in respect of various States and Union territories. These Orders have been amended from time to time by Acts of Parliament under clause (*2*) of article 341 of the Constitution.

2. The State Government of Chhattisgarh has proposed inclusion of Mahra and Mahara communities in the list of Scheduled Castes. The Registrar General of India and the National Commission for Scheduled Castes have conveyed their concurrence to the proposed modification.

3. In order to give effect to the above change, it is necessary to amend the Constitution (Scheduled Castes) Order, 1950 in respect of the State of Chhattisgarh.

4. The Bill seeks to achieve the aforesaid objectives.

DR. VIRENDRA KUMAR.

NEW DELHI;

The 12*th July,* 2023.

ALLAHABAD HIGH COURT
JUDGES' LIBRARY PUBLICATION

FINANCIAL MEMORANDUM

The Bill seeks to include "Mahra and Mahara" communities in the list of the Scheduled Castes for the State of Chhattisgarh. This will entail some additional recurring and non-recurring expenditure on account of benefits of schemes meant for the development of the Scheduled Castes to which the persons belonging to the newly added communities will become entitled, as a result of this Bill.

2. It is not possible to estimate the likely expenditure to be incurred on this account at this stage. However, the expenditure, if any, shall be accommodated within the approved budgetary outlay of the Government.

ANNEXURE

EXTRACT FROM THE CONSTITUTION (SCHEDULED CASTES) ORDER, 1950

(C.O. 19)

* * * * *

THE SCHEDULE

* * * * *

PART XXIII.—*Chhattisgarh*

* * * * *

33. Mahar, Mehra, Mehar

* * * * *

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

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further to amend the Constitution (Scheduled Castes) Order, 1950 to modify the list of Scheduled Castes in the State of Chhattisgarh.

(*Dr. Virendra Kumar, Minister of Social Justice and Empowerment*)

MGIPMRND—117LS—14-07-2023.

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AS INTRODUCED IN LOK SABHA

Bill No. 217 of 2022

THE CONSTITUTION (SCHEDULED TRIBES) ORDER (SECOND AMENDMENT) BILL, 2022

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BILL

further to amend the Constitution (*Scheduled Tribes*) *Order,* 1950 *to modify the list of Scheduled Tribes in the State of Tamil Nadu.*

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

1. This Act may be called the Constitution (Scheduled Tribes) Order (Second Amendment) Act, 2022. Short title.

C.O. 22.S

2. In the Constitution (Scheduled Tribes) Order, 1950, in the Schedule, in Part XIV.—*Tamil Nadu,* after entry 36, the following entry shall be inserted, namely:— Amendment of Constitution (Scheduled Tribes) Order, 1950.

"37. Narikoravan, Kurivikkaran.".

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

STATEMENT OF OBJECTS AND REASONS

Scheduled Tribes have been defined in clause (25) of article 366 of the Constitution as such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of the Constitution.

2. Article 342 of the Constitution provides as under:—

"342. Scheduled Tribes.—(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.".

3. In accordance with the said Constitutional provisions, the first list of Scheduled Tribes was notified in respect of various States and Union territories *vide* the Constitution (Scheduled Tribes) Order, 1950. Subsequently, the list of Scheduled Tribes in respect of the State of Tamil Nadu was amended *vide* the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002.

4. The Government of Tamil Nadu has requested to include Narikoravan along with Kurivikkaran communities in the list of Scheduled Tribes in respect of the State of Tamil Nadu. On the basis of the recommendation of the State of Tamil Nadu and after consultation with the Registrar General of India and the National Commission for Scheduled Tribes, it is proposed to amend Part XIV of the Schedule to the Constitution (Scheduled Tribes) Order, 1950.

5. Accordingly, the Constitution (Scheduled Tribes) Order (Second Amendment) Bill, 2022 proposes to insert entry "37. Narikoravan, Kurivikkaran" in Part XIV of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 in respect of the State of Tamil Nadu.

6. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;
The 17*th November,* 2022.

ARJUN MUNDA.

FINANCIAL MEMORANDUM

The Bill seeks to amend the Constitution (Scheduled Tribes) Order, 1950 for inclusion of entry "37. Narikoravan, Kurivikkaran" in Part XIV of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 in respect of the State of Tamil Nadu. The amendment in the list of Scheduled Tribes in respect of the State of Tamil Nadu may entail additional expenditure on account of benefits to be provided to persons belonging to the said communities proposed in the Bill under the continuing schemes meant for the welfare of the Scheduled Tribes.

2. It is not possible to estimate the likely additional expenditure to be incurred on this account at this stage. However, the expenditure, if any, will be accommodated within the approved budgetary outlay of the Government.

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further to amend the Constitution (Scheduled Tribes) Order, 1950 to modify the list of Scheduled Tribes in the State of Tamil Nadu.

(*Shri Arjun Munda, Minister of Tribal Affairs*)

MGIPMRND—1613LS—5-12-2022.

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AS INTRODUCED IN LOK SABHA

Bill No. 218 of 2022

THE CONSTITUTION (SCHEDULED TRIBES) ORDER (THIRD AMENDMENT) BILL, 2022

A

BILL

further to amend the Constitution (*Scheduled Tribes*) *Order,* 1950 *to provide for inclusion of certain communities in the list of Scheduled Tribes in relation to the State of Himachal Pradesh.*

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

Short title.

1. This Act may be called the Constitution (Scheduled Tribes) Order (Third Amendment) Act, 2022.

Amendment of Constitution (Scheduled Tribes) Order, 1950.

5 C.O. 22.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part V.—*Himachal Pradesh,* after entry 10, the following entry shall be inserted, namely:—

"11. Hattee of Trans Giri area of Sirmour district.".

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STATEMENT OF OBJECTS AND REASONS

Scheduled Tribes have been defined in clause (25) of article 366 of the Constitution as "such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under article 342 to be Scheduled Tribes for the purposes of this Constitution.".

2. Article 342 of the Constitution provides as under:—

"342. Scheduled Tribes.—(1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.".

3. According to the provisions of article 342 of the Constitution, the first list of the Scheduled Tribes was notified during the year 1950 in respect of various States and Union territories, *vide* the Constitution (Scheduled Tribes) Order, 1950. This list was modified from time to time. List of Scheduled Tribes of the State of Himachal Pradesh has been modified, *vide* the Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002 (10 of 2003). The State Government of Himachal Pradesh has requested to include Hattee community of Trans Giri area of Sirmour district in Scheduled Tribes list, excluding those communities which are already notified as Scheduled Castes for the State of Himachal Pradesh.

4. On the basis of recommendation of the State Government of Himachal Pradesh, it is proposed to modify the list of Scheduled Tribes in respect of State of Himachal Pradesh by amending the Constitution (Scheduled Tribes) Order, 1950.

5. The Constitution (Scheduled Tribes) Order (Third Amendment) Bill, 2022 proposes to amend Part V.—Himachal Pradesh of the Schedule to the Constitution (Scheduled Tribes) Order, 1950 to insert "Hattee of Trans Giri area of Sirmour district" in the list of Scheduled Tribes after entry 10.

6. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;
The 9*th November*, 2022.

ARJUN MUNDA.

ALLAHABAD HIGH COURT
JUDGES' LIBRARY PUBLICATION

FINANCIAL MEMORANDUM

The Bill seeks to amend the Constitution (Scheduled Tribes) Order, 1950, by amending the list of Scheduled Tribes in the State of Himachal Pradesh. The amendment in the list of Scheduled Tribes relating to the State of Himachal Pradesh may entail additional expenditure on account of benefits to be provided to the persons belonging to the communities proposed in the Bill under the continuing schemes meant for the welfare of the Scheduled Tribes.

2. It is not possible to estimate the likely additional expenditure to be incurred on this account at this stage. However, the expenditure, if any, shall be accommodated within the approved budgetary outlay of the Government.

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further to amend the Constitution (Scheduled Tribes) Order, 1950 to provide for inclusion of certain communities in the list of Scheduled Tribes in relation to the State of Himachal Pradesh.

(*Shri Arjun Munda, Minister of Tribal Affairs*)

MGIPMRND—1614LS—5-12-2022.

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As introduced in Lok Sabha

Bill No. 113 of 2023

THE DIGITAL PERSONAL DATA PROTECTION BILL, 2023

ARRANGEMENT OF CLAUSES

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5. Notice.
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8. General obligations of Data Fiduciary.
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CLAUSES

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THE SCHEDULE.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

Bill No. 113 of 2023

THE DIGITAL PERSONAL DATA PROTECTION BILL, 2023

A

BILL

to provide for the processing of digital personal data in a manner that recognises both the right of individuals to protect their personal data and the need to process such personal data for lawful purposes and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Digital Personal Data Protection Act, 2023. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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Definitions.

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

(*a*) "Appellate Tribunal" means the Telecom Disputes Settlement and Appellate Tribunal established under section 14 of the Telecom Regulatory Authority of India Act, 1997; 24 of 1997.

(*b*) "automated" means any digital process capable of operating automatically in response to instructions given or otherwise for the purpose of processing data;

(*c*) "Board" means the Data Protection Board of India established by the Central Government under section 18;

(*d*) "certain legitimate uses" means the uses referred to in section 7;

(*e*) "Chairperson" means the Chairperson of the Board;

(*f*) "child" means an individual who has not completed the age of eighteen years;

(*g*) "Consent Manager" means a person registered with the Board, who acts as a single point of contact to enable a Data Principal to give, manage, review and withdraw her consent through an accessible, transparent and interoperable platform;

(*h*) "data" means a representation of information, facts, concepts, opinions or instructions in a manner suitable for communication, interpretation or processing by human beings or by automated means;

(*i*) "Data Fiduciary" means any person who alone or in conjunction with other persons determines the purpose and means of processing of personal data;

(*j*) "Data Principal" means the individual to whom the personal data relates and where such individual is—

(*i*) a child, includes the parents or lawful guardian of such a child;

(*ii*) a person with disability, includes her lawful guardian, acting on her behalf;

(*k*) "Data Processor" means any person who processes personal data on behalf of a Data Fiduciary;

(*l*) "Data Protection Officer" means an individual appointed by the Significant Data Fiduciary under clause (*a*) of sub-section (*2*) of section 10;

(*m*) "digital office" means an office that adopts an online mechanism wherein the proceedings, from receipt of intimation or complaint or reference or directions or appeal, as the case may be, to the disposal thereof, are conducted in online or digital mode;

(*n*) "digital personal data" means personal data in digital form;

(*o*) "gain" means—

(*i*) a gain in property or supply of services, whether temporary or permanent; or

(*ii*) an opportunity to earn remuneration or greater remuneration or to gain a financial advantage otherwise than by way of legitimate remuneration;

(*p*) "loss" means—

(*i*) a loss in property or interruption in supply of services, whether temporary or permanent; or

(*ii*) a loss of opportunity to earn remuneration or greater remuneration or to gain a financial advantage otherwise than by way of legitimate remuneration;

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(*q*) "Member" means a Member of the Board and includes the Chairperson;

(*r*) "notification" means a notification published in the Official Gazette and the expressions "notify" and "notified" shall be construed accordingly;

(*s*) "person" includes—

(*i*) an individual;

(*ii*) a Hindu undivided family;

(*iii*) a company;

(*iv*) a firm;

(*v*) an association of persons or a body of individuals, whether incorporated or not;

(*vi*) the State; and

(*vii*) every artificial juristic person, not falling within any of the preceding sub-clauses;

(*t*) "personal data" means any data about an individual who is identifiable by or in relation to such data;

(*u*) "personal data breach" means any unauthorised processing of personal data or accidental disclosure, acquisition, sharing, use, alteration, destruction or loss of access to personal data, that compromises the confidentiality, integrity or availability of personal data;

(*v*) "prescribed" means prescribed by rules made under this Act;

(*w*) "proceeding" means any action taken by the Board under the provisions of this Act;

(*x*) "processing" in relation to personal data, means a wholly or partly automated operation or set of operations performed on digital personal data, and includes operations such as collection, recording, organisation, structuring, storage, adaptation, retrieval, use, alignment or combination, indexing, sharing, disclosure by transmission, dissemination or otherwise making available, restriction, erasure or destruction;

(*y*) "she" in relation to an individual includes the reference to such individual irrespective of gender;

(*z*) "Significant Data Fiduciary" means any Data Fiduciary or class of Data Fiduciaries as may be notified by the Central Government under section 10;

(*za*) "specified purpose" means the purpose mentioned in the notice given by the Data Fiduciary to the Data Principal in accordance with the provisions of this Act and the rules made thereunder; and

(*zb*) "State" means the State as defined under article 12 of the Constitution.

Application of Act.

3. Subject to the provisions of this Act, it shall—

(*a*) apply to the processing of digital personal data within the territory of India where the personal data is collected—

(*i*) in digital form; or

(*ii*) in non-digital form and digitised subsequently;

(*b*) also apply to processing of digital personal data outside the territory of India, if such processing is in connection with any activity related to offering of goods or services to Data Principals within the territory of India;

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(*c*) not apply to—

(*i*) personal data processed by an individual for any personal or domestic purpose; and

(*ii*) personal data that is made or caused to be made publicly available by—

(*A*) the Data Principal to whom such personal data relates; or

(*B*) any other person who is under an obligation under any law for the time being in force in India to make such personal data publicly available.

Illustration.

X, an individual, while blogging her views, has publicly made available her personal data on social media. In such case, the provisions of this Act shall not apply.

CHAPTER II

Obligations of Data Fiduciary

Grounds for processing personal data.

4. (*1*) A person may process the personal data of a Data Principal only in accordance with the provisions of this Act and for a lawful purpose,—

(*a*) for which the Data Principal has given her consent; or

(*b*) for certain legitimate uses.

(*2*) For the purposes of this section, the expression "lawful purpose" means any purpose which is not expressly forbidden by law.

Notice.

5. (*1*) Every request made to a Data Principal under section 6 for consent shall be accompanied or preceded by a notice given by the Data Fiduciary to the Data Principal, informing her,—

(*i*) the personal data and the purpose for which the same is proposed to be processed;

(*ii*) the manner in which she may exercise her rights under sub-section (*4*) of section 6 and section 13; and

(*iii*) the manner in which the Data Principal may make a complaint to the Board,

in such manner and as may be prescribed.

Illustration.

X, an individual, opens a bank account using the mobile app or website of Y, a bank. To complete the Know-Your-Customer requirements under law for opening of bank account, X opts for processing of her personal data by Y in a live, video-based customer identification process. Y shall accompany or precede the request for the personal data with notice to X, describing the personal data and the purpose of its processing.

(*2*) Where a Data Principal has given her consent for the processing of her personal data before the date of commencement of this Act,—

(*a*) the Data Fiduciary shall, as soon as it is reasonably practicable, give to the Data Principal a notice informing her,—

(*i*) the personal data and the purpose for which the same has been processed;

(*ii*) the manner in which she may exercise her rights under sub-section (*4*) of section 6 and section 13; and

(*iii*) the manner in which the Data Principal may make a complaint to the Board,

in such manner and as may be prescribed.

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(*b*) the Data Fiduciary may continue to process the personal data until and unless the Data Principal withdraws her consent.

Illustration.

X, an individual, gave her consent to the processing of her personal data for an online shopping app or website operated by Y, an e-commerce service provider, before the commencement of this Act. Upon commencement of the Act, Y shall, as soon as practicable, give through email, in-app notification or other effective method information to X, describing the personal data and the purpose of its processing.

(*3*) The Data Fiduciary shall give the Data Principal the option to access the contents of the notice referred to in sub-sections (*1*) and (*2*) in English or any language specified in the Eighth Schedule to the Constitution.

Consent.

6. (*1*) The consent given by the Data Principal shall be free, specific, informed, unconditional and unambiguous with a clear affirmative action, and shall signify an agreement to the processing of her personal data for the specified purpose and be limited to such personal data as is necessary for such specified purpose.

Illustration.

X, an individual, downloads Y, a telemedicine app. Y requests the consent of X for (*i*) the processing of her personal data for making available telemedicine services, and (*ii*) accessing her mobile phone contact list, and X signifies her consent to both. Since phone contact list is not necessary for making available telemedicine services, her consent shall be limited to the processing of her personal data for making available telemedicine services.

(*2*) Any part of consent referred in sub-section (*1*) which constitutes an infringement of the provisions of this Act or the rules made thereunder or any other law for the time being in force shall be invalid to the extent of such infringement.

Illustration.

X, an individual, buys an insurance policy using the mobile app or website of Y, an insurer. She gives to Y her consent for (*i*) the processing of her personal data by Y for the purpose of issuing the policy, and (*ii*) waiving her right to file a complaint to the Data Protection Board of India. Part (*ii*) of the consent, relating to waiver of her right to file a complaint, shall be invalid.

(*3*) Every request for consent under the provisions of this Act or the rules made thereunder shall be presented to the Data Principal in a clear and plain language, giving her the option to access such request in English or any language specified in the Eighth Schedule to the Constitution and providing the contact details of a Data Protection Officer, where applicable, or of any other person authorised by the Data Fiduciary to respond to any communication from the Data Principal for the purpose of exercise of her rights under the provisions of this Act.

(*4*) Where consent given by the Data Principal is the basis of processing of personal data, such Data Principal shall have the right to withdraw her consent at any time, with the ease of doing so being comparable to the ease with which such consent was given.

(*5*) The consequences of the withdrawal referred to in sub-section (*4*) shall be borne by the Data Principal, and such withdrawal shall not affect the legality of processing of the personal data based on consent before its withdrawal.

Illustration.

X, an individual, is the user of an online shopping app or website operated by Y, an e-commerce service provider. X consents to the processing of her personal data by Y for the purpose of fulfilling her supply order and places an order for supply of a good while making payment for the same. If X withdraws her consent, Y may stop enabling X to use the app or website for placing orders, but may not stop the processing for supply of the goods already ordered and paid for by X.

(*6*) If a Data Principal withdraws her consent to the processing of personal data under sub-section (*5*), the Data Fiduciary shall, within a reasonable time, cease and cause its Data Processors to cease processing the personal data of such Data Principal unless such processing without her consent is required or authorised under the provisions of this Act or the rules made thereunder or any other law for the time being in force in India.

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Illustration.

X, a telecom service provider, enters into a contract with Y, a Data Processor, for emailing telephone bills to the customers of X. Z, a customer of X, who had earlier given her consent to X for the processing of her personal data for emailing of bills, downloads the mobile app of X and opts to receive bills only on the app. X shall itself cease, and shall cause Y to cease, the processing of the personal data of Z for emailing bills.

(*7*) The Data Principal may give, manage, review or withdraw her consent to the Data Fiduciary through a Consent Manager.

(*8*) The Consent Manager shall be accountable to the Data Principal and shall act on her behalf in such manner and subject to such obligations as may be prescribed.

(*9*) Every Consent Manager shall be registered with the Board in such manner and subject to such technical, operational, financial and other conditions as may be prescribed.

(*10*) Where a consent given by the Data Principal is the basis of processing of personal data and a question arises in this regard in a proceeding, the Data Fiduciary shall be obliged to prove that a notice was given by her to the Data Principal and consent was given by such Data Principal to the Data Fiduciary in accordance with the provisions of this Act and the rules made thereunder.

Certain legitimate uses.

7. A Data Fiduciary may process personal data of a Data Principal for any of following uses, namely:—

(*a*) for the specified purpose for which the Data Principal has voluntarily provided her personal data to the Data Fiduciary, and in respect of which she has not indicated to the Data Fiduciary that she does not consent to the use of her personal data.

Illustrations.

(*I*) X, an individual, makes a purchase at Y, a pharmacy. She voluntarily provides Y her personal data and requests Y to acknowledge receipt of the payment made for the purchase by sending a message to her mobile phone. Y may process the personal data of X for the purpose of sending the receipt.

(*II*) X, an individual, electronically messages Y, a real estate broker, requesting Y to help identify a suitable rented accommodation for her and shares her personal data for this purpose. Y may process her personal data to identify and intimate to her the details of accommodation available on rent. Subsequently, X informs Y that X no longer needs help from Y. Y shall cease to process the personal data of X.

(*b*) for the State and any of its instrumentalities to provide or issue to the Data Principal such subsidy, benefit, service, certificate, licence or permit as may be prescribed, where—

(*i*) she has previously consented to the processing of her personal data by the State or any of its instrumentalities for any subsidy, benefit, service, certificate, licence or permit; or

(*ii*) such personal data is available in digital form in, or in non-digital form and digitised subsequently from, any database, register, book or other document which is maintained by the State or any of its instrumentalities and is notified by the Central Government,

subject to standards followed for processing being in accordance with the policy issued by the Central Government or any law for the time being in force for governance of personal data.

Illustration.

X. a pregnant woman, enrols herself on an app or website to avail of government's maternity benefits programme, while consenting to provide her personal data for the purpose of availing of such benefits. Government may process the personal data of X processing to determine her eligibility to receive any other prescribed benefit from the government.

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(*c*) for the performance by the State or any of its instrumentalities of any function under any law for the time being in force in India or in the interest of sovereignty and integrity of India or security of the State;

(*d*) for fulfilling any obligation under any law for the time being in force in India on any person to disclose any information to the State or any of its instrumentalities, subject to such processing being in accordance with the provisions regarding disclosure of such information in any other law for the time being in force;

(*e*) for compliance with any judgment or decree or order issued under any law for the time being in force in India, or any judgment or order relating to claims of a contractual or civil nature under any law for the time being in force outside India;

(*f*) for responding to a medical emergency involving a threat to the life or immediate threat to the health of the Data Principal or any other individual;

(*g*) for taking measures to provide medical treatment or health services to any individual during an epidemic, outbreak of disease, or any other threat to public health;

(*h*) for taking measures to ensure safety of, or provide assistance or services to, any individual during any disaster, or any breakdown of public order.

Explanation.—For the purposes of this clause, the expression "disaster" shall have the same meaning as assigned to it in clause (*d*) of section 2 of the Disaster Management Act, 2005; or

53 of 2005.

(*i*) for the purposes of employment or those related to safeguarding the employer from loss or liability, such as prevention of corporate espionage, maintenance of confidentiality of trade secrets, intellectual property, classified information or provision of any service or benefit sought by a Data Principal who is an employee.

General obligations of Data Fiduciary.

8. (*1*) A Data Fiduciary shall, irrespective of any agreement to the contrary or failure of a Data Principal to carry out the duties provided under this Act, be responsible for complying with the provisions of this Act and the rules made thereunder in respect of any processing undertaken by it or on its behalf by a Data Processor.

(*2*) A Data Fiduciary may engage, appoint, use or otherwise involve a Data Processor to process personal data on its behalf for any activity related to offering of goods or services to Data Principals only under a valid contract.

(*3*) Where personal data processed by a Data Fiduciary is likely to be—

(*a*) used to make a decision that affects the Data Principal; or

(*b*) disclosed to another Data Fiduciary, the Data Fiduciary processing such personal data shall ensure its completeness, accuracy and consistency.

(*4*) A Data Fiduciary shall implement appropriate technical and organisational measures to ensure effective observance of the provisions of this Act and the rules made thereunder.

(*5*) A Data Fiduciary shall protect personal data in its possession or under its control, including in respect of any processing undertaken by it or on its behalf by a Data Processor, by taking reasonable security safeguards to prevent personal data breach.

(*6*) In the event of a personal data breach, the Data Fiduciary shall give the Board and each affected Data Principal, intimation of such breach in such form and manner as may be prescribed.

(*7*) A Data Fiduciary shall, unless retention is necessary for compliance with any law for the time being in force,—

(*a*) erase personal data, upon the Data Principal withdrawing her consent or as

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soon as it is reasonable to assume that the specified purpose is no longer being served, whichever is earlier; and

(*b*) cause its Data Processor to erase any personal data that was made available by the Data Fiduciary for processing to such Data Processor.

Illustrations.

(*I*) X, an individual, registers herself on an online marketplace operated by Y, an e-commerce service provider. X gives her consent to Y for the processing of her personal data for selling her used car. The online marketplace helps conclude the sale. Y shall no longer retain her personal data.

(*II*) X, an individual, decides to close her savings account with Y, a bank. Y is required by law applicable to banks to maintain the record of the identity of its clients for a period of ten years beyond closing of accounts. Since retention is necessary for compliance with law, Y shall retain X's personal data for the said period.

(*8*) The purpose referred to in clause (*a*) of sub-section (*7*) shall be deemed to no longer be served, if the Data Principal does not—

(*a*) approach the Data Fiduciary for the performance of the specified purpose; and

(*b*) exercise any of her rights in relation to such processing,

for such time period as may be prescribed, and different time periods may be prescribed for different classes of Data Fiduciaries and for different purposes.

(*9*) A Data Fiduciary shall publish, in such manner as may be prescribed, the business contact information of a Data Protection Officer, if applicable, or a person who is able to answer on behalf of the Data Fiduciary, the questions, if any, raised by the Data Principal about the processing of her personal data.

(*10*) A Data Fiduciary shall establish an effective mechanism to redress the grievances of Data Principals.

(*11*) For the purposes of this section, it is hereby clarified that a Data Principal shall be considered as not having approached the Data Fiduciary for the performance of the specified purpose, in any period during which she has not initiated contact with the Data Fiduciary for such performance, in person or by way of communication in electronic or physical form.

Processing of personal data of children.

9. (*1*) The Data Fiduciary shall, before processing any personal data of a child or a person with disability who has a lawful guardian obtain verifiable consent of the parent of such child or the lawful guardian, as the case may be, in such manner as may be prescribed.

Explanation.—For the purpose of this sub-section, the expression "consent of the parent" includes the consent of lawful guardian, wherever applicable.

(*2*) A Data Fiduciary shall not undertake such processing of personal data that is likely to cause any detrimental effect on the well-being of a child.

(*3*) A Data Fiduciary shall not undertake tracking or behavioural monitoring of children or targeted advertising directed at children.

(*4*) The provisions of sub-sections (*1*) and (*3*) shall not be applicable to processing of personal data of a child by such classes of Data Fiduciaries or for such purposes, and subject to such conditions, as may be prescribed.

(*5*) The Central Government may, if satisfied that a Data Fiduciary has ensured that its processing of personal data of children is done in a manner that is verifiably safe, notify for such processing by such Data Fiduciary the age above which that Data Fiduciary shall be exempt from the applicability of all or any of the obligations under sub-sections (*1*) and (*3*) in respect of processing by that Data Fiduciary as the notification may specify.

Additional obligations of Significant Data Fiduciary.

10. (*1*) The Central Government may notify any Data Fiduciary or class of Data Fiduciaries as Significant Data Fiduciary, on the basis of an assessment of such relevant factors as it may determine, including—

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(*a*) the volume and sensitivity of personal data processed;

(*b*) risk to the rights of Data Principal;

(*c*) potential impact on the sovereignty and integrity of India;

(*d*) risk to electoral democracy;

(*e*) security of the State; and

(*f*) public order.

(*2*) The Significant Data Fiduciary shall—

(*a*) appoint a Data Protection Officer who shall—

(*i*) represent the Significant Data Fiduciary under the provisions of this Act;

(*ii*) be based in India;

(*iii*) be an individual responsible to the Board of Directors or similar governing body of the Significant Data Fiduciary; and

(*iv*) be the point of contact for the grievance redressal mechanism under the provisions of this Act;

(*b*) appoint an independent data auditor to carry out data audit, who shall evaluate the compliance of the Significant Data Fiduciary in accordance with the provisions of this Act; and

(*c*) undertake the following other measures, namely:—

(*i*) periodic Data Protection Impact Assessment, which shall be a process comprising a description of the rights of Data Principals and the purpose of processing of their personal data, assessment and management of the risk to the rights of the Data Principals, and such other matters regarding such process as may be prescribed;

(*ii*) periodic audit; and

(*iii*) such other measures, consistent with the provisions of this Act, as may be prescribed.

CHAPTER III

Rights and duties of Data Principal

Right to access information about personal data.

11. (*1*) The Data Principal shall have the right to obtain from the Data Fiduciary to whom she has previously given consent, including consent as referred to in clause (*a*) of section 7 (hereinafter referred to as the said Data Fiduciary), for processing of personal data, upon making to it a request in such manner as may be prescribed,—

(*a*) a summary of personal data which is being processed by such Data Fiduciary and the processing activities undertaken by that Data Fiduciary with respect to such personal data;

(*b*) the identities of all other Data Fiduciaries and Data Processors with whom the personal data has been shared by such Data Fiduciary, along with a description of the personal data so shared; and

(*c*) any other information related to the personal data of such Data Principal and its processing, as may be prescribed.

(*2*) Nothing contained in clause (*b*) or clause (*c*) of sub-section (*1*) shall apply in respect of the sharing of any personal data by the said Data Fiduciary with any other Data Fiduciary authorised by law to obtain such personal data, where such sharing is pursuant

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to a request made in writing by such other Data Fiduciary for the purpose of prevention or detection or investigation of offences or cyber incidents, or for prosecution or punishment of offences.

Right to correction and erasure of personal data.

12. (*1*) A Data Principal shall have the right to correction, completion, updating and erasure of her personal data for the processing of which she has previously given consent, including consent as referred to in clause (*a*) of section 7, in accordance with any requirement or procedure under any law for the time being in force.

(*2*) A Data Fiduciary shall, upon receiving a request for correction, completion or updating from a Data Principal,—

(*a*) correct the inaccurate or misleading personal data;

(*b*) complete the incomplete personal data; and

(*c*) update the personal data.

(*3*) A Data Principal shall make a request in such manner as may be prescribed to the Data Fiduciary for erasure of her personal data, and upon receipt of such a request, the Data Fiduciary shall erase her personal data unless retention of the same is necessary for the specified purpose or for compliance with any law for the time being in force.

Right of grievance redressal.

13. (*1*) A Data Principal shall have the right to have readily available means of grievance redressal provided by a Data Fiduciary or Consent Manager in respect of any act or omission of such Data Fiduciary or Consent Manager regarding the performance of its obligations in relation to the personal data of such Data Principal or the exercise of her rights under the provisions of this Act and the rules made thereunder.

(*2*) The Data Fiduciary or Consent Manager shall respond to any grievances referred to in sub-section (*1*) within such period as may be prescribed from the date of its receipt for all or any class of Data Fiduciaries.

(*3*) The Data Principal shall exhaust the opportunity of redressing her grievance under this section before approaching the Board.

Right to nominate.

14. (*1*) A Data Principal shall have the right to nominate, in such manner as may be prescribed, any other individual, who shall, in the event of death or incapacity of the Data Principal, exercise the rights of the Data Principal in accordance with the provisions of this Act and the rules made thereunder.

(*2*) For the purposes of this section, the expression "incapacity" means inability to exercise the rights of the Data Principal under the provisions of this Act or the rules made thereunder due to unsoundness of mind or infirmity of body.

Duties of Data Principal.

15. A Data Principal shall perform the following duties, namely:—

(*a*) comply with the provisions of all applicable laws for the time being in force while exercising rights under the provisions of this Act;

(*b*) to ensure not to impersonate another person while providing her personal data for a specified purpose;

(*c*) to ensure not to suppress any material information while providing her personal data for any document, unique identifier, proof of identity or proof of address issued by the State or any of its instrumentalities;

(*d*) to ensure not to register a false or frivolous grievance or complaint with a Data Fiduciary or the Board; and

(*e*) to furnish only such information as is verifiably authentic, while exercising the right to correction or erasure under the provisions of this Act or the rules made thereunder.

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CHAPTER IV

SPECIAL PROVISIONS

Processing of personal data outside India.

16. (*1*) The Central Government may, by notification, restrict the transfer of personal data by a Data Fiduciary for processing to such country or territory outside India as may be so notified.

(*2*) Nothing contained in this section shall restrict the applicability of any law for the time being in force in India that provides for a higher degree of protection for or restriction on transfer of personal data by a Data Fiduciary outside India in relation to any personal data or Data Fiduciary or class thereof.

Exemptions.

17. (*1*) The provisions of Chapter II, except sub-sections (*1*) and (*5*) of section 8, and those of Chapter III and section 16 shall not apply where—

(*a*) the processing of personal data is necessary for enforcing any legal right or claim;

(*b*) the processing of personal data by any court or tribunal or any other body in India which is entrusted by law with the performance of any judicial or quasi-judicial or regulatory or supervisory function, where such processing is necessary for the performance of such function;

(*c*) personal data is processed in the interest of prevention, detection, investigation or prosecution of any offence or contravention of any law for the time being in force in India;

(*d*) personal data of Data Principals not within the territory of India is processed pursuant to any contract entered into with any person outside the territory of India by any person based in India;

(*e*) the processing is necessary for a scheme of compromise or arrangement or merger or amalgamation of two or more companies or a reconstruction by way of demerger or otherwise of a company, or transfer of undertaking of one or more company to another company, or involving division of one or more companies, approved by a court or tribunal or other authority competent to do so by any law for the time being in force; and

(*f*) the processing is for the purpose of ascertaining the financial information and assets and liabilities of any person who has defaulted in payment due on account of a loan or advance taken from a financial institution, subject to such processing being in accordance with the provisions regarding disclosure of information or data in any other law for the time being in force.

Explanation.—For the purposes of this clause, the expressions "default" and "financial institution" shall have the meanings respectively assigned to them in sub-sections (*12*) and (*14*) of section 3 of the Insolvency and Bankruptcy Code, 2016. 31 of 2016.

Illustration.

X, an individual, takes a loan from Y, a bank. X defaults in paying her monthly loan repayment instalment on the date on which it falls due. Y may process the personal data of X for ascertaining her financial information and assets and liabilities.

(*2*) The provisions of this Act shall not apply in respect of the processing of personal data—

(*a*) by such instrumentality of the State as the Central Government may notify, in the interests of sovereignty and integrity of India, security of the State, friendly relations with foreign States, maintenance of public order or preventing incitement to any cognizable offence relating to any of these, and the processing by the Central Government of any personal data that such instrumentality may furnish to it; and

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(*b*) necessary for research, archiving or statistical purposes if the personal data is not to be used to take any decision specific to a Data Principal and such processing is carried on in accordance with such standards as may be prescribed.

(*3*) The Central Government may, having regard to the volume and nature of personal data processed, notify certain Data Fiduciaries or class of Data Fiduciaries, including startups, as Data Fiduciaries to whom the provisions of section 5, sub-sections (*3*) and (*7*) of section 8 and sections 10 and 11 shall not apply.

Explanation.—For the purposes of this sub-section, the term "startup" means a private limited company or a partnership firm or a limited liability partnership incorporated in India, which is eligible to be and is recognised as such in accordance with the criteria and process notified by the department to which matters relating to startups are allocated in the Central Government.

(*4*) In respect of processing by the State or any instrumentality of the State, the provisions of sub-section (*7*) of section 8 and sub-section (*3*) of section 12 and, where such processing is for a purpose that does not include making of a decision that affects the Data Principal, sub-section (*2*) of section 12 shall not apply.

(*5*) The Central Government may, before expiry of five years from the date of commencement of this Act, by notification, declare that any provision of this Act shall not apply to such Data Fiduciary or classes of Data Fiduciaries for such period as may be specified in the notification.

CHAPTER V

Data Protection Board of India

Establishment of Board.

18. (*1*) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, a Board to be called the Data Protection Board of India.

(*2*) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(*3*) The headquarters of the Board shall be at such place as the Central Government may notify.

Composition and qualifications for appointment of Chairperson and Members.

19. (*1*) The Board shall consist of a Chairperson and such number of other Members as the Central Government may notify.

(*2*) The Chairperson and other Members shall be appointed by the Central Government in such manner as may be prescribed.

(*3*) The Chairperson and other Members shall be a person of ability, integrity and standing who possesses special knowledge or practical experience in the fields of data governance, administration or implementation of laws related to social or consumer protection, dispute resolution, information and communication technology, digital economy, law, regulation or techno-regulation, or in any other field which in the opinion of the Central Government may be useful to the Board, and at least one among them shall be an expert in the field of law.

Salary, allowances payable to and term of office.

20. (*1*) The salary, allowances and other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed, and shall not be varied to their disadvantage after their appointment.

(*2*) The Chairperson and other Members shall hold office for a term of two years and shall be eligible for re-appointment.

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Disqualifications for appointment and continuation as Chairperson and Members of Board.

21. (*1*) A person shall be disqualified for being appointed and continued as the Chairperson or a Member, if she—

(*a*) has been adjudged as an insolvent;

(*b*) has been convicted of an offence, which in the opinion of the Central Government, involves moral turpitude;

(*c*) has become physically or mentally incapable of acting as a Member;

(*d*) has acquired such financial or other interest, as is likely to affect prejudicially her functions as a Member; or

(*e*) has so abused her position as to render her continuance in office prejudicial to the public interest.

(*2*) The Chairperson or Member shall not be removed from her office by the Central Government unless she has been given an opportunity of being heard in the matter.

Resignation by Members and filling of vacancy.

22. (*1*) The Chairperson or any other Member may give notice in writing to the Central Government of resigning from her office, and such resignation shall be effective from the date on which the Central Government permits her to relinquish office, or upon expiry of a period of three months from the date of receipt of such notice, or upon a duly appointed successor entering upon her office, or upon the expiry of the term of her office, whichever is earliest.

(*2*) A vacancy caused by the resignation or removal or death of the Chairperson or any other Member, or otherwise, shall be filled by fresh appointment in accordance with the provisions of this Act.

(*3*) The Chairperson and any other Member shall not, for a period of one year from the date on which they cease to hold such office, except with the previous approval of the Central Government, accept any employment, and shall also disclose to the Central Government any subsequent acceptance of employment with any Data Fiduciary against whom proceedings were initiated by or before such Chairperson or other Member.

Proceedings of Board.

23. (*1*) The Board shall observe such procedure in regard to the holding of and transaction of business at its meetings, including by digital means, and authenticate its orders, directions and instruments in such manner as may be prescribed.

(*2*) No act or proceeding of the Board shall be invalid merely by reason of—

(*a*) any vacancy in or any defect in the constitution of the Board;

(*b*) any defect in the appointment of a person acting as the Chairperson or other Member of the Board; or

(*c*) any irregularity in the procedure of the Board, which does not affect the merits of the case.

(*3*) When the Chairperson is unable to discharge her functions owing to absence, illness or any other cause, the senior-most Member shall discharge the functions of the Chairperson until the date on which the Chairperson resumes her duties.

Officers and employees of Board.

24. The Board may, with previous approval of the Central Government, appoint such officers and employees as it may deem necessary for the efficient discharge of its functions under the provisions of this Act, on such terms and conditions of appointment and service as may be prescribed.

Members and officers to be public servants.

25. The Chairperson, Members, officers and employees of the Board shall be deemed, when acting or purporting to act in pursuance of provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

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Powers of Chairperson.

26. The Chairperson shall exercise the following powers, namely:—

(*a*) general superintendence and giving direction in respect of all administrative matters of the Board;

(*b*) authorise any officer of the Board to scrutinise any intimation, complaint, reference or correspondence addressed to the Board; and

(*c*) authorise performance of any of the functions of the Board and conduct any of its proceedings, by an individual Member or groups of Members and to allocate proceedings among them.

CHAPTER VI

POWERS, FUNCTIONS AND PROCEDURE TO BE FOLLOWED BY BOARD

Powers and functions of Board.

27. (*1*) The Board shall exercise and perform the following powers and functions, namely:—

(*a*) on receipt of an intimation of personal data breach under sub-section (*6*) of section 8, to direct any urgent remedial or mitigation measures in the event of a personal data breach, and to inquire into such personal data breach and impose penalty as provided in this Act;

(*b*) on a complaint made by a Data Principal in respect of a personal data breach or a breach in observance by a Data Fiduciary of its obligations in relation to her personal data or the exercise of her rights under the provisions of this Act, or on a reference made to it by the Central Government or a State Government, or in compliance of the directions of any court, to inquire into such breach and impose penalty as provided in this Act;

(*c*) on a complaint made by a Data Principal in respect of a breach in observance by a Consent Manager of its obligations in relation to her personal data, to inquire into such breach and impose penalty as provided in this Act;

(*d*) on receipt of an intimation of breach of any condition of registration of a Consent Manager, to inquire into such breach and impose penalty as provided in this Act; and

(*e*) on a reference made by the Central Government in respect of the breach in observance of the provisions of sub-section (*2*) of section 36 by an intermediary, to inquire into such breach and impose penalty as provided in this Act.

(*2*) The Board may, for the effective discharge of its functions under the provisions of this Act, after giving the person concerned an opportunity of being heard and after recording reasons in writing, issue such directions as it may consider necessary to such person, who shall be bound to comply with the same.

(*3*) The Board may, on a representation made to it by a person affected by a direction issued under sub-section (*1*) or sub-section (*2*), or on a reference made by the Central Government, modify, suspend, withdraw or cancel such direction and, while doing so, impose such conditions as it may deem fit, subject to which the modification, suspension, withdrawal or cancellation shall have effect.

Procedure to be followed by Board.

28. (*1*) The Board shall function as an independent body and shall, as far as practicable, function as a digital office, with the receipt of complaints and the allocation, hearing and pronouncement of decisions in respect of the same being digital by design, and adopt such techno-legal measures as may be prescribed.

(*2*) The Board may, on receipt of an intimation or complaint or reference or directions as referred to in sub-section (*1*) of section 27, take action in accordance with the provisions of this Act and the rules made thereunder.

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(*3*) The Board shall determine whether there are sufficient grounds to proceed with an inquiry.

(*4*) In case the Board determines that there are insufficient grounds, it may, for reasons to be recorded in writing, close the proceedings.

(*5*) In case the Board determines that there are sufficient grounds to proceed with inquiry, it may, for reasons to be recorded in writing, inquire into the affairs of any person for ascertaining whether such person is complying with or has complied with the provisions of this Act.

(*6*) The Board shall conduct such inquiry following the principles of natural justice and shall record reasons for its actions during the course of such inquiry.

(*7*) For the purposes of discharging its functions under this Act, the Board shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, in respect of matters relating to— 5 of 1908.

(*a*) summoning and enforcing the attendance of any person and examining her on oath;

(*b*) receiving evidence of affidavit requiring the discovery and production of documents;

(*c*) inspecting any data, book, document, register, books of account or any other document; and

(*d*) such other matters as may be prescribed.

(*8*) The Board or its officers shall not prevent access to any premises or take into custody any equipment or any item that may adversely affect the day-to-day functioning of a person.

(*9*) The Board may require the services of any police officer or any officer of the Central Government or a State Government to assist it for the purposes of this section and it shall be the duty of every such officer to comply with such requisition.

(*10*) During the course of the inquiry, if the Board considers it necessary, it may for reasons to be recorded in writing, issue interim orders after giving the person concerned an opportunity of being heard.

(*11*) On completion of the inquiry and after giving the person concerned an opportunity of being heard, the Board may for reasons to be recorded in writing, either close the proceedings or proceed in accordance with section 33.

(*12*) At any stage after receipt of a complaint, if the Board is of the opinion that the complaint is false or frivolous, it may issue a warning or impose costs on the complainant.

CHAPTER VII

APPEAL AND ALTERNATE DISPUTE RESOLUTION

Appeal to Appellate Tribunal.

29. (*1*) Any person aggrieved by an order or direction made by the Board under this Act may prefer an appeal before the Appellate Tribunal.

(*2*) Every appeal under sub-section (*1*) shall be filed within a period of sixty days from the date of receipt of the order or direction appealed against and it shall be in such form and manner and shall be accompanied by such fee as may be prescribed.

(*3*) The Appellate Tribunal may entertain an appeal after the expiry of the period specified in sub-section (*2*), if it is satisfied that there was sufficient cause for not preferring the appeal within that period.

(*4*) On receipt of an appeal under sub-section (*1*), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

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(*5*) The Appellate Tribunal shall send a copy of every order made by it to the Board and to the parties to the appeal.

(*6*) The appeal filed before the Appellate Tribunal under sub-section (*1*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date on which the appeal is presented to it.

(*7*) Where any appeal under sub-section (*6*) could not be disposed of within the period of six months, the Appellate Tribunal shall record its reasons in writing for not disposing of the appeal within that period.

(*8*) Without prejudice to the provisions of section 14A and section 16 of the Telecom Regulatory Authority of India Act, 1997, the Appellate Tribunal shall deal with an appeal under this section in accordance with such procedure as may be prescribed. 24 of 1997.

(*9*) Where an appeal is filed against the orders of the Appellate Tribunal under this Act, the provisions of section 18 of the Telecom Regulatory Authority of India Act, 1997 shall apply. 24 of 1997.

(*10*) In respect of appeals filed under the provisions of this Act, the Appellate Tribunal shall, as far as practicable, function as a digital office, with the receipt of appeal, hearing and pronouncement of decisions in respect of the same being digital by design.

Orders passed by Appellate Tribunal to be executable as decree.

30. (*1*) An order passed by the Appellate Tribunal under this Act shall be executable by it as a decree of civil court, and for this purpose, the Appellate Tribunal shall have all the powers of a civil court.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Appellate Tribunal may transmit any order made by it to a civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

Alternate dispute resolution.

31. If the Board is of the opinion that any complaint may be resolved by mediation, it may direct the parties concerned to attempt resolution of the dispute through such mediation by such mediator as the parties may mutually agree upon, or as provided for under any law for the time being in force in India.

Voluntary undertaking.

32. (*1*) The Board may accept a voluntary undertaking in respect of any matter related to observance of the provisions of this Act from any person at any stage of a proceeding under section 28.

(*2*) The voluntary undertaking referred to in sub-section (*1*) may include an undertaking to take such action within such time as may be determined by the Board, or refrain from taking such action, and or publicising such undertaking.

(*3*) The Board may, after accepting the voluntary undertaking and with the consent of the person who gave the voluntary undertaking vary the terms included in the voluntary undertaking.

(*4*) The acceptance of the voluntary undertaking by the Board shall constitute a bar on proceedings under the provisions of this Act as regards the contents of the voluntary undertaking, except in cases covered by sub-section (*5*).

(*5*) Where a person fails to adhere to any term of the voluntary undertaking accepted by the Board, such breach shall be deemed to be breach of the provisions of this Act and the Board may, after giving such person an opportunity of being heard, proceed in accordance with the provisions of section 33.

CHAPTER VIII

PENALTIES AND ADJUDICATION

Penalties.

33. (*1*) If the Board determines on conclusion of an inquiry that breach of the provisions of this Act or the rules made thereunder by a person is significant, it may, after giving the

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person an opportunity of being heard, impose such monetary penalty specified in the Schedule.

(*2*) While determining the amount of monetary penalty to be imposed under sub-section (*1*), the Board shall have regard to the following matters, namely:—

(*a*) the nature, gravity and duration of the breach;

(*b*) the type and nature of the personal data affected by the breach;

(*c*) repetitive nature of the breach;

(*d*) whether the person, as a result of the breach, has realised a gain or avoided any loss;

(*e*) whether the person took any action to mitigate the effects and consequences of the breach, and the timeliness and effectiveness of such action;

(*f*) whether the monetary penalty to be imposed is proportionate and effective, having regard to the need to secure observance of and deter breach of the provisions of this Act; and

(*g*) the likely impact of the imposition of the monetary penalty on the person.

Crediting sums realised by way of penalties to Consolidated Fund of India.

34. All sums realised by way of penalties imposed by the Board under this Act, shall be credited to the Consolidated Fund of India.

CHAPTER IX

MISCELLANEOUS

Protection of action taken in good faith.

35. No suit, prosecution or other legal proceedings shall lie against the Central Government, the Board, its Chairperson and any Member, officer or employee thereof for anything which is done or intended to be done in good faith under the provisions of this Act or the rules made thereunder.

Power to call for information.

36. The Central Government may, for the purposes of this Act, require the Board and any Data Fiduciary or intermediary to furnish such information as it may call for.

Power of Central Government to issue directions.

37. (*1*) The Central Government or any of its officers specially authorised by it in this behalf may, upon receipt of a reference in writing from the Board that—

(*a*) intimates the imposition of monetary penalty by the Board on a Data Fiduciary in two or more instances; and

(*b*) advises, in the interests of the general public, the blocking for access by the public to any information generated, transmitted, received, stored or hosted, in any computer resource that enables such Data Fiduciary to carry on any activity relating to offering of goods or services to Data Principals within the territory of India,

after giving an opportunity of being heard to that Data Fiduciary, on being satisfied that it is necessary or expedient so to do, in the interests of the general public, for reasons to be recorded in writing, by order, direct any agency of the Central Government or any intermediary to block for access by the public or cause to be blocked for access by the public any such information.

(*2*) Every intermediary who receives a direction issued under sub-section (*1*) shall be bound to comply with the same.

(*3*) For the purposes of this section, the expressions "computer resource", "information" and "intermediary" shall have the meanings respectively assigned to them in the Information Technology Act, 2000. 21 of 2000.

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Consistency with other laws.

38. (*1*) The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

(*2*) In the event of any conflict between a provision of this Act and a provision of any other law for the time being in force, the provision of this Act shall prevail to the extent of such conflict.

Bar of jurisdiction.

39. No civil court shall have the jurisdiction to entertain any suit or proceeding in respect of any matter for which the Board is empowered under the provisions of this Act and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power under the provisions of this Act.

Power to make rules.

40. (*1*) The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with the provisions of this Act, to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which the notice given by the Data Fiduciary to a Data Principal shall inform her, under sub-section (*1*) of section 5;

(*b*) the manner in which the notice given by the Data Fiduciary to a Data Principal shall inform her, under sub-section (*2*) of section 5;

(*c*) the manner of accountability and the obligations of Consent Manager under sub-section (*8*) of section 6;

(*d*) the manner of registration of Consent Manager and the conditions relating thereto, under sub-section (*9*) of section 6;

(*e*) the subsidy, benefit, service, certificate, licence or permit for the provision or issuance of which, personal data may be processed under clause (*b*) of section 7;

(*f*) the form and manner of intimation of personal data breach to the Board under sub-section (*6*) of section 8;

(*g*) the time period for the specified purpose to be deemed as no longer being served, under sub-section (*8*) of section 8;

(*h*) the manner of publishing the business contact information of a Data Protection Officer under sub-section (*9*) of section 8;

(*i*) the manner of obtaining verifiable consent under sub-section (*1*) of section 9;

(*j*) the classes of Data Fiduciaries, the purposes of processing of personal data of a child and the conditions relating thereto, under sub-section (*4*) of section 9;

(*k*) the other matters comprising the process of Data Protection Impact Assessment under sub-clause (*i*) of clause (*c*) of sub-section (*2*) of section 10;

(*l*) the other measures that the Significant Data Fiduciary shall undertake under sub-clause (*iii*) of clause (*c*) of sub-section (*2*) of section 10;

(*m*) the manner in which a Data Principal shall make a request to the Data Fiduciary to obtain information and any other information related to the personal data of such Data Principal and its processing, under sub-section (*1*) of section 11;

(*n*) the manner in which a Data Principal shall make a request to the Data Fiduciary for erasure of her personal data under sub-section (*3*) of section 12;

(*o*) the period within which the Data Fiduciary shall respond to any grievances under sub-section (*2*) of section 13;

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(*p*) the manner of nomination of any other individual by the Data Principal under sub-section (*1*) of section 14;

(*q*) the standards for processing the personal data for exemption under clause (*b*) of sub-section (*2*) of section 17;

(*r*) the manner of appointment of the Chairperson and other Members of the Board under sub-section (*2*) of section 19;

(*s*) the salary, allowances and other terms and conditions of services of the Chairperson and other Members of the Board under sub-section (*1*) of section 20;

(*t*) the manner of authentication of orders, directions and instruments under sub-section (*1*) of section 23;

(*u*) the terms and conditions of appointment and service of officers and employees of the Board under section 24;

(*v*) the techno-legal measures to be adopted by the Board under sub-section (*1*) of section 28;

(*w*) the other matters under clause (*d*) of sub-section (*7*) of section 28;

(*x*) the form, manner and fee for filing an appeal under sub-section (*2*) of section 29;

(*y*) the procedure for dealing an appeal under sub-section (*8*) of section 29;

(*z*) any other matter which is to be or may be prescribed or in respect of which provision is to be, or may be, made by rules.

Laying of rules and certain notifications.

41. Every rule made and every notification issued under section 16 and section 42 of 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 expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification 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 be without prejudice to the validity of anything previously done under that rule or notification.

Power to amend Schedule.

42. (*1*) The Central Government may, by notification, amend the Schedule, subject to the restriction that no such notification shall have the effect of increasing any penalty specified therein to more than twice of what was specified in it when this Act was originally enacted.

(*2*) Any amendment notified under sub-section (*1*) shall have effect as if enacted in this Act and shall come into force on the date of the notification.

Power to remove difficulties.

43. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty.

(*2*) No order as referred to in sub-section (*1*) shall be made after the expiry of three years from the date of commencement of this Act.

(*3*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendments to certain Acts.

24 of 1997.

44. (*1*) In section 14 of the Telecom Regulatory Authority of India Act, 1997, in clause (*c*), for sub-clauses (*i*) and (*ii*), the following sub-clauses shall be substituted, namely:—

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"(*i*) the Appellate Tribunal under the Information Technology Act, 2000; 21 of 2000.

(*ii*) the Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008; and 27 of 2008.

(*iii*) the Appellate Tribunal under the Digital Personal Data Protection Act, 2023.".

(*2*) The Information Technology Act, 2000 shall be amended in the following manner, namely:— 21 of 2000.

(*a*) section 43A shall be omitted;

(*b*) in section 81, in the proviso, after the words and figures "the Patents Act, 1970", the words and figures "or the Digital Personal Data Protection Act, 2023" shall be inserted; and 39 of 1970.

(*c*) in section 87, in sub-section (*2*), clause (*ob*) shall be omitted.

(*3*) In section 8 of the Right to Information Act, 2005, in sub-section (*1*), for clause (*j*), the following clause shall be substituted, namely:— 22 of 2005.

"(*j*) information which relates to personal information;".

THE SCHEDULE

[*See* section 33 (*1*)]

Sl. No.	Breach of provisions of this Act or rules made thereunder	Penalty
(1)	(2)	(3)
1.	Breach in observing the obligation of Data Fiduciary to take reasonable security safeguards to prevent personal data breach under sub-section (*5*) of section 8.	May extend to two hundred and fifty crore rupees.
2.	Breach in observing the obligation to give the Board or affected Data Principal notice of a personal data breach under sub-section (*6*) of section 8.	May extend to two hundred crore rupees.
3.	Breach in observance of additional obligations in relation to children under section 9.	May extend to two hundred crore rupees.
4.	Breach in observance of additional obligations of Significant Data Fiduciary under section 10.	May extend to one hundred and fifty crore rupees.
5.	Breach in observance of the duties under section 15.	May extend to ten thousand rupees.
6.	Breach of any term of voluntary undertaking accepted by the Board under section 32.	Up to the extent applicable for the breach in respect of which the proceedings under section 28 were instituted.
7.	Breach of any other provision of this Act or the rules made thereunder.	May extend to fifty crore rupees.

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STATEMENT OF OBJECTS AND REASONS

Digital transactions have transformed economic as well as social interactions. Use of personal data for provision of services and other purposes is a common aspect of such transactions. In this context, protection of personal data has become a pre-requisite for growth of digital economy.

2. Therefore, there is a need for enacting a legislation that provides for protection and security of personal data of users and recognises the need to process such personal data for lawful purposes.

3. The Digital Personal Data Protection Bill, 2023 confers rights on individuals to protect their personal data, places obligations on entities that process personal data and lays down the compliance mechanism.

4. The said Bill, *inter alia*, seeks—

(*a*) to provide for protection of digital personal data;

(*b*) to lay down grounds for processing personal data;

(*c*) to place general and in certain cases special obligations on entities that process personal data;

(*d*) to confer certain rights in respect of their personal data on individuals;

(*e*) to provide for duties to be performed by individuals while exercising their rights and providing their personal data for certain purposes;

(*f*) to lay down a digital by design compliance framework for easy and faster implementation of the proposed Legislation;

(*g*) to enable parties to a dispute to attempt resolution of the dispute through alternate process and person of their choice;

(*h*) to provide monetary penalties for lapses and non-compliance of the provisions of the proposed Legislation; and

(*i*) to enable voluntary undertaking to encourage faster resolution and rectification of lapses.

5. The Notes on Clauses explain in detail the various provisions contained in the Bill.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 19*th July*, 2023.

ASHWINI VAISHNAW.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Letter No. AA-11038/4/2022-CL&ES dated 25th July, 2023 from Shri Ashwini Vaishnaw, Minister of Railways, Communications and Electronics and Information Technology to the Secretary General, Lok Sabha]

The President, having been informed of the subject matter of the Digital Personal Data Protection Bill, 2023, recommends to the House the introduction of the Bill under article 117(1) and consideration of the Bill under article 117(3) of the Constitution.

Notes on Clauses

Clause 1.—This clause seeks to provide for short title and commencement of the proposed Legislation.

Clause 2.—This clause seeks to define certain expressions occurring in the proposed Legislation.

Clause 3.—This clause relates to "Application of Act".

This clause seeks to clarify the application of the proposed Legislation about personal data.

Clause 4.—This clause relates to "Grounds for processing personal data".

This clause seeks to lay down grounds on processing of personal data in accordance with the provisions of the proposed Legislation and for a lawful purpose.

Clause 5.—This clause relates to "Notice".

This clause seeks to lay down the requirement of notice for collection or processing of personal data and description of notice.

Clause 6.—This clause relates to "Consent".

This clause seeks to expound the various aspects of consent which is necessary for processing of personal data.

Clause 7.—This clause relates to "Certain legitimate uses".

This clause seeks to expound the various aspects of certain legitimate uses which is necessary for processing of personal data.

Clause 8.—This clause relates to "General obligations of Data Fiduciary".

This clause seeks to lay down the general obligations on Data Fiduciary for processing personal data.

Clause 9.—This clause relates to "Processing of personal data of children".

This clause seeks to lay down the grounds for processing of personal data of children.

Clause 10.—This clause relates to "Additional obligations of Significant Data Fiduciary".

This clause seeks to lay down the additional obligations on Significant Data Fiduciary for processing personal data.

Clause 11.—This clause relates to "Right to access information about personal data".

This clause seeks to provide the data principal with the right to access information about personal data.

Clause 12.—This clause relates to "Right to correction and erasure of personal data".

This clause seeks to provide the data principal with a right to correct and erase his personal data.

Clause 13.—This clause relates to "Right of grievance redressal".

This clause seeks to provide the data principal with a right of grievance redressal.

Clause 14.—This clause relates to "Right to nominate".

This clause seeks to provide the data principal with a right to nominate.

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Clause 15.—This clause relates to "Duties of Data Principal".

This clause seeks to lay down the duties of Data Principal for the exercise of the rights under the provisions of the proposed Legislation.

Clause 16.—This clause relates to "Processing of personal data outside India".

This clause seeks to lay down the Provisions related to processing of personal data outside India.

Clause 17.—This clause relates to "Exemptions".

This clause seeks to provide for exemption of certain provisions of the proposed Legislation and lay down the legitimate purposes for processing of personal data.

Clause 18.—This clause relates to "Establishment of Board".

This clause seeks to establish a Board to be called the Data Protection Board of India. The Board shall consist of a Chairperson and such number of Members as the Central Government may notify.

Clause 19.—This clause relates to "Composition and qualifications for appointment of Chairperson and Members".

This clause seeks to list out the composition and qualifications for appointment of Chairperson and Members of the Board.

Clause 20.—This clause relates to "Salary, allowances payable to and term of office".

This clause seeks to list out the salary, allowances and other terms and conditions of service of the Chairperson and other Members of the Board.

Clause 21.—This clause relates to "Disqualifications for appointment and continuation as Chairperson and Members of Board".

This clause seeks to list out the disqualifications for appointment and continuation as Chairperson and Members of Board.

Clause 22.—This clause relates to "Resignation by Members and filling of vacancy".

This clause seeks to lay down the resignation by Members of Board and filling of vacancy.

Clause 23.—This clause relates to "Proceedings of Board".

This clause seeks to lay down the proceedings of Board. The Board is required to follow prescribed procedures for conducting its meeting and carrying out its business, including the use of digital means.

Clause 24.—This clause relates to "Officers and employees of Board".

This clause seeks to empower the Board to appoint officers and employees of Board for the effective execution of the functions under the proposed Legislation.

Clause 25.—This clause relates to "Members and officers to be public servants".

This clause seeks to deem Members and officers of the Board, while carrying out their duties in accordance with the provisions of the proposed Legislation, to be public servants as defined in section 21 of the Indian Penal Code.

Clause 26.—This clause relates to "Powers of Chairperson".

This clause seeks to provide the powers to be exercised by the Chairperson for the efficient administration of the Board.

Clause 27.—This clause relates to "powers and functions of Board".

This clause seeks to list the powers and functions of the Data Protection Board of India. The Board has the power to take prompt action in response to personal data breaches,

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investigate complaints, and impose penalties. Additionally, the Board can issues directions to ensure compliance and has the authority to modify or cancel its directions based on representations or references. Through these powers and functions, the Board aims to safeguard the rights and interests of Data Principals and maintain the integrity of personal data processing activities.

Clause 28.—This clause relates to "Procedure to be followed by Board".

This clause seeks to lay down the procedures to be followed by the Board pursuant to an inquiry.

Clause 29.—This clause relates to "Appeal to Appellate Tribunal".

This clause seeks to provide for appeal to the Telecom Disputes Settlement and Appellate Tribunal against any order of the Board.

Clause 30.—This clause relates to "Orders passed by Appellate Tribunal to be executable as decree".

This clause seeks to lay down to provide that the Appellate Tribunal shall have all the powers of civil court.

Clause 31.—This clause relates to "Alternate dispute resolution".

This clause seeks to lay down the alternate dispute resolution of the dispute through such mediation as the Board may deem appropriate.

Clause 32.—This clause relates to "voluntary undertaking".

This clause seeks to lay down the voluntary undertaking in respect of any matter related to observance to the provisions of the proposed Legislation from any person at any stage of a proceeding under clause 28 of the proposed Legislation.

Clause 33.—This clause relates to "Penalties".

This clause seeks to provide monetary penalties by Data Protection Board.

Clause 34.—This clause relates to "Crediting sums realised by way of penalties to Consolidated Fund of India".

This clause seeks to lay down the crediting sums realised by way of penalties to Consolidated Fund of India.

Clause 35.—This clause relates to "Protection of action taken in good faith".

This clause seeks to protect the Central Government, the Board, its Chairperson and any Member, officer or employee in case of action done under the proposed Legislation in good faith.

Clause 36.—This clause relates to "Power to call for information".

This clause seeks to empower the Board to call for information from any Data Fiduciary.

Clause 37.—This clause relates to "Power of Central Government to issue directions".

This clause seeks to empower the Central Government to issue directions to the Board.

Clause 38.—This clause relates to "Consistency with other laws".

This clause seeks to provide for the overriding effect of this Legislation notwithstanding anything inconsistent with any other law.

Clause 39.—This clause relates to "Bar of jurisdiction".

This clause seeks to lay down that no civil court shall have jurisdiction to entertain any suit on any matter which falls within the ambit of the Board.

Clause 40.-—This clause relates to "Power to make rules".

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This clause seeks to empower the Central Government to make rules to carry out the purposes of the proposed Legislation.

Clause 41.—This clause relates to "Laying of rules and certain notifications".

This clause seeks to require that rules and regulations made under the Legislation are to be laid before the Parliament.

Clause 42.—This clause relates to "Power to amend Schedule".

This clause seeks to empower the Central Government to amend the Schedule to carry out the provisions of the proposed Legislation.

Clause 43.—This clause relates to "Power to remove difficulties".

This clause seeks to empower the Central Government to issue an order for removal of any difficulty arises while during implementation of the proposed Legislation.

Clause 44.—This clause relates to "Amendments to certain Acts".

This clause seeks to provide for related amendments to the Information Technology Act, 2000, the Telecom Regulatory Authority of India Act, 1997 and the Right to Information Act, 2005.

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FINANCIAL MEMORANDUM

The Bill envisages the creation of a Data Protection Board of India. Since the structure of the Board is to be notified after enactment of the Bill, at this stage, the financial implication of the setting up and functioning of the Board is estimated to be about twenty-five crore rupees towards initial capital expenditure and ten crore rupees annually for recurring expenditure. The said expenditure is to be incurred from and out of the Consolidated Fund of India.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 40 of the Digital Personal Data Protection Bill, 2023 seeks to empower the Central Government, by notification and subject to the condition of previous publication, not inconsistent with the provisions of the Act, to make rules for—(*a*) the manner in which the notice given by the Data Fiduciary to a Data Principal shall inform her, under sub-section (*1*) of section 5; (*b*) the manner in which the notice given by the Data Fiduciary to a Data Principal shall inform her, under sub-section (*2*) of section 5; (*c*) the manner of accountability and the obligations of Consent Manager under sub-section (*8*) of section 6; (*d*) the manner of registration of Consent Manager and the conditions relating thereto, under sub-section (*9*) of section 6; (*e*) the subsidy, benefit, service, certificate, licence or permit for the provision or issuance of which, personal data may be processed under clause (*b*) of section 7; (*f*) the form and manner of intimation of personal data breach to the Board under sub-section (*6*) of section 8; (*g*) the time period for the specified purpose to be deemed as no longer being served, under sub-section (*8*) of section 8; (*h*) the manner of publishing the business contact information of a Data Protection Officer under sub-section (*9*) of section 8; (*i*) the manner of obtaining verifiable consent under sub-section (*1*) of section 9; (*j*) the classes of Data Fiduciaries, the purposes of processing of personal data of a child and the conditions relating thereto, under sub-section (*4*) of section 9; (*k*) the other matters comprising the process of Data Protection Impact Assessment under sub-clause (*i*) of clause (*c*) of sub-section (*2*) of section 10; (*l*) the other measures that the Significant Data Fiduciary shall undertake under sub-clause (*iii*) of clause (*c*) of sub-section (*2*) of section 10; (*m*) the manner in which a Data Principal shall make a request to the Data Fiduciary to obtain information and any other information related to the personal data of such Data Principal and its processing, under sub-section (*1*) of section 11; (*n*) the manner in which a Data Principal shall make a request to the Data Fiduciary for erasure of her personal data under sub-section (*3*) of section 12; (*o*) the period within which the Data Fiduciary shall respond to any grievances under sub-section (*2*) of section 13; (*p*) the manner of nomination of any other individual by the Data Principal under sub-section (*1*) of section 14; (*q*) the standards for processing the personal data for exemption under clause (*b*) of sub-section (*2*) of section 17; (*r*) the manner of appointment of Chairperson and other Members of the Board under sub-section (*2*) of section 19; (*s*) the salary, allowances and other terms and conditions of services of the Chairperson and other Members of the Board under sub-section (*1*) of section 20; (*t*) the manner of authentication of orders, directions and instruments under sub-section (*1*) of section 23; (*u*) the terms and conditions of appointment and service of officers and employees of the Board under section 24; (*v*) the techno-legal measures to be adopted by the Board under sub-section (*1*) of section 28; (*w*) the other matters under clause (*d*) of sub-section (*7*) of section 28; (*x*) the form, manner and fee for filing an appeal under sub-section (*2*) of section 29; (*y*) the procedure for dealing an appeal under sub-section (*8*) of section 29; (*z*) any other matter which is to be or may be prescribed or in respect of which provision is to be, or may be, made by rules.

2. The matters in respect of which rules may be made under the aforesaid provisions are matters of detail and it is not practicable to provide them in the Bill itself. The delegation of legislative powers is, therefore, of a normal character.

ANNEXURE

EXTRACT FROM THE TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997

(24 OF 1997)

* * * * *

CHAPTER IV

APPELLATE TRIBUNAL

Establishment of Appellate Tribunal.

14. The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Telecom Disputes Settlement and Appellate Tribunal to—

* * * * *

(*c*) exercise jurisdiction, powers and authority conferred on—

21 of 2000.

(*i*) the Appellate Tribunal under the Information Technology Act, 2000; and

27 of 2008.

(*ii*) the Appellate Tribunal under the Airports Economic Regulatory Authority of India Act, 2008.

* * * * *

———

EXTRACTS FROM THE INFORMATION TECHNOLOGY ACT, 2000

(21 OF 2000)

* * * * *

Compensation for failure to protect data.

43A. Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation to the person so affected.

Explanation.—For the purposes of this section,—

(*i*) "body corporate" means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities;

(*ii*) "reasonable security practices and procedure" means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit;

(*iii*) "sensitive personal data or information" means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.

* * * * *

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Act to have overriding effect.

81. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force:

Provided that nothing contained in this Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957 or the Patents Act, 1970. 14 of 1957. 39 of 1970.

* * * * *

Power of Central Government to make rules.

87. (*1*)* * * * *

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

* * * * *

(*ob*) the reasonable security practices and procedures and sensitive personal data or information under section 43A;

* * * * *

———

EXTRACT FROM THE RIGHT TO INFORMATION ACT, 2005

(22 OF 2005)

* * * * *

Exemption from disclosure of information.

8. (*1*) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

* * * * *

(*j*) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

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LOK SABHA

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to provide for the processing of digital personal data in a manner that recognises both the right of individuals to protect their personal data and the need to process such personal data for lawful purposes and for matters connected therewith or incidental thereto.

(*Shri Ashwini Vaishnaw, Minister of Railways, Communication and Electronics and Information Technology*)

MGIPMRND—191LS—29.07.2023.

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AS INTRODUCED IN LOK SABHA

Bill No. 112 of 2023

THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI (AMENDMENT) BILL, 2023

A

BILL

further to amend the Government of National Capital Territory of Delhi Act, 1991.

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

Short title and commencement.

1. (*1*) This Act may be called the Government of National Capital Territory of Delhi (Amendment) Act, 2023.

(*2*) It shall be deemed to have come into force on the 19th day of May, 2023.

Amendment of section 2.

1 of 1992.

2. In the Government of National Capital Territory of Delhi Act, 1991 (hereinafter referred to as the principal Act), in section 2, after clause (*e*), the following clauses shall be inserted, namely:—

'(*ea*) "Lieutenant Governor" means the administrator appointed under article 239 of the Constitution for the National Capital Territory of Delhi and designated as Lieutenant Governor by the President;

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(*eb*) "Minister" means a member of the Council of Ministers referred to in clause (4) of article 239AA of the Constitution, by whatever name called and includes a Deputy Minister;'.

Amendment of section 41.

3. In section 41 of the principal Act,—

(*A*) in the marginal heading, for the words "act in his discretion", the words "act in his sole discretion" shall be substituted;

(*B*) in sub-section (*1*),—

(*a*) in the opening paragraph, for the words "act in his discretion", the words "act in his sole discretion" shall be substituted;

(*b*) in clause (*ii*), the word "; or" shall be inserted at the end;

(*c*) after clause (*ii*), the following clause shall be inserted, namely:—

"(*iii*) in discharge of his functions under Part IV-A of this Act.";

(*C*) in sub-section (*2*), for the words "not a matter as respects", the words "not a matter in respect of " shall be substituted.

Insertion of new Part IV-A.

4. In the principal Act, after Part IV, the following Part shall be inserted, namely:—

'PART IV - A

PROVISIONS RELATING TO THE MAINTENANCE OF THE DEMOCRATIC AND ADMINISTRATIVE BALANCE IN THE GOVERNANCE OF NATIONAL CAPITAL TERRITORY OF DELHI

Definitions.

45A. In this Part, unless the context otherwise requires—

(*a*) "All India Services" means any service created under the All India Services Act, 1951, except the Indian Police Service; 61 of 1951.

(*b*) "Authority" means the National Capital Civil Service Authority constituted under sub-section (*1*) of section 45E;

(*c*) "Chairperson" means the Chairperson of the Authority appointed under clause (*a*) of sub-section (*2*) of section 45E;

(*d*) "Chief Secretary" means the Chief Secretary of the Government of National Capital Territory of Delhi appointed by the Central Government;

(*e*) "Council" means the Council of Ministers referred to in clause (4) of article 239AA of the Constitution;

(*f*) "DANICS" means the Delhi, Andaman and Nicobar, Lakshadweep, Daman and Diu and Dadra and Nagar Haveli (Civil) Services;

(*g*) "Delhi Subordinate Services Selection Board" means the Delhi Subordinate Services Selection Board constituted by the Government of National Capital Territory of Delhi through its Resolution No. F-3(7)/93-S.III, dated 4th October, 1996 read with Resolution F. 3(24)/DSSSB/2008-S.III/1764, dated 12th May, 2008;

(*h*) "Department" means a Department or office specified in the Schedule to the Business of Delhi (Allocation) Rules, 1993;

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(*i*) "Group 'A' officers" means the officers serving in the affairs of the Government of National Capital Territory of Delhi—

(*a*) belonging to All India Services, except the officers of the Indian Police Service;

(*b*) who are classified as Group 'A' officers, under rule 4 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965,

but shall not include the officers who are serving in connection with any subject matter, whether fully or in part connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution insofar as they relate to Entries 1, 2 and 18 or any other subject matter which is connected therewith or incidental thereto;

(*j*) "Group 'B' officials" means the Group 'B' officials, as such classified under rule 4 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, but shall not include the officials who are serving in connection with any subject matter, whether fully or in part connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution in sofaras they relate to Entries 1, 2 and 18 or any other subject matter which is connected therewith or incidental thereto;

(*k*) "Group 'C' officials" means Group 'C' officials as such classified under rule 4 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, but shall not include the officials who are serving in connection with any subject matter, whether fully or in part connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution insofar as they relate to Entries 1, 2 and 18 or any other subject matter which is connected therewith or incidental thereto;

(*l*) "National Capital Territory of Delhi" means the Union territory of Delhi as defined in clause (1) of article 239AA of the Constitution;

(*m*) "Member" means a member of the Authority and includes the Chairperson;

(*n*) "Principal Home Secretary" means the Additional Chief Secretary or Principal Secretary or Secretary, as the case may be, who is Head of the Home Department of the Government of National Capital Territory of Delhi; and

(*o*) "Secretary" means the Additional Chief Secretary or Principal Secretary or Secretary, as the case may be, who is Head of the concerned Department of the Government of National Capital Territory of Delhi.

Public Service Commissions for National Capital Territory of Delhi.

45B. (*1*) The Union Public Service Commission shall be the Public Service Commission for Group 'A' and Group 'B' gazetted posts in the National Capital Territory of Delhi.

(*2*) The Delhi Subordinate Services Selection Board shall be the recruitment agency for appointment to the Group 'B' non-gazetted posts and Group 'C' posts in the National Capital Territory of Delhi.

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Power of Central Government to make rules under this Part.

45C. The Central Government may make rules to provide for any one or more of the following matters, in connection with the affairs of the Government of National Capital Territory of Delhi under this Part, namely:—

(*a*) the tenure of office, salaries and allowances, provident funds, pensions, gratuities, leave of absence and other conditions of service of officers and other employees appointed or posted;

(*b*) the powers, duties and functions of officers and other employees appointed or posted;

(*c*) the qualifications of candidates for appointment to the posts and the manner of selection for the appointments;

(*d*) transfer or posting of the officers and other employees posted;

(*e*) the procedure to be followed in imposing any penalty, suspension pending departmental inquiries before the imposition of such penalty and the authority by whom such suspension or penalty may be ordered; and the officer or authority to whom an appeal or revision shall lie;

(*f*) any other matter which is incidental to or necessary for the purpose of regulating the appointment and conditions of service of persons appointed to services and posts; and

(*g*) any other matter for which, in the opinion of the Central Government, provisions are to be made by rules.

Power to appoint authorities, boards, commissions or statutory bodies.

45D. Notwithstanding anything contained in any other law for the time being in force, any authority, board, commission or any statutory body, by whatever name it may be called, or any office bearer or member thereof, constituted or appointed by or under—

(*a*) any law made by the Parliament for the time being in force, applicable to the National Capital Territory of Delhi, shall be constituted or appointed or nominated by the President; and

(*b*) any law made by the Legislative Assembly of National Capital Territory of Delhi for the time being in force, the Authority shall recommend a panel of suitable persons for constitution or appointment or nomination by the Lieutenant Governor, in accordance with the provisions of section 45H.

Constitution of National Capital Civil Service Authority.

45E. (*1*) There shall be an Authority to be known as the National Capital Civil Service Authority to exercise the powers conferred on, and discharge the functions assigned to it under this Part.

(*2*) The Authority, referred to in sub-section (*1*), shall consist of the following Members, namely:—

(*a*) the Chief Minister of Government of National Capital Territory of Delhi, who shall be the Chairperson of the Authority, *ex officio*;

(*b*) the Chief Secretary of Government of National Capital Territory of Delhi, Member, *ex officio*; and

(*c*) the Principal Home Secretary, Government of National Capital Territory of Delhi, who shall be the Member-Secretary to the Authority, *ex officio*.

(*3*) All matters required to be decided by the Authority shall be decided by majority of votes of the Members present and voting.

(*4*) All recommendations of the Authority shall be authenticated by the Member-Secretary.

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(*5*) The head office of the Authority shall be at Delhi.

Meetings of Authority.

45F. (*1*) The Authority shall meet at such time and place as the Member-Secretary may decide with approval of the Chairperson of the Authority, as and when so required.

(*2*) The Chairperson of the Authority shall preside over the meetings of the Authority.

(*3*) The quorum for the meeting of the Authority shall be of two Members.

Appointment of officers and other staff of Authority.

45G. (*1*) The Central Government, in consultation with the Authority, shall determine the nature and the categories of officers and other employees required to assist the Authority in the discharge of its functions and provide the Authority with such officers and employees, as it may deem fit.

(*2*) The officers and other employees of the Authority shall discharge their duties and functions under the general superintendence and control of the Authority.

(*3*) The salaries, allowances and conditions of service of the officers and other employees appointed under sub-section (*1*) shall be by rules made by the Central Government.

Powers and functions of Authority.

45H. (*1*) Notwithstanding anything contained in any other law for the time being in force, the Authority shall have the responsibility to recommend the transfers and postings of all Group 'A' officers and officers of DANICS serving in the affairs of the Government of National Capital Territory of Delhi but not officers serving in connection with any subject matter, either fully or in part, connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution; and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution insofar as they relate to Entries 1, 2 and 18 or any other subject matter which is connected therewith or incidental thereto, to the Lieutenant Governor:

Provided that Authority may, if it deems appropriate, by way of a recommendation, delegate the responsibility to any other authority of the Government of National Capital Territory of Delhi.

(*2*) The Authority shall have the responsibility to recommend for all matters connected with and falling under the subject of vigilance and non-vigilance matters for the purpose of initiation of disciplinary proceedings and recommend for grant of prosecution sanctions to the Competent Authorities under the relevant Constitutional or statutory provisions against all the Group 'A' officers, including the officers of the All India Services and DANICS, serving in the affairs of the Government of National Capital Territory of Delhi but not officers serving in connection with any subject matter, either fully or in part, connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution insofar as they relate to Entries 1, 2 and 18 or any other subject matter which is connected therewith or incidental thereto, to the Lieutenant Governor:

Provided that the Authority may, if it deems appropriate, by way of a recommendation, delegate the responsibility in respect to such officers serving in the affairs of the Government of National Capital Territory of Delhi to an officer of All India Services.

(*3*) The Lieutenant Governor, after the receipt of such recommendation under sub-section (*1*) or sub-section (*2*) of this section, may pass appropriate orders giving effect to the recommendation made:

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Provided that the Lieutenant Governor, before passing appropriate orders on such recommendation, may ask for any relevant material regarding the Group 'A' officers, including the officers of the All India Services and DANICS, serving in the affairs of the Government of National Capital Territory of Delhi:

Provided further that in case the Lieutenant Governor differs with the recommendation made, whether based upon the material so called for or otherwise, the Lieutenant Governor may, for reasons to be recorded in writing, return the recommendation to the Authority for reconsideration by the Authority:

Provided also that in case of difference of opinion, the decision of the Lieutenant Governor shall be final.

(*4*) Without prejudice to the generality of the provisions contained in sub-section (*1*), the Authority shall—

(*a*) make recommendations to the Lieutenant Governor for framing policies on—

(*i*) stability of tenure of posting of officers and other employees;

(*ii*) rotational transfers and postings from sensitive to non-sensitive posts and *vice-versa*;

(*iii*) determining suitability of officer for posting as Head of the Department;

(*iv*) transfers and postings of all officers and other employees serving in the affairs of the Government of National Capital Territory of Delhi;

(*b*) make policy insofar as it relates to—

(*i*) the capacity building of the officers and other employees serving in the affairs of the Government of National Capital Territory of Delhi;

(*ii*) ensuring effectiveness in public services delivery in the Government of National Capital Territory of Delhi;

(*iii*) ensuring good governance and e-governance in public administration in the Government of National Capital Territory of Delhi;

(*iv*) ensuring greater transparency in the administration of the Government of National Capital Territory of Delhi;

(*v*) ensuring the presence of a citizen centric administration in the Government of National Capital Territory of Delhi; and

(*vi*) any other matter connected therewith or incidental thereto.

Disposal of matters by Minister.

45-I. (*1*) The Minister in-charge may, by means of standing orders, give such directions as he deems fit for the disposal of proposals or matters in his Department:

Provided that no such standing order shall be issued in contravention of the provisions of the Constitution or any other law for the time being in force including the provisions of this Act or the rules made thereunder or the statutory powers conferred under any law upon the officials, and financial powers delegated under the Delegation of the Financial Powers Rules, 1978.

(*2*) The Minister, in consultation with the Secretary concerned, may issue standing orders, concerning the matters or classes of matters which are to be brought to the personal notice of the Minister:

Provided that no such standing order shall be issued in contravention of the provisions of the Constitution or any other law for the time being in force including the

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provisions of this Act or the rules made thereunder or the statutory powers conferred under any law upon the officials, and financial powers delegated under the Delegation of the Financial Powers Rules, 1978.

(*3*) The copies of directions and standing orders shall be forwarded to the Lieutenant Governor and the Chief Minister.

(*4*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), in addition to the proposals or matters required to be placed before the Lieutenant Governor under any law for the time being in force, the following proposals or matters shall be submitted to the Lieutenant Governor for his opinion through the Chief Minister and the Chief Secretary, before issuing any orders thereon, namely:—

(*i*) matters which affect or are likely to affect the peace and tranquility of the National Capital Territory of Delhi;

(*ii*) matters which affect or are likely to affect the interest of any particular community, the Scheduled Castes, the Scheduled Tribes and the socially and educationally backward classes or any other class of persons;

(*iii*) matters which affect the relations of the Government of National Capital Territory of Delhi with the Central Government, or any State Government, the Supreme Court of India or the High Court of Delhi and such other authorities as may be determined;

(*iv*) matters pertaining to the Secretariat of the Lieutenant Governor and personnel establishment and other matters relating to his office;

(*v*) matters on which the Lieutenant Governor is required to make an order under any law or instrument in force in his sole discretion;

(*vi*) matters specified under general or special order issued by the Lieutenant Governor under proviso to sub-section (*2*) of section 44;

(*vii*) petitions for mercy from persons under sentence for death and other important cases in which it is proposed to recommend any revision of a judicial sentence;

(*viii*) matters relating to summoning, prorogation and dissolution of the Legislative Assembly, removal of disqualification of voters at elections to the Legislative Assembly, Local Self Government Institutions and other matters connected therewith; and

(*ix*) any other matter of administrative importance which the Chief Minister may consider necessary.

Duties of Secretaries.

45J. (*1*) The Secretary of the Department concerned shall be responsible for preparing and authenticating every memorandum including the Cabinet Notes, for consideration of the Council of Ministers and for obtaining approval of the Minister in-charge and the Chief Minister.

(*2*) In case of proposals involving more than one Department, the views of all concerned Secretaries and the Ministers of all Departments consulted on the proposal shall be clearly and separately reflected in writing and signed by the Minister and the Secretary in the memorandum so as to ensure that in case of disagreement, the Council of Ministers shall take a decision.

(*3*) In case the Secretary to the Council of Ministers is of the opinion that the proposal considered and decided by the Council of Ministers is not in accordance with the provisions of any law for the time being in force or any rules of procedure made under section 44, it shall be the duty of the Secretary to the Council of Ministers to bring it to the notice of the Lieutenant Governor for taking a decision thereon.

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(*4*) Any matter which is likely to bring the Government of National Capital Territory of Delhi into controversy with the Central Government or with any State Government, the Supreme Court of India or the High Court of Delhi and such other authorities as may be determined, the Secretary to the Department concerned shall, as soon as possible, bring it to the notice of the Lieutenant Governor, the Chief Minister and the Chief Secretary in writing.

(*5*) The Chief Secretary and the Secretary to the Department concerned shall be responsible for compliance with the provisions of this Act and the rules made under section 44, and when either of them considers that there has been any material departure from the same, instead of giving effect to such departure, he shall personally bring it to the notice of the Minister in-charge, the Chief Minister and the Lieutenant Governor immediately in writing.

Power to make rules.

45K. (*1*) The Central Government may, by notification published in the Official Gazette, make rules for carrying out the provisions of this Part.

(*2*) Every rule made by the Central Government under this Part 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 expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rules or both Houses agree that the rules should not be made, the rules 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 be without prejudice to the validity of anything previously done under that rule.'.

Power to remove difficulties.

5. (*1*) If any difficulty arises in giving effect to the provisions of Part IV-A of the principal Act, as inserted by the Government of National Capital Territory of Delhi (Amendment) Act, 2023, the President may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of Part IV-A of the principal Act, as inserted by the Government of National Capital Territory of Delhi (Amendment) Act, 2023, as may appear to him to be necessary or expedient for the purposes of removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

6. (*1*) The Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023 is hereby repealed. Ord.1 of 2023.

(*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.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

STATEMENT OF OBJECTS AND REASONS

The Government of National Capital Territory of Delhi Act, 1991 was enacted to supplement the provisions of the Constitution relating to the Legislative Assembly and a Council of Ministers for the National Capital Territory of Delhi and for matters connected therewith or incidental thereto.

2. Delhi being the capital of India is administered by the President of India directly. Article 239AA of the Constitution provides for special provisions with respect to Union territory of Delhi. The said article provides for various functional and administrative networked issues balancing the participation of the Union Government in the affairs relating to the administration of Delhi in general, and particular, under the provisions contained in sub-clause (*b*) of clause (*3*) and clause (*7*) of the said article. Several important National and International institutions and authorities like the President, the Parliament, the Supreme Court, various constitutional functionaries, foreign diplomatic missions, international agencies, etc., are located in Delhi and high dignitaries from other nations pay official visits to Delhi, and in the national interest of the country, highest possible standards are required to be maintained in the administration and governance of the National Capital Territory of Delhi.

3. Any decision taken in respect of Delhi not only affects the residents of Delhi but also affects entire country and shall have the potential of putting the national reputation, image, credibility and prestige at stake in the international global spectrum and therefore, the entire nation is vitally interested in the governance of the National Capital Territory of Delhi. Delhi being the capital of India has a unique status and certain distinguished features and there is need to promote the national interests without compromising the aspirations of the residents of Delhi. Article 1 of the Constitution defines the territory of India, comprising of States and Union territories and article 1 read with article 239 provides that the Union territories are to be governed solely by the President.

4. In the absence of a Parliamentary legislation on "services" as contained in Entry 41 of List II of the Seventh Schedule to the Constitution in respect of National Capital Territory of Delhi, the Hon'ble Supreme Court considered a reference concerning the subject "services" in the National Capital Territory of Delhi and it was pleased to pass a judgment in C.A.No. 2357 of 2017 on 11th May, 2023 in the matter of Government of National Capital Territory of Delhi *Versus* Union of India.

5. In view of the special status of the National Capital Territory of Delhi, a scheme of administration has to be formulated by a Parliamentary legislation to balance both local and national interests to reflect the aspiration of the people through the joint and collective responsibility of the Government of India and the Government of National Capital Territory of Delhi.

6. With a view to give effect to the intent and purpose behind the provisions of article 239AA of the Constitution, a permanent authority, headed by the Chief Minister of Delhi along with the Chief Secretary, Government of National Capital Territory of Delhi and the Principal Secretary, Home, Government of National Capital Territory of Delhi, is being constituted to make recommendations to the Lieutenant Governor regarding matters concerning transfer postings, vigilance and other matters. This would balance the interest of the nation with the interest of the Union territory of Delhi in the administration of the capital to the manifestation of the will of the people reposed in the Central Government as well as the Government of National Capital Territory of Delhi. The Government of National Capital Territory of Delhi (Amendment) Bill, 2023, *inter alia*, provides for amendments to the Government of National Capital Territory of Delhi Act, 1991(hereinafter referred to as the Act)—

(*a*) to define the terms "Lieutenant Governor" and "Minister";

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(*b*) to insert a new Part IV-A in the Act relating to the maintenance of democratic and administrative balance in the governance of the National Capital Territory of Delhi, which provides for—

(*i*) definitions of certain terms used in Part IV-A;

(*ii*) Public Service Commissions for the National Capital Territory of Delhi;

(*iii*) empowering the Central Government to make rules in connection with the affairs of the Government of National Capital Territory of Delhi including the functions, terms and other conditions of service of officers and employees;

(*iv*) constitution of the National Capital Civil Service Authority, the powers and functions of the Authority and other incidental matters;

(*c*) for removal of difficulties by a Presidential Order, in case of any difficulty arises in giving effect to the provisions of newly inserted Part IV-A in the Act; and

(*d*) to repeal the National Capital Territory of Delhi (Amendment) Ordinance, 2023.

7. The provisions of the Bill are being brought into force from the 19th May, 2023 *i.e.*, the date of coming into force of the said Ordinance.

8. The Bill seeks to achieve the above objectives.

NEW DELHI; AMIT SHAH.

The 27*th July*, 2023.

ALLAHABAD HIGH COURT
JUDGES' LIBRARY PUBLICATION

FINANCIAL MEMORANDUM

The Government of National Capital Territory of Delhi (Amendment) Bill, 2023, if enacted, is not likely to involve any expenditure either recurring or non-recurring, from and out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to insert new Part IV-A in the Government of National Capital Territory of Delhi Act, 1991. The proposed sections 45C and 45K, *inter alia*, empowers the Central Government to make rules to provide for the tenure of office, salaries and allowances, provident funds, pensions, gratuities, leave of absence and other conditions of service of officers and other employees appointed or posted; the powers, duties and functions of officers and other employees appointed or posted; the qualifications of candidates for appointment to the posts and the manner of selection for the appointments; transfer or posting of the officers and other employees posted; the procedure to be followed in imposing any penalty, suspension pending departmental inquiries before the imposition of such penalty and the authority by whom such suspension or penalty may be ordered; the officer or authority to whom an appeal or revision shall lie; any other matter which is incidental to or necessary for the purpose of regulating the appointment and conditions of service of persons appointed to services and posts.

2. The matters in respect of which rules may be made in accordance with the provisions of the Bill are matters of procedure and detail and it is not practicable to provide for them in the Bill itself.

3. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI ACT, 1991

(1 OF 1992)

* * * * *

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

* * * * *

(*e*) "Legislative Assembly" means the Legislative Assembly of the National Capital Territory of Delhi;

* * * * *

PART IV

CERTAIN PROVISIONS RELATING TO LIEUTENANT GOVERNOR AND MINISTERS

41. (*1*) The Lieutenant Governor shall act in his discretion in a matter— Matters in which Lieutenant Governor to act in his discretion.

(*i*) which falls outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted or delegated to him by the President; or

(*ii*) in which he is required by or under any law to act in his discretion or to exercise any judicial or quasi-judicial functions.

(*2*) If any question arises as to whether any matter is or is not a matter as respects which the Lieutenant Governor is by or under any law required to act in his discretion, the decision of the Lieutenant Governor thereon shall be final.

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ALLAHABAD HIGH COURT
JUDGES' LIBRARY PUBLICATION

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further to amend the Government of National Capital Territory of Delhi Act, 1991.

———

(*Shri Amit Shah, Minister of Home Affairs and Cooperation*)

MGIPMRND—181LS—28-07-2023.

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AS INTRODUCED IN LOK SABHA

Bill No. 120 of 2023

THE INTEGRATED GOODS AND SERVICES TAX (AMENDMENT) BILL, 2023

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BILL

further to amend the Integrated Goods and Services Tax Act, 2017.

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

Short title and commencement.

1. (*1*) This Act may be called the Integrated Goods and Services Tax (Amendment) Act, 2023.

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

Amendment of section 2.

13 of 2017.

2. In section 2 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in clause (*17*), for sub-clause (*vii*), the following sub-clause shall be substituted, namely:—

"(*vii*) online gaming, excluding the online money gaming as defined in clause (*80B*) of section 2 of the Central Goods and Services Tax Act, 2017;".

12 of 2017.

Amendment of section 5.

3. In section 5 of the principal Act, in sub-section (*1*), in the proviso, after the words "integrated tax on goods" the words "other than the goods as may be notified by the Government on the recommendations of the Council" shall be inserted.

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Amendment of section 10.

4. In section 10 of the principal Act, in sub-section (*1*), after clause (*c*), the following clause shall be inserted, namely:—

"(*ca*) where the supply of goods is made to a person other than a registered person, the place of supply shall, notwithstanding anything contrary contained in clause (*a*) or clause (*c*), be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.

Explanation.—For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person;".

Insertion of new section 14A.

5. After section 14 of the principal Act, the following section shall be inserted, namely:—

Special provision for specified actionable claims supplied by a person located outside the taxable territory.

"14A. (*1*) A supplier of online money gaming as defined in clause (*80B*) of section 2 of the Central Goods and Service Tax Act, 2017, not located in the taxable territory, shall in respect of the supply of online money gaming by him to a person in the taxable territory, be liable to pay integrated tax on such supply. 12 of 2017.

(*2*) For the purposes of complying with provisions of sub section (*1*), the supplier of online money gaming shall obtain a single registration under the Simplified Registration Scheme referred to in sub-section (*2*) of section 14 of this Act:

Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay the integrated tax on behalf of the supplier:

Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he shall appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.

(*3*) In case of failure to comply with provisions of sub section (*1*) or sub section (*2*) by the supplier of the online money gaming or a person appointed by such supplier or both, notwithstanding anything contained in section 69A of the Information Technology Act, 2000, any information generated, transmitted, received or hosted in any computer resource used for supply of online money gaming by such supplier shall be liable to be blocked for access by the public in such manner as specified in the said Act.". 21 of 2000.

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STATEMENT OF OBJECTS AND REASONS

The Goods and Service Tax Council (GST Council) in its 50th and 51st meetings considered representation from various associations on the issues regarding taxability of Casinos, Horse Racing and Online Gaming and recommended to make certain amendments in the Integrated Goods and Services Tax Act, 2017 (the Act) to provide clarity regarding taxability of Casinos, Horse Racing and Online Gaming.

2. The proposed Integrated Goods and Services Tax (Amendment) Bill, 2023, *inter alia,* provides to—

(*i*) amend clause (*17*) of section 2 of the Act to exclude online money gaming from the definition of Online Information and Data Access or Retrieval (OIDAR) services;

(*ii*) amend the proviso to sub-section (*1*) of section 5 of the Act, to provide that in case of import of such goods, that may be notified by the Government on the recommendations of the GST Council, the levy of Integrated Goods and Services Tax (IGST) may not be required to be done in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 read with section 12 of the Customs Act, 1962 and instead, the same shall be levied and collected as inter-State supply as per the provisions of sub-section (*1*) of section 5 of the Act;

(*iii*) amend section 10 of the Act, to provide that where the supply of goods is made to a person other than a registered person, the place of supply shall be the location as per the address of the said person recorded in the invoice issued and be the location of the supplier where the address of the said person is not recorded in the invoice; and

(*iv*) insert a new section, section 14A in the Act, to provide for special provision for online money gaming supplied by a person located outside the taxable territory to a person located in India, including requirement of taking a single registration under the Simplified Registration Scheme; payment of Integrated Tax on such supplies and provision for blocking of access by the public to any information generated, transmitted, received or hosted in any computer resource used for supply of online money gaming by such supplier in case of failure to comply with provisions of registration and payment of tax in such manner as specified in the Information Technology Act, 2000.

3. The Bill seeks to achieve the above objectives.

New Delhi; NIRMALA SITHARAMAN.

The 9*th August,* 2023.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Letter No. CBIC-20006/21/2023-GST dated 9 August, 2023 from Smt. Nirmala Sitharaman, Minister of Finance and Corporate Affairs to the Secretary General, Lok Sabha]

The President, having been informed of the subject matter of the Integrated Goods and Services Tax (Amendment) Bill, 2023, recommends the introduction of the Bill under article 117(1) read with article 274(1) of the Constitution of India to Lok Sabha and also recommends to Lok Sabha the consideration of the Bill under article 117(3) of the Constitution of India.

FINANCIAL MEMORANDUM

The proposed Integrated Goods and Services Tax (Amendment) Bill, 2023 does not involve any recurring or non-recurring expenditure from and out of the Consolidated Fund of India.

ANNEXURE

EXTRACTS FROM THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

(13 OF 2017)

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

* * * * *

(*17*) "online information and database access or retrieval services" means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—

* * * * *

(*vii*) online gaming;

* * * * *

5. (*1*) Subject to the provisions of sub-section (*2*), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person: Levy and collection.

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

51 of 1975.

52 of 1962.

* * * * *

CHAPTER V

PLACE OF SUPPLY OF GOODS OR SERVICES OR BOTH

10. (*1*) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,— Place of supply of goods other than supply of goods imported into, or exported from India.

* * * * *

(*c*) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;

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further to amend the Integrated Goods and Services Tax Act, 2017.

(*Smt. Nirmala Sitharaman, Minister of Finance and Corporate Affairs*)

MGIPMRND—265LS(S3)—9-8-2023.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

AS INTRODUCED IN LOK SABHA

Bill No. 100 of 2023

THE JAMMU AND KASHMIR REORGANISATION (AMENDMENT) BILL, 2023

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BILL

further to amend the Jammu and Kashmir Reorganisation Act, 2019.

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

Short title and commencement.

1. (*1*) This Act may be called the Jammu and Kashmir Reorganisation (Amendment) Act, 2023.

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

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Amendment of section 14.

2. In the Jammu and Kashmir Reorganisation Act, 2019 (hereinafter referred to as the principal Act), in section 14,— 34 of 2019.

(*i*) in sub-section (*3*), the following proviso shall be inserted, namely:—

'Provided that subject to the provisons of sub-section (*1*) of section 60, on and from the date of commencement of the Jammu and Kashmir Reorganisation (Amendment) Act, 2023, the provisons of this sub-section shall have effect as if for the figures "107", the figures "114" had been substituted.';

(*ii*) for sub-section (*10*), the following sub-section shall be substituted, namely:—

'(*10*) In the Second Schedule to the Representation of the People Act, 1950, under the sub-heading "II. UNION TERRITORIES", against serial number 3 relating to "Jammu and Kashmir", for the entries under columns 2 to 7, the following entries shall respectively be substituted, namely:— 43 of 1950.

1	2	3	4	5	6	7
"3. Jammu and Kashmir	90	7	9	90	7	9".'.

Insertion of new sections 15A and 15B.

3. After section 15 of the principal Act, the following sections shall be inserted, namely:—

Nomination of Kashmiri Migrants.

'15A. Notwithstanding anything contained in sub-section (*3*) of section 14, the Lieutenant Governor of the Union territory of Jammu and Kashmir may nominate not more than two members, one of whom shall be a woman, from the community of Kashmiri Migrants, to the Jammu and Kashmir Legislative Assembly.

Explanation.—For the purposes of this section, the term "Migrant" shall have the same meaning as assigned to it in clause (*e*) of section 2 of the Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act,1997. Jammu and Kashmir Act XVI of 1997.

Nomination of displaced persons.

15B. Notwithstanding anything contained in sub-section (*3*) of section 14, the Lieutenant Governor of the Union territory of Jammu and Kashmir may nominate one member from displaced persons from Pakistan occupied Jammu and Kashmir to the Jammu and Kashmir Legislative Assembly.

Explanation.—For the purposes of this section, the term "displaced person" means any person, who, on account of the setting up of the dominions of India and Pakistan, or on account of civil disturbances or fear of such disturbances in any area of the then State of Jammu and Kashmir presently under occupation of Pakistan, during the years 1947-48, 1965 and 1971, had left or had been displaced due to such disturbances from his place of residence in such area and who has been subsequently residing outside such area and also includes successors-in-interest of any such person.'.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

STATEMENT OF OBJECTS AND REASONS

The Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019) (the Act) was enacted with a view to provide for the reorganisation of the State of Jammu and Kashmir and for matters connected therewith or incidental thereto.

2. At the time of the militancy in the erstwhile State of Jammu and Kashmir in the late eighties, particularly in Kashmir (Division) in 1989-90, a large number of people migrated from their ancestral places of residence, in Kashmir province particularly the Kashmiri Hindus and Pandits alongwith few families belonging to Sikh and Muslim communities. Initially all the migrants were moved to Jammu. Later on, some migrants chose to go to other parts of the country, namely Delhi, Bengaluru and Pune. As per the data available with Government of Jammu and Kashmir, there are currently forty-six thousand five hundred and seventeen families having one lakh fifty-eight thousand nine hundred and seventy-six persons registered with the Relief Organisation of the Government of Jammu and Kashmir who have got registered over a period of last three decades.

3. In the wake of the 1947 Pakistani aggression in Jammu and Kashmir, thirty-one thousand seven hundred and seventy-nine families migrated from Pakistan occupied areas of Jammu and Kashmir to the erstwhile State of Jammu and Kashmir. Of these, twenty-six thousand three hundred and nineteen families settled in the erstwhile State of Jammu and Kashmir and remaining five thousand four hundred and sixty families moved out of the Jammu and Kashmir to other parts of the country. Further, during the Indo-Pak wars of 1965 and 1971, ten thousand and sixty-five more families were displaced from Chhamb Niabat area. Of these, three thousand and five hundred families were displaced during the 1965 war and six thousand five hundred and sixty-five families were displaced during the 1971 war. As such, a total of forty-one thousand eight hundred and forty-four families were displaced during 1947-48, 1965 and 1971 Indo-Pak wars.

4. The Delimitation Commission, while undertaking the delimitation process of Assembly and Parliamentary Constituencies in the Union territory of Jammu and Kashmir, received many representations from the "Kashmiri Migrants" and also "Displaced Persons from Pakistan occupied Jammu and Kashmir" regarding reservation of seats in the Legislative Assembly of the Union territory of Jammu and Kashmir to preserve their political rights and identity.

5. The Delimitation Commission, after considering the matter in depth recommended for representation of communities of "Kashmiri Migrants" and "Displaced Persons from Pakistan occupied Jammu and Kashmir" in the Legislative Assembly of the Union territory of Jammu and Kashmir by way of nomination.

6. As per sub-section (*4*) of section 14 of the Act, twenty-four seats in the Legislative Assembly of the Union territory of Jammu and Kashmir have been reserved for the people residing in the area of the Union territory of Jammu and Kashmir under illegal occupation of Pakistan. The said seats shall remain vacant until the area under the occupation of Pakistan ceases to be so occupied and the people residing in that area elect their representatives.

7. The representation of the "Kashmiri Migrants" and "Displaced Persons from Pakistan occupied Jammu and Kashmir" in Legislative Assembly of the Union territory of Jammu and Kashmir shall be given on lines of section 15 of the Act, which provides for the representation of women.

8. Further, on completion of delimitation process, the Delimitation Commission has published orders with regard to the delimitation of the Assembly and Parliamentary Constituencies of the Union territory of Jammu and Kashmir. As per these orders, the number of seats in the Legislative Assembly of the Union territory of Jammu and Kashmir

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has been increased from 107 to 114 with reservation of nine seats for Scheduled Tribes for the first time. Thus, consequential amendments in sub-sections (*3*) and (*10*) of section 14 of the Act is required.

9. The Act is proposed to be amended with a view to provide representation to "Kashmiri Migrants", "Displaced Persons from Pakistan occupied Jammu and Kashmir" and Scheduled Tribes in the Legislative Assembly of the Union territory of Jammu and Kashmir so as to preserve their political rights as well as for their overall social and economic development.

10. The Jammu and Kashmir Reorganisation (Amendment) Bill, 2023 provides for the following, namely:—

(*i*) to insert new sections 15A and 15B in the Act so as to nominate not more than two Members, one of whom shall be a woman, from the community of "Kashmiri Migrants" and one Member from "Displaced Persons from Pakistan occupied Jammu and Kashmir", to the Legislative Assembly of the Union territory of Jammu and Kashmir; and

(*ii*) amendments to sub-sections (*3*) and (*10*) of section 14 of the Act which are of consequential in view of completion of delimitation process in the Union territory of Jammu and Kashmir.

11. The Bill seeks to achieve the above objectives.

NEW DELHI; AMIT SHAH.

The 17*th July,* 2023.

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FINANCIAL MEMORANDUM

The Bill, if enacted, would not involve any financial expenditure either recurring or non-recurring from and out of the Consolidated Fund of India.

ANNEXURE

EXTRACT FROM THE JAMMU AND KASHMIR REORGANISATION ACT, 2019

(34 OF 2019)

* * * * *

Legislative Assembly for the Union Territory of Jammu and Kashmir and its composition.

14. (*1*) * * * * *

(*3*) The total number of seats in the Legislative Assembly of the Union territory of Jammu and Kashmir to be filled by persons chosen by direct election shall be 107.

* * * * *

(*10*) In the Second Schedule to the Representation of the People Act,1950, under the heading:—"II. Union Territories" 43 of 1950.

(*a*) after entry 2, the following entries shall be inserted, namely:—

1	2	3	4	5	6	7
"3. Jammu and Kashmir	83	6	….	83	6	…."

* * * * *

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

LOK SABHA

———

A

BILL

further to amend the Jammu and Kashmir Reorganisation Act, 2019.

———

(*Shri Amit Shah, Minister of Home Affairs and Cooperation*)

MGIPMRND—152LS(S3)—20-07-2023.

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AS INTRODUCED IN LOK SABHA

Bill No. 90 of 2023

THE JAMMU AND KASHMIR RESERVATION (AMENDMENT) BILL, 2023

A

BILL

further to amend the Jammu and Kashmir Reservation Act, 2004.

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

Short title and commencement.

1. (*1*) This Act may be called the Jammu and Kashmir Reservation (Amendment) Act, 2023.

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

Amendment of section 2.

Jammu and Kashmir Act XIV of 2004.

2. In the Jammu and Kashmir Reservation Act, 2004, in section 2,—

(*i*) in clause (*o*),—

(*A*) for sub-clause (*iii*), the following sub-clause shall be substituted, namely:—

"(*iii*) other backward classes declared as such by the Government from time to time:";

(*B*) in the first proviso, for the words "said category", the words "category of socially and educationally backward classes" shall be substituted;

(*ii*) clause (*q*) shall be omitted.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

STATEMENT OF OBJECTS AND REASONS

The Jammu and Kashmir Reservation Act, 2004 (Jammu and Kashmir Act XIV of 2004) herein referred to as 'the Reservation Act' was enacted to provide for reservation in appointment and admission in professional institutions for the members of the Scheduled Castes, the Scheduled Tribes and other socially and educationally backward classes.

2. In terms of sub-section (*2*) of section 95 of the Jammu and Kashmir Reorganisation Act, 2019 (34 of 2019), the reservation in the Union territory of Jammu and Kashmir continues to be governed by the Reservation Act. Currently, the Legislature of the Union territory of Jammu and Kashmir is not in place. By a proclamation of the President under section 73 of the Jammu and Kashmir Reorganisation Act, 2019 dated the 31st October, 2019, the powers of the Legislature of the Union territory of Jammu and Kashmir are exercisable by or under the authority of Parliament.

3. It is proposed to amend section 2 of the Reservation Act by the Jammu and Kashmir Reservation (Amendment) Bill, 2023 so as to change the nomenclature of "weak and under privileged classes (social castes)" occurring in sub-clause (*iii*) of clause (*o*), to "other backward classes" and to make consequential amendment in clause (*q*), of section 2 of the said Act. The above amendments have been proposed on the recommendations of the Jammu and Kashmir Socially and Educationally Backward Classes Commission (SEBCC), so as to remove the confusion amongst the general public as well as the competent authorities issuing certificates to eligible persons due to difference in such nomenclature. The proposed amendment will also enable implementation of the Constitution (One Hundred and Fifth Amendment) Act, 2021, in letter and spirit.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 11*th July,* 2023.

AMIT SHAH.

ANNEXURE

EXTRACT FROM THE JAMMU AND KASHMIR RESERVATION ACT, 2004

(XIV OF 2004)

* * * * *

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

* * * * *

(*o*) "socially and educationally backward classes" mean—

* * * * *

(*iii*) weak and under-privileged classes (social castes), declared as such under notification SRO-394 dated 5-9-1981 read with notification SRO-272 dated 3-7-1982 and notification SRO-271 dated 22-8-1988 as amended from time to time:

Provided that the Government may, on the recommendations of the State Backward Classes Commission, make inclusions in, and exclusion from, the said category from time to time:

* * * * *

(*q*) "weak and under-privileged classes" mean the classes declared as such under notification SRO-394 dated 5-9-1981 read with notification SRO-272 dated 3-7-1982 and notification SRO-316 dated 18-7-1984 as amended from time to time.

* * * * *

ALLAHABAD HIGH COURT
JUDGES' LIBRARY PUBLICATION

LOK SABHA

———

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BILL

further to amend the Jammu and Kashmir Reservation Act, 2004.

———

(*Shri Amit Shah, Minister of Home Affairs and Cooperation*)

MGIPMRND—118LS(S3)—14-07-2023.

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As introduced in the Rajya Sabha

Bill No. XLIII of 2021

THE MEDIATION BILL, 2021

Arrangement of Clauses

CHAPTER I

Preliminary

Clauses

1. Short title, extent and commencement.

CHAPTER II

Application

2. Application.
3. Definitions.

CHAPTER III

Mediation

4. Mediation.
5. Mediation agreement.
6. Pre-litigation mediation.
7. Disputes or matters not fit for mediation.
8. Interim relief by court or tribunal.
9. Power of court or tribunal to refer parties to mediation.

CHAPTER IV

Mediators

10. Appointment of mediators.
11. Preference of parties.
12. Conflict of interest and disclosure.
13. Termination of mandate of mediator.
14. Replacement of mediator.

CHAPTER V

Mediation proceeding

15. Territorial jurisdiction to undertake mediation.
16. Commencement of mediation.
17. Conduct of mediation.
18. Role of mediator.
19. Role of mediator in other proceedings.
20. Withdrawal by parties from mediation.
21. Time-limit for completion of mediation.

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CLAUSES

22. Mediated settlement agreement.
23. Confidentiality.
24. Admissibility and privilege against disclosure.
25. Termination of mediation.
26. Court annexed mediation.
27. Proceedings of Lok Adalat and Permanent Lok Adalat not to be affected.

CHAPTER VI

ENFORCEMENT OF MEDIATED SETTLEMENT AGREEMENT

28. Enforcement of mediated settlement agreement.
29. Challenge to mediated settlement agreement.
30. Costs.
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ONLINE MEDIATION

32. Online mediation.

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MEDIATION COUNCIL OF INDIA

33. Establishment and incorporation of Mediation Council.
34. Composition of Council.
35. Vacancies, etc., not to invalidate proceedings of Council.
36. Resignation.
37. Removal.
38. Appointment of experts and constitution of Committees.
39. Secretariat and Chief Executive Officer of Council.
40. Duties and Functions of the Council.

CHAPTER IX

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41. Mediation service providers.
42. Functions of mediation service providers.
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CHAPTER X

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44. Community mediation.
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46. Mediation Fund.
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48. Power of Central Government to issue directions.
49. Power of Governments to frame schemes or guidelines.
50. Mediated settlement agreement where Government or its, agency, etc., is a party.
51. Protection of action taken in good faith.
52. Power to make rules.
53. Power to make regulations.
54. Laying.
55. Power to remove difficulties.
56. Provisions of Act to have overriding effect on mediation or conciliation contained in other laws.
57. Act not to apply to pending proceedings.
58. Amendment of Act 9 of 1872.
59. Amendment of Act 5 of 1908.
60. Amendment of Act 39 of 1987.
61. Amendment of Act 26 of 1996.
62. Amendment of Act 27 of 2006.
63. Amendment of Act 18 of 2013.
64. Amendment of Act 4 of 2016.
65. Amendment of Act 35 of 2019.

THE FIRST SCHEDULE.
THE SECOND SCHEDULE.
THE THIRD SCHEDULE.
THE FOURTH SCHEDULE.
THE FIFTH SCHEDULE.
THE SIXTH SCHEDULE.
THE SEVENTH SCHEDULE.
THE EIGHTH SCHEDULE.
THE NINTH SCHEDULE.
THE TENTH SCHEDULE.

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AS INTRODUCED IN THE RAJYA SABHA

Bill No. XLIII of 2021

THE MEDIATION BILL, 2021

A

BILL

to promote and facilitate mediation, especially institutional mediation, for resolution of disputes, commercial or otherwise, enforce mediated settlement agreements, provide for a body for registration of mediators, to encourage community mediation and to make online mediation as acceptable and cost effective process and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Mediation Act, 2021. Short title, extent and commencement.

(*2*) It shall extend to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification, appoint and different dates may be appointed for different provisions of this Act and any

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reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

CHAPTER II

APPLICATION

Application.

2. (*1*) Subject to sub-section (*2*), this Act shall apply where mediation is conducted in India, and—

(*i*) all or both parties habitually reside in or are incorporated in or have their place of business in India; or

(*ii*) the mediation agreement provides that any dispute shall be resolved in accordance with the provisions of this Act; or

(*iii*) there is an international mediation.

(*2*) The provisions of sub-section (*1*) shall not apply wherein one of the parties to the dispute is the Central Government or a State Government, or agencies, public bodies, corporations and local bodies, including entities controlled or owned by such Government, except where the matter pertains to a commercial dispute:

Provided that nothing shall prevent the Central Government or a State Government from notifying, such kind of dispute, as it deems appropriate for such Government, for resolution through mediation under this Act, wherein such Government, or agencies, public bodies, corporations and local bodies including entities controlled or owned by them, is a party.

Definitions.

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

(*a*) "commercial dispute" means a dispute defined in clause (*c*) of sub-section (*1*) of section 2 of the Commercial Courts Act, 2015; 4 of 2016.

(*b*) "Council" means the Mediation Council of India established under section 33;

(*c*) "court" means the principal civil court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the disputes forming the subject matter of mediation, if the same had been the subject matter of a suit or proceeding;

Explanation.—In a commercial dispute of a Specified Value as defined in the clause (*i*) of sub-section (*1*) of section 2 of the Commercial Courts Act, 2015, the court of competent jurisdiction shall be the Commercial Courts referred to in Chapter II of the said Act; 4 of 2016.

(*d*) "court annexed mediation" means mediation including pre-litigation mediation conducted at the mediation centres established by any court or tribunal;

(*e*) "institutional mediation" means mediation conducted under the aegis of a mediation service provider;

(*f*) "international mediation" means mediation undertaken under this Act and relates to a commercial dispute arising out of a legal relationship, contractual or otherwise, under any law for the time being in force in India, and where at least one of the parties, is—

(*i*) an individual who is a national of, or habitually resides in, any country other than India; or

(*ii*) a body corporate including a Limited Liability Partnership of any nature, with its place of business outside India; or

(*iii*) an association or body of individuals whose place of business is outside India; or

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(*iv*) the Government of a foreign country;

(*g*) "mediation" means mediation referred to in section 4;

(*h*) "mediator" means a person who is appointed to be a mediator to undertake mediation, and includes a person registered as mediator with the Council.

Explanation.—Where more than one mediator is appointed for a mediation, reference to a mediator under this Act shall be a reference to all the mediators;

(*i*) "mediation agreement" means a mediation agreement referred to in sub-section (*1*) of section 5;

(*j*) "mediation communication" means communication made, whether in electronic form or otherwise, through—

(*i*) anything said or done;

(*ii*) any document; or

(*iii*) any information provided,

for the purposes of, or in relation to, or in the course of mediation, and includes a mediation agreement or a mediated settlement agreement;

(*k*) "mediation institute" means a body or organisation that provides training, continuous education and certification of mediators and carries out such other functions under this Act;

(*l*) "mediation service provider" means a body or organisation that provides for the conduct of mediation under this Act and rules and regulations made thereunder, and are recognised by the Council;

Explanation I.—For the purposes of this clause, mediation service provider includes an Authority constituted under the Legal Services Authorities Act, 1987, or mediation centre annexed to a court, tribunal or such other forum as may be specified.

39 of 1987.

Explanation II.—An Authority constituted under the Legal Services Authorities Act, 1987, or mediation centre annexed to a court or tribunal or such other forum shall be deemed to be a mediation service provider recognised by the Council;

39 of 1987.

(*m*) "mediated settlement agreement" means settlement agreement referred to in sub-section (*1*) of section 22;

(*n*) "notification" means notification published in the Official Gazette and the expression ‘‘notified’’ with its cognate meanings and grammatical variations shall be construed accordingly;

(*o*) "online mediation" means online mediation referred to in section 32;

(*p*) "participants" means persons other than the parties who participate in the mediation and includes advisers, advocates, consultants and any technical experts and observers;

(*q*) "party" means a party to a mediation agreement or mediation proceeding whose agreement or consent is necessary to resolve the dispute and includes their successors;

(*r*) "pre-litigation mediation" means a process of undertaking mediation, as provided under section 6, for settlement of disputes prior to the filing of a suit or proceeding of civil or commercial nature in respect thereof, before a court or notified tribunal under sub-section (*2*) of section 6;

(*s*) "prescribed" means prescribed by rules made by the Central Government under this Act;

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(*t*) "Schedule" means the Schedule annexed to this Act;

(*u*) "secure electronic signature" with reference to online mediation means, electronic signatures referred to in section 15 of the Information Technology Act, 2000; and 21 of 2000.

(*v*) "specified" means specified by regulations made by the Council under this Act.

CHAPTER III

MEDIATION

Mediation.

4. Mediation shall be a process, whether referred to by the expression mediation, pre-litigation mediation, online mediation, community mediation, conciliation or an expression of similar import, whereby party or parties, request a third person referred to as mediator or mediation service provider to assist them in their attempt to reach an amicable settlement of a dispute.

Mediation agreement.

5. (*1*) A mediation agreement shall be in writing, by or between parties and anyone claiming through them, to submit to mediation all or certain disputes which have arisen or which may arise between the parties.

(*2*) A mediation agreement may be in the form of a mediation clause in a contract or in the form of a separate agreement.

(*3*) A mediation agreement is in writing, if it is contained in or recorded as—

(*a*) any document signed by the parties;

(*b*) an exchange of communications or letters including through electronic form as provided under the Information Technology Act, 2000; 21 of 2000.

(*c*) any pleadings in a suit or any other proceedings in which existence of mediation agreement is alleged by one party and not denied by the other.

(*4*) A reference in any agreement containing a mediation clause shall constitute a mediation agreement if the agreement is in writing and the reference is such as to make the mediation clause as part of the agreement.

(*5*) The parties may agree to submit to mediation any dispute arising between them under an agreement, whether entered prior to arising of the dispute or subsequent thereto.

(*6*) A mediation agreement in case of international mediation shall refer to an agreement for resolution in matters of commercial disputes referred to in clause (*a*) of section 3.

Pre-litigation mediation.

6. (*1*) Subject to other provisions of this Act, whether any mediation agreement exists or not, any party before filing any suit or proceedings of civil or commercial nature in any court, shall take steps to settle the disputes by pre-litigation mediation in accordance with the provisions of this Act:

Provided that pre-litigation mediation in matters of commercial disputes of Specified Value shall be undertaken in accordance with the provisions of section 12A of the Commercial Courts Act, 2015, and the rules made thereunder. 4 of 2016.

(*2*) The provisions, of sub-section (*1*) shall be applicable to the tribunals notified by the Central Government or a State Government, as the case may be.

(*3*) For the purposes, of sub-sections (*1*) and (*2*), unless otherwise agreed upon by the parties, a mediator,—

(*i*) registered with the Council;

(*ii*) empanelled by a court annexed mediation centre;

(*iii*) empanelled by an Authority constituted under the Legal Services Authorities Act, 1987; and 39 of 1987.

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(*iv*) empanelled by a mediation service provider recognised under this Act,

shall conduct pre-litigation mediation.

(*4*) For conducting pre-litigation mediation under clauses (*ii*) and (*iii*) of sub-section (*3*), a party may request any person designated for this purpose by the High Courts, or an Authority constituted under the Legal Services Authorities Act, 1987, as the case may be.

39 of 1987.

(*5*) The courts and an Authority constituted under the Legal Services Authorities Act, 1987, shall maintain a panel of mediators for the purposes of pre-litigation mediation.

39 of 1987.

(*6*) Notwithstanding anything contained in sub-sections (*1*) and (*2*) and the Motor Vehicles Act, 1988, when an application for compensation arising out of an accident is made before the Claims Tribunal, if the settlement as provided for in section 149 of that Act is not arrived at between the parties, the Claims Tribunal shall refer the parties for mediation to a mediator or mediation service provider under this Act.

59 of 1988.

(*7*) Where the parties arrive at a settlement agreement under sub-section (*6*), it shall be placed before the Claims Tribunal for its consideration.

(*8*) If the parties do not reach to settlement agreement under sub-section (*6*), a failure report prepared by the mediator shall be forwarded to the Claims Tribunal, which has referred the matter for mediation, for adjudication.

Disputes or matters not fit for mediation.

7. (*1*) A mediation under this Act shall not be conducted for resolution of any dispute or matter contained in the indicative list under the First Schedule:

Provided that nothing contained herein shall prevent any court, if deemed appropriate, from referring any dispute to mediation relating to compoundable offences or matrimonial offences connected with or arising out of civil proceedings between the parties:

Provided further that the outcome of such mediation shall not be deemed to be a judgement or decree of court referred to in sub-section (*2*) of section 28, and shall be further considered by the court in accordance with the law for the time being in force.

(*2*) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the First Schedule.

Interim relief by court or tribunal.

8. (*1*) If exceptional circumstances exist, a party may, before the commencement of, or during the continuation of, mediation proceedings under this Act, file suit or appropriate proceedings before a court or tribunal having competent jurisdiction for seeking urgent interim relief.

(*2*) The court or tribunal shall after granting or rejecting urgent interim relief, as the case may be, refer the parties to undertake mediation to resolve the dispute, if deemed appropriate.

Power of court or tribunal to refer parties to mediation.

9. (*1*) Notwithstanding the failure to reach any settlement under sub-section (*1*) of section 6, the court or tribunal may, at any stage of proceeding, refer the parties to undertake mediation, if a request to this effect is made by them.

(*2*) If the court or tribunal refers the parties to undertake mediation, it may pass suitable interim order to protect the interest of any party if deemed appropriate.

(*3*) The parties shall not be under obligation to come to a settlement in the mediation pursuant to a reference under sub-section (*1*).

CHAPTER IV

MEDIATORS

Appointment of mediators.

10. (*1*) Unless otherwise agreed upon by the parties, a person of any nationality may be appointed as a mediator:

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Provided that mediator of any foreign nationality shall possess such qualification, experience and accreditation as may be specified.

(*2*) The parties shall be free to agree upon the name of mediator and the procedure for their appointment.

(*3*) If the parties do not reach any agreement on a matter referred to in sub-section (*2*), then the party seeking initiation of mediation shall make an application to a mediation service provider for the appointment of a mediator.

(*4*) Upon receiving an application under sub-section (*3*), the mediation service provider shall, within a period of seven days, appoint,—

(*i*) the mediator as agreed by the parties; or

(*ii*) in case the parties are unable to reach agreement as to the appointment of mediator or mediator agreed by them refuses to act as mediator, a mediator from the panel maintained by it, with his consent.

(*5*) The person appointed under clause (*i*) of sub-section (*4*) shall communicate his willingness or otherwise within a period of seven days from the date of receipt of communication of such appointment.

Preference of parties.

11. The mediation service provider shall, while appointing any person from the panel of mediators maintained by it, consider his suitability and the preference of the parties for resolving the dispute.

Conflict of interest and disclosure.

12. (*1*) The person appointed as a mediator shall, prior to the conduct of mediation, disclose in writing to the parties regarding any circumstance or potential circumstance, personal, professional, financial, or otherwise, that may constitute any conflict of interest or that is likely to give rise to justifiable doubts as to his independence or impartiality as a mediator.

(*2*) During the mediation, the mediator shall, without delay, disclose to the parties in writing any conflict of interest, referred to in sub-section (*1*), that has newly arisen or has come to his knowledge.

(*3*) Upon disclosure under sub-section (*1*) or sub-section (*2*), the parties shall have the option to waive any objection if all of them express in writing, which shall be construed as the consent of parties.

(*4*) Upon disclosure under sub-section (*1*) or sub-section (*2*), if either party desires to replace the mediator, then, in case of—

(*i*) institutional mediation, such party shall apply to the mediation service provider for termination of the mandate of mediator;

(*ii*) mediation other than institutional mediation, such party shall terminate the mandate of mediator.

Termination of mandate of mediator.

13. A mediation service provider may terminate the mandate of a mediator upon—

(*i*) the receipt of application from a party under clause (*i*) of sub-section (*4*) of section 12; or

(*ii*) the receipt of information about the mediator being involved in a matter of conflict of interest from participants or any other person; or

(*iii*) his withdrawal from mediation for any reason:

Provided that termination under clause (*ii*) shall be effected if, after giving a hearing to the mediator, mediation service provider finds that there is justifiable doubt as to the independence or impartiality of the mediator and that the same has been brought to the notice of parties and that they desire to replace the mediator.

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14. Upon termination of the mandate of mediator— Replacement of mediator.

(*i*) in case of mediation other than institutional mediation under clause (*ii*) of sub-section (*4*) of section 12, the parties may, appoint another mediator within a period of seven days from such termination; and

(*ii*) under section 13, the mediation service provider shall appoint another mediator from the panel maintained by it within a period of seven days from such termination.

CHAPTER V

MEDIATION PROCEEDINGS

15. Every mediation under this Act shall be undertaken within the territorial jurisdiction of the court or tribunal of competent jurisdiction to decide the subject matter of dispute: Territorial jurisdiction to undertake mediation.

Provided that on the mutual consent of the parties, mediation may be conducted at any place outside the territorial jurisdiction of the court or tribunal, or by way of online mediation.

Explanation.—For the removal of doubts, it is clarified that where the parties agree to conduct the mediation at any place outside the territorial jurisdiction or online, for the purpose of enforcement, challenge and registration of the mediated settlement agreement, the same shall be deemed to have been undertaken within the territorial jurisdiction of the court or tribunal of competent jurisdiction.

16. The mediation proceedings with respect to a particular dispute shall be deemed to have commenced— Commencement of mediation.

(*a*) where there is an existing agreement between the parties to settle the dispute through mediation, the day on which a party issues notice to the other party or parties for mediation and settlement of their disputes; or

(*b*) in other cases—

(*i*) on the day the parties have agreed to appoint a mediator of their choice for mediation and settlement of disputes between them; or

(*ii*) on the day when one of the parties applies to a mediation service provider for settlement of disputes through mediation by appointment of a mediator.

17. (*1*) The mediator shall assist the parties in an independent, neutral and impartial manner in their attempt to reach an amicable settlement of their dispute. Conduct of mediation.

(*2*) The mediator shall at all times be guided by the principles of objectivity and fairness and protect the voluntariness, confidentiality, and self-determination of the parties, and the standards for professional and ethical conduct as may be specified.

(*3*) The mediation process may include the mediator taking such measures as may be considered appropriate, taking into account the circumstances of the case, including meeting with parties or participants, jointly or separately, as frequently as deemed fit by the mediator, both in order to convene the mediation, and during the mediation for the orderly and timely conduct of the process and to maintain its integrity.

5 of 1908. 1 of 1872. (*4*) The mediator shall not be bound by the Code of Civil Procedure, 1908, or the Indian Evidence Act, 1872.

(*5*) The mediator with the consent of the parties shall determine the language or languages to be used in the mediation process.

18. (*1*) The mediator shall attempt to facilitate voluntary resolution of the dispute by the parties and communicate the view of each party to the other to the extent agreed to by them, assist them in identifying issues, reducing misunderstandings, clarifying priorities, Role of mediator.

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exploring areas of compromise and generating options in an attempt to resolve the dispute expeditiously, emphasising that it is the responsibility of the parties to take decision regarding their claims.

(*2*) The parties shall be informed expressly by the mediator that he only facilitates in arriving at a decision to resolve a dispute and that he may not impose any settlement nor give any assurance that the mediation may result in a settlement.

Role of mediator in other proceedings.

19. Unless otherwise agreed by the parties,—

(*a*) the mediator shall not act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceeding in respect of a dispute that is the subject matter of the mediation proceedings;

(*b*) the mediator shall not be presented by the parties as a witness in any arbitral or judicial proceeding.

Withdrawal by parties from mediation.

20. (*1*) A party may withdraw from mediation at any time after the first two mediation sessions.

(*2*) Where any party fails to attend the first two mediation sessions without any reasonable cause which resulted in the failure of mediation, the court or tribunal, in subsequent litigation on the same subject matter between the parties, may take the said conduct of such party into consideration and impose such costs as deems fit.

Time-limit for completion of mediation.

21. (*1*) Notwithstanding anything contained in any other law for the time being in force, mediation under this Act shall be completed within a period of one hundred and eighty days from the date fixed for the first appearance before the mediator.

(*2*) The period for mediation mentioned under sub-section (*1*) may be extended for a further period as agreed by the parties, but not exceeding one hundred and eighty days.

Mediated settlement agreement.

22. (*1*) A mediated settlement agreement means and includes an agreement in writing between some or all of the parties resulting from mediation, settling some or all of the disputes between such parties, and authenticated by the mediator:

Provided that the terms of the mediated settlement agreement may extend beyond the disputes referred to mediation.

Explanation.—A mediated settlement agreement which is void under the Indian Contract Act, 1872, shall not be deemed to be lawful settlement agreement within the meaning of mediated settlement agreement. 9 of 1872.

(*2*) Where a mediated settlement agreement is reached between the parties in regard to all or some of the disputes, the same shall be reduced in writing and signed by the parties.

(*3*) Subject to the provisions of sections 26 and 27, the mediated settlement agreement so signed—

(*i*) in case of institutional mediation, shall be submitted to the mediator, who shall, after authenticating the same and forward it with a covering letter signed by him, to the mediation service provider and also provide a copy to the parties;

(*ii*) in all other cases, shall be submitted to the mediator who shall, after authenticating the settlement agreement, provide a copy to all the parties.

(*4*) Subject to provisions of sections 26 and 27, where no agreement is arrived at between the parties, within the time period as provided under section 21, or where, the mediator is of the view that no settlement is possible,—

(*i*) the mediator shall submit a failure report to this effect to the mediation service provider in writing in case of institutional mediation;

(*ii*) in all other cases, the mediator shall prepare a failure report to this effect and provide a signed copy to all the parties:

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Provided that the report referred under this sub-section shall not disclose the cause of failure of the parties to reach a settlement, or any other matter or thing referring to their conduct, during mediation.

(*5*) The parties, may, at any time during the mediation process, make an agreement with respect to any of the disputes which is the subject matter of mediation.

(*6*) Any mediated settlement agreement under this section shall also include a settlement agreement resulting from online mediation and duly signed by the parties by way of secure electronic signature or otherwise and authenticated by the mediator in the like manner.

(*7*) For the purposes of record, mediated settlement agreement arrived at between the parties, other than those arrived in a court or tribunal referred mediation or award of Lok Adalat or final award of Permanent Lok Adalat under section 21 or section 22E of the Legal Services Authorities Act, 1987, shall be registered with an Authority constituted under the Legal Services Authorities Act, 1987, in such manner as may be specified and such Authority shall issue a unique registration number to such settlements:

39 of 1987.

Provided that the mediated settlement agreement under this section shall be registered with such Authority situated within the territorial jurisdiction of the court or tribunal of competent jurisdiction to decide the subject matter of dispute:

Provided further that such registration shall not be mandatory till the time regulations under this sub-section are made.

Explanation.—For the removal of doubts, it is clarified that nothing contained in this sub-section shall affect the rights of parties to enforce the mediated settlement agreement under section 28 or challenge the same as provided under section 29.

(*8*) For the purposes of registration of mediated settlement agreement, in matters other than commercial disputes, wherein mediation is not conducted by a mediation service provider, the presence of parties to the mediated settlement agreement or their authorised representative shall be mandatory before the Authority referred to in sub-section (*7*).

(*9*) The registration referred to in sub-section (*7*) shall be made by the parties, mediator or mediation service provider within a period of one hundred and eighty days from the date of receipt of authorlicated copy of mediated settlement agreement:

Provided that mediated settlement agreement may be allowed to be registered after the expiry of period of one hundred and eighty days on payment of such fee as may be specified in consultation with the Authority referred to in sub-section (*7*).

Confidentiality.

23. (*1*) Subject to the other provisions of this Act, the mediator, mediation service provider, the parties and participants in the mediation shall keep confidential the following matters relating to the mediation proceedings, namely:—

(*i*) acknowledgements, opinions, suggestions, promises, proposals, apologies and admissions made during the mediation;

(*ii*) acceptance of, or willingness to, accept proposals made or exchanged in the mediation;

(*iii*) documents prepared solely for the conduct of mediation or in relation thereto.

(*2*) No audio or video recording of the mediation proceedings shall be made or maintained by the parties or the participants including the mediator and mediation service provider, whether conducted in person or online to ensure confidentiality of the conduct of mediation proceedings.

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(*3*) No party to the mediation shall in any proceeding before a court or tribunal including arbitral tribunal, rely on or introduce as evidence any information or communication set forth in clauses (*i*) to (*iii*) of sub-section (*1*), including any information in electronic form, or verbal communication and the court or tribunal including arbitral tribunal shall not take cognizance of such information or evidence.

(*4*) The provisions of this section shall not prevent the mediator from compiling or disclosing general information concerning matters that have been subject of mediation, for research, reporting or training purposes, if the information does not expressly or indirectly identify a party or participants or the specific disputes in the mediation.

Explanation.—For the removal of doubts, it is hereby clarified that nothing contained in this section shall apply to the mediated settlement agreement where its disclosure is necessary for the purpose of registration, implementation, enforcement and challenge.

Admissibility and privilege against disclosure.

24. (*1*) No mediator or participant in the mediation, including experts and advisers engaged for the purpose of the mediation and persons involved in the administration of the mediation, shall at any time be permitted, or compelled to disclose to any court or tribunal, or in any adjudicatory proceedings, by whatever description, any communication in mediation, or to state the contents or conditions of any document or nature or conduct of parties during mediation including the content of negotiations or offers or counter offers with which they have become acquainted during the mediation:

Provided that nothing in this section and section 23 shall protect from disclosure, information sought or provided to prove or dispute a claim or complaint of professional misconduct of mediator or malpractice based on conduct occurring during the mediation.

(*2*) There shall be no privilege or confidentiality that will attach to—

(*a*) a threat or statement of a plan to commit an offence punishable under any law for the time being in force;

(*b*) information relating to domestic violence or child abuse; and

(*c*) statements made during a mediation showing a significant imminent threat to public health or safety.

Termination of mediation.

25. The mediation proceedings under this Act shall be deemed to terminate—

(*a*) on the date of signing and authentication of the mediated settlement agreement; or

(*b*) on the date of the written declaration of the mediator, after consultation with the parties or otherwise, to the effect that further efforts at mediation are no longer justified; or

(*c*) on the expiry of seven days from the date of the second mediation session, where a party fails to appear before the mediator consecutively for the first two mediation sessions, and the mediator has not received any communication from such party; or

(*d*) on the date of the communication by a party or parties in writing, addressed to the mediator and the other parties to the effect that the party wishes to opt out of mediation:

Provided that the parties shall have to attend at least two mediation sessions before giving such communication; or

(*e*) on the expiry of time limit under section 21.

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Court annexed mediation.

26. (*1*) For the purposes of court annexed mediation including pre-litigation mediation, the procedure of conducting mediation shall be such as may be determined under the practice directions or rules, by whatever name called, framed by the Supreme Court or the High Courts.

(*2*) For the purposes of sub-section (*1*), the Supreme Court or the High Courts, as the case may be, may constitute mediation committee.

(*3*) The mediation committee shall, for the purposes of conducting mediation, in all courts, maintain a panel of mediators in accordance with the practice directions or rules, by whatever name called, framed by the Supreme Court or the High Courts, as the case may be, and such mediators may also conduct mediation other than those referred by a court.

(*4*) Where the parties to a mediation referred by the court or tribunal arrive at settlement agreement in respect of some or all of the disputes, a copy of settlement agreement shall be placed before the said court or tribunal for consideration and in cases, other than court referred mediation provided, to the parties.

(*5*) If the parties do not reach settlement agreement referred to in sub-section (*4*), a failure report shall be forwarded by the mediator—

(*i*) to the court or tribunal, as the case may be, which has referred the matter for mediation;

(*ii*) to the parties in all other cases.

Proceedings of Lok Adalat and Permanent Lok Adalat not to be affected.

27. The provisions of this Act shall not apply to the proceedings conducted by Lok Adalat and Permanent Lok Adalat under the Legal Services Authorities Act, 1987.

39 of 1987.

CHAPTER VI

Enforcement of Mediated Settlement Agreement

Enforcement of mediated settlement agreement.

28. (*1*) A mediated settlement agreement resulting from a mediation signed by the parties and authenticated by the mediator shall be final and binding on the parties and persons claiming under them respectively and enforceable as per the provisions of sub-section (*2*).

(*2*) Subject to the provisions of section 29, the mediated settlement agreement shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908, in the same manner as if it were a judgment or decree passed by a court, and may, accordingly, be relied on by any of the parties or persons claiming through them, by way of defence, set off or otherwise in any legal proceeding.

5 of 1908.

Challenge to mediated settlement agreement.

29. (*1*) Notwithstanding anything contained in any other law for the time being in force, in any case in which the mediated settlement agreement is arrived at between the parties other than in court referred mediation or by Lok Adalat or Permanent Lok Adalat under the Legal Services Authorities Act, 1987, and is sought to be challenged by either of the parties, such party may file an application before the court or tribunal of competent jurisdiction.

39 of 1987.

(*2*) A mediated settlement agreement may be challenged only on all or any of the following grounds, namely:—

(*i*) fraud;

(*ii*) corruption;

(*iii*) impersonation;

(*iv*) where the mediation was conducted in disputes or matters not fit for mediation under section 7.

(*3*) An application for challenging the mediated settlement agreement shall not be made after ninety days have elapsed from the date on which the party making that application has received the copy of mediated settlement agreement under sub-section (*3*) of section 22:

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Provided that if the court or tribunal, as the case may be, is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of ninety days, it may entertain the application within a further period of ninety days.

Costs.

30. Unless otherwise agreed by the parties, all costs of mediation, including the fees of the mediator and the charges of the mediation service provider shall be borne equally by the parties.

Limitation.

31. Notwithstanding anything contained in the Limitation Act, 1963 or in any other law for the time being in force, in computing the period of limitation fixed for any proceedings in respect of which a mediation has been undertaken under this Act, the period from the date of commencement of mediation under section 16, and up to— 36 of 1963.

(*i*) submission of report under sub-section (*4*) of section 22; or

(*ii*) termination of mediation under section 25; or

(*iii*) the settlement agreement arrived at in terms of sub-section (*4*) of section 26, in case of mediation other than court referred mediation; or

(*iv*) forwarding of failure report in terms of clause (*ii*) of sub-section (*5*) of section 26,

shall be excluded.

CHAPTER VII

Online mediation

Online mediation.

32. (*1*) Online mediation including pre-litigation mediation may be conducted at any stage of mediation under this Act, with the written consent of the parties including by the use of electronic form or computer networks but not limited to an encrypted electronic mail service, secure chat rooms or conferencing by video or audio mode or both.

(*2*) The process of online mediation shall be in such manner as may be specified.

(*3*) The conduct of online mediation shall be in the circumstances, which ensure that the essential elements of integrity of proceedings and confidentiality are maintained at all times and the mediator may take such appropriate steps in this regard as he deems fit.

(*4*) Subject to the other provisions of this Act, the mediation communications in the case of online mediation shall, ensure confidentiality of mediation.

CHAPTER VIII

Mediation Council of India

Establishment and incorporation of Mediation Council.

33. (*1*) The Central Government shall, by notification, establish for the purposes of this Act, a Council to be known as the Mediation Council of India to perform the duties and discharge the functions under this Act.

(*2*) The Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to enter into contract, and shall, by the said name, sue or be sued.

(*3*) The head office of the Council shall be at Delhi or at such other place as may be notified by the Central Government.

(*4*) The Council may, in consultation with the Central Government, establish offices at other places in India and abroad.

Composition of Council.

34. (*1*) The Council shall consist of the following members, namely:—

(*a*) a person of ability, integrity and standing having adequate knowledge and professional experience or shown capacity in dealing with problems relating to law, alternate dispute resolution, public affairs or administration to be appointed by the Central Government—Chairperson;

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(*b*) a person having knowledge and experience in law related to mediation or alternate dispute resolution mechanisms, to be appointed by the Central Government—Full-Time Member;

(*c*) an eminent person having experience in research or teaching in the field of mediation and alternate dispute resolution laws, to be appointed by the Central Government—Full-Time Member;

(*d*) Secretary to the Government of India in the Department of Legal Affairs, Ministry of Law and Justice or his representative not below the rank of Joint Secretary—Member, *ex officio*;

(*e*) Secretary to the Government of India in the Department of Expenditure, Ministry of Finance or his representative not below the rank of Joint Secretary—Member, *ex officio*;

(*f*) Chief Executive Officer—Member-Secretary, *ex officio*; and

(*g*) one representative of a recognised body of commerce and industry, chosen by the Central Government—Part-Time Member.

(*2*) The Chairperson, Full-Time Member and Part-Time Member of the Council, other than *ex officio* members, shall hold office as such, for a term of four years from the date on which they enter upon their office and shall be eligible for re-appointment:

Provided that no Chairperson, Full-Time Member or Part-Time Member, other than *ex officio* member, shall hold office as such after he has attained the age of seventy years in the case of Chairperson and sixty-seven years in the case of Full-Time or Part-Time Member.

(*3*) The salaries, allowances and other terms and conditions of the Chairperson and Full-Time members referred to in clauses (*b*) and (*c*) of sub-section (*1*) shall be such as may be prescribed.

(*4*) The Part-Time Member shall be entitled to such travelling and other allowances as may be prescribed.

Vacancies, etc., not to invalidate proceedings of Council.

35. No act or proceeding of the Council shall be invalid merely by reason of—

(*a*) any vacancy or any defect, in the constitution of the Council;

(*b*) any defect in the appointment of a person acting as a Chairperson or Full-Time Member or Part-Time Member of the Council; or

(*c*) any irregularity in the procedure of the Council not affecting the merits of the case.

Resignation.

36. The Chairperson or the Full-Time Member or Part-Time Member may, by notice in writing, under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or the Full-Time Member or Part-Time Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

Removal.

37. (*1*) The Central Government may, remove the Chairperson or Full-Time Member or Part-Time Member from his office, if he—

(*a*) is an undischarged insolvent; or

(*b*) has engaged at any time, during his term of office, in any paid employment without the permission of the Central Government; or

(*c*) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(*d*) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Chairperson or such Member; or

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(*e*) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(*f*) has become physically or mentally incapable of acting as a Chairperson or Full-Time Member or Part-Time Member:

Provided that where a Chairperson or Full-Time Member or Part-Time Member is proposed to be removed on any ground, he shall be informed of charges against him and given an opportunity of being heard in respect of those charges.

Appointment of experts and constitution of Committees.

38. The Council may, appoint such experts and constitute such committees of experts as it may consider necessary to discharge its functions on such terms and conditions as may be specified.

Secretariat and Chief Executive Officer of Council.

39. (*1*) There shall be a Chief Executive Officer of the Council, who shall be responsible for the day to day administration and implementation of the decisions of the Council.

(*2*) The qualification, appointment and other terms and conditions of service of the Chief Executive Officer shall be such as may be specified.

(*3*) The Chief Executive Officer shall discharge such functions and perform such duties as may be specified.

(*4*) There shall be a Secretariat to the Council consisting of such number of officers and employees as may be specified.

(*5*) The qualification, appointment and other terms and conditions of the service of the employees and other officers of the Council shall be such as may be specified.

(*6*) The Central Government shall provide such number of officers and employees as may be necessary for the functioning of the Council till regulations are made under this section.

Duties and Functions of the Council.

40. The Council shall—

(*a*) endevour to promote domestic and international mediation in India through appropriate guidelines;

(*b*) endevour to develop India to be a robust centre for domestic and international mediation;

(*c*) lay down the guidelines for the continuous education, certification and assessment of mediators by the recognised mediation institutes;

(*d*) provide for manner of registration of mediators and renew, withdraw, suspend or cancel registration on the basis of conditions as may be specified;

(*e*) lay down standards for professional and ethical conduct of mediators under sub-section (*2*) of section 17;

(*f*) hold trainings, workshops and courses in the area of mediation in collaboration with mediation service providers, law firms and universities and other stakeholders, both Indian and international, and any other mediation institutes;

(*g*) enter into memoranda of understanding or agreements with domestic and international bodies or organisations or institutions;

(*h*) recognise mediation institutes and mediation service providers and renew, withdraw, suspend or cancel such recognition;

(*i*) specify the criteria for recognition of mediation institutes and mediation service providers;

(*j*) call for any information or record of mediation institutes and mediation service providers;

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(*k*) lay down standards for professional and ethical conduct of the mediation institutes and mediation service providers;

(*l*) publish such information, data, research studies and such other information as may be required;

(*m*) maintain an electronic depository of the mediated settlement agreements made in India and for such other records related thereto in such manner as may be specified; and

(*n*) perform any other function as may be assigned to it by the Central Government.

CHAPTER IX

MEDIATION SERVICE PROVIDERS AND MEDIATION INSTITUTES

Mediation service providers.

41. The mediation service provider recognised by the Council shall be graded by it in the manner as may be specified.

Functions of mediation service providers.

42. The mediation service providers shall perform the following functions, namely:—

(*a*) accredit mediators and maintain panel of mediators;

(*b*) provide the services of mediator for conduct of mediation;

(*c*) provide all facilities, secretarial assistance and infrastructure for the efficient conduct of mediation;

(*d*) promote professional and ethical conduct amongst mediators;

(*e*) facilitate registration of settlement agreements in accordance with the provisions of section 22; and

(*f*) such other functions as may be specified.

Mediation institutes.

43. The Council shall recognise mediation institutes to perform such duties and exercise such functions as may be specified.

CHAPTER X

COMMUNITY MEDIATION

Community mediation.

44. (*1*) Any dispute likely to affect peace, harmony and tranquility amongst the residents or families of any area or locality may be settled through community mediation with prior mutual consent of the parties to the dispute.

(*2*) For the purposes of sub-section (*1*), any of the parties shall make an application before the concerned Authority constituted under the Legal Services Authorities Act, 1987 or District Magistrate or Sub-Divisional Magistrate in areas where no such Authority has been constituted, for referring the dispute to mediation.

39 of 1987.

(*3*) In order to facilitate settlement of a dispute for which an application has been received under sub-section (*2*), the concerned Authority constituted under the Legal Services Authorities Act, 1987 or the District Magistrate or Sub-Divisional Magistrate, as the case may be, shall constitute panel of three mediators.

39 of 1987.

(*4*) For the purpose of this section, the Authority or District Magistrate or the Sub-Divisional Magistrate, as the case may be, shall notify a permanent panel of mediators, which may be revised from time to time.

(*5*) The following persons may be included in the panel referred to in sub-section (*4*)—

(*a*) persons of standing and integrity who are respectable in the community;

(*b*) any local person whose contribution to the society has been recognised;

(*c*) representative of area or resident welfare associations; and

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(*d*) any other person deemed appropriate.

(*6*) While making panel referred to in sub-section (*4*) the representation of women or any other class or category of persons may be considered.

Procedure for community mediation.

45. (*1*) Any community mediation shall be conducted by the panel of three mediators referred to in sub-section (*3*) of section 44 who shall devise suitable procedure for the purpose of resolving the dispute.

(*2*) The mediators shall endevour to resolve disputes through community mediation and provide assistance to parties for resolving disputes amicably.

(*3*) In every case where a settlement agreement is arrived at through mediation under this Act, the same may be reduced into writing with the signature of the parties and authenticated by the mediator, a copy of which he provided to the parties and in cases where no settlement agreement is arrived at, a failure report may be submitted by the mediator to the Authority or the District Magistrate or the Sub-Divisional Magistrate, as the case may be, and to the parties.

(*4*) Any settlement agreement arrived at under this Chapter shall be for the purpose of maintaining the peace, harmony and tranquility amongst the residents or families of any area or locality but shall not be enforceable as a judgment or decree of a civil court.

(*5*) The provisions of sub-sections (*7*) and (*8*) of section 22 shall, *mutatis mutandis* apply, in relation to the registration of mediated settlement agreement under this section.

CHAPTER XI

MISCELLANEOUS

Mediation Fund.

46. (*1*) There shall be a fund to be called "Mediation Fund" (hereinafter referred to as the "Fund") for the purposes of promotion, facilitation and encouragement of mediation under this Act, which shall be administered by the Council.

(*2*) There shall be credited to the Fund the following, namely:—

(*a*) all monies provided by the Central Government;

(*b*) all fees and other charges received from mediation service provider, mediation institutes or bodies or persons;

(*c*) all monies received by the Council in the form of donations, grants, contributions and income from other sources;

(*d*) grants made by the Central Government or the State Government for the purposes of the Fund;

(*e*) amounts deposited by persons as contributions to the Fund;

(*f*) amounts received in the Fund from any other source; and

(*g*) interest on the above or other income received out of the investment made from the Fund.

(*3*) The Fund shall be applied towards meeting the salaries and other allowances of Chairperson, Full-Time Member, Part-Time Member, Chief Executive Officer, Officers and employees and the expenses of the Council including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

Accounts and audit.

47. (*1*) The Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet, in such form and manner as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Council shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Council to the Comptroller and Auditor-General of India.

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(*3*) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Council shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Council.

(*4*) The accounts of the Council as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and the Central Government shall cause the same to be laid before each House of Parliament.

Power of Central Government to issue directions.

48. (*1*) Without prejudice to the foregoing provisions of this Act, the Council shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the views of the Council shall be taken into consideration before any direction is given under this sub-section.

(*2*) The decision of the Central Government whether a question is one of policy or not shall be final.

Power of Governments to frame schemes or guidelines.

49. Nothing contained in this Act shall prevent the Central Government or State Government, as the case may be, from framing any scheme or guidelines, to be notified, for resolution of any dispute through mediation or conciliation in cases where the Central Government or State Government or any of its entity or agencies is one of the parties and in such cases mediation or conciliation may be conducted in accordance with such scheme or guidelines.

Mediated settlement agreement where Government or its, agency, etc., is a party.

50. Notwithstanding anything contained in this Act, no dispute including a commercial dispute, wherein the Central Government or State Government or any of its agencies, public bodies, corporations and local bodies including entities controlled or owned by them is a party, the settlement agreement arrived at shall be signed only after obtaining the prior written consent of the competent authority of such Government or any of its entity or agencies, public bodies, corporations and local bodies, as the case may be.

Protection of action taken in good faith.

51. No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government or any officer of such Government, or the Chairperson, Full-Time Member or Part-Time Member or Officer or employee of the Council or a mediator, mediation institutes, mediation service providers, which is done or is intended to be done in good faith under this Act or the rules or regulations made thereunder.

Power to make rules.

52. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may make provision for—

(*a*) the salaries and allowances and the terms and conditions of the Chairperson and Full-time Members under sub-section (*3*) of section 34;

(*b*) the travelling and other allowances payable to the Part-Time Member under sub-section (*4*) of section 34;

(*c*) the form and manner of annual statement of accounts, including the balance sheet under sub-section (*1*) of section 47; and

(*d*) any other matter which is to be, or may be prescribed.

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Power to make regulations.

53. (*1*) The Council may, with the previous approval of the Central Government, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may make provision for—

(*a*) such other forum under *Explanation I* to clause (*l*) of section 3;

(*b*) qualification, experience and accreditation for mediators of foreign nationality under the proviso to sub-section (*1*) of section 10;

(*c*) standards for professional and ethical conduct of mediators under sub-section (*2*) of section 17;

(*d*) manner of registration of mediated settlement agreement under sub-section (*7*) of section 22;

(*e*) fees for registration of mediated settlement agreement under the proviso to sub-section (*9*) of section 22;

(*f*) manner of process of conducting online mediation under sub-section (*2*) of section 32;

(*g*) the terms and conditions of experts and committees of experts under section 38;

(*h*) qualifications, appointment and other terms and conditions of service of the Chief Executive Officer under sub-section (*2*) of section 39;

(*i*) functions and duties to be performed by the Chief Executive Officer under sub-section (*3*) of section 39;

(*j*) the number of officers and employees of the Secretariat of the Council under sub-section (*4*) of section 39;

(*k*) the qualification, appointment and other terms and conditions of the employees and other officers of the Council under sub-section (*5*) of section 39;

(*l*) conditions for registration of mediators and renewal, withdrawal, suspension or cancellations of such registrations under clause (*d*) of section 40;

(*m*) criteria for recognition of mediation institutes and mediation service providers under clause (*i*) of section 40;

(*n*) manner of maintenance of electronic depository of mediated settlement agreement under clause (*m*) of section 40;

(*o*) manner for grading of mediation service provider under section 41;

(*p*) such other functions of mediation service provider under clause (*f*) of section 42;

(*q*) duties and functions to be performed by mediation institutes under section 43; and

(*r*) any other matter in respect of which provision is necessary for the performance of functions of the Council under this Act.

Laying.

54. Every notification under sub-section (*2*) of section 7, sub-section (*2*) of section 56, rule and regulation 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 expiry of the session immediately following the session or the successive sessions aforesaid,

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both Houses agree in making any modification in the notification, rule or regulation or both Houses agree that the notification, rule or regulation should not be made, the notification, rule or regulation 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 be without prejudice to the validity of anything previously done under that notification, rule or regulation.

Power to remove difficulties.

55. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of three years from the date of commencement of this Act.

(*2*) Every order made under sub-section (*1*) shall be laid, as soon as may be after it is made, before each House of Parliament.

Provisions of Act to have overriding effect on mediation or conciliation contained in other laws.

56. (*1*) Subject to the enactments mentioned in the Second Schedule, the provisions of this Act shall have overriding effect for conduct of mediation or conciliation notwithstanding anything inconsistent therewith contained in any other law for the time being in force, and any instrument having force of law.

(*2*) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the Second Schedule and thereupon it shall be deemed to have been amended accordingly.

Act not to apply to pending proceedings.

57. This Act shall not apply to, or in relation to, any mediation or conciliation commenced before the coming into force of this Act.

Amendment of Act 9 of 1872.

58. The Indian Contract Act, 1872, shall be amended in the manner specified in the Third Schedule.

Amendment of Act 5 of 1908.

59. The Code of Civil Procedure, 1908, shall be amended in the manner specified in the Fourth Schedule.

Amendment of Act 39 of 1987.

60. The Legal Service Authorities Act, 1987, shall be amended in the manner specified in the Fifth Schedule.

Amendment of Act 26 of 1996.

61. The Arbitration and Conciliation Act, 1996, shall be amended in the manner specified in the Sixth Schedule.

Amendment of Act 27 of 2006.

62. The Micro, Small and Medium Enterprises Development Act, 2006, shall be amended in the manner specified in the Seventh Schedule.

Amendment of Act 18 of 2013.

63. The Companies Act, 2013, shall be amended in the manner specified in the Eighth Schedule.

Amendment of Act 4 of 2016.

64. The Commercial Courts Act, 2015, shall be amended in the manner specified in the Ninth Schedule.

Amendment of Act 35 of 2019.

65. The Consumer Protection Act, 2019, shall be amended in the manner specified in the Tenth Schedule.

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THE FIRST SCHEDULE

(*See* section 7)

DISPUTES OR MATTERS NOT FIT FOR MEDIATION

1. Disputes which by virtue of any law for the time being in force may not be submitted for mediation.

2. Disputes involving allegations of serious and specific fraud, fabrication of documents, forgery, impersonation, coercion.

3. Disputes relating to claims against minors, deities; persons with intellectual disabilities, under paragraph 2 of the Schedule and person with disability having high support needs [as defined in clause (*t*) of section 2] of the Rights of Persons with Disabilities Act, 2016 (49 of 2016); persons with mental illness as defined in clause (*s*) of sub-section (*1*) of section 2 of the Mental Healthcare Act, 2017 (10 of 2017); persons of unsound mind, in relation to whom proceedings are to be conducted under Order XXXII of the Code of Civil Procedure, 1908 (5 of 1908); and suits for declaration of title against Government; declaration having effect of right *in rem*.

4. Disputes involving prosecution for criminal offences.

5. Settlement of matters which are prohibited being in conflict with public policy or is opposed to basic notions of morality or justice or under any law for the time being in force.

6. Complaints or proceedings, initiated before any statutory authority or body in relation to registration, discipline, misconduct of any practitioner, or other registered professional, such as legal practitioner, medical practitioner, dentist, architect, chartered accountant, or in relation to any other profession of whatever description, which is regulated under any law for the time being in force.

7. Disputes which have the effect on rights of a third party who are not a party to the mediation proceedings.

8. Any proceeding in relation to any subject-matter, falling within any enactment, over which the Tribunal constituted under the National Green Tribunals Act, 2010 (19 of 2010) has jurisdiction.

9. Any dispute relating to levy, collection, penalties or offences, in relation to any direct or indirect tax or refunds, enacted by any State legislature or Parliament.

10. Any investigation, inquiry or proceeding, under the Competition Act, 2002 (12 of 2003), including proceedings before the Director General, under that Act; proceedings before the Telecom Regulatory Authority of India, under the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) or Telecom Disputes Settlement and Appellate Tribunal established under section 14 of that Act.

11. Proceedings before appropriate Commissions, and the Appellate Tribunal for Electricity, under the Electricity Act, 2003 (36 of 2003).

12. Proceedings before the Petroleum and Natural Gas Regulatory Board, and appeals therefrom before the Appellate Tribunal under the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006).

13. Proceedings before the Securities and Exchange Board of India, and the Securities Appellate Tribunal, under the Securities and Exchange Board of India Act, 1992 (15 of 1992).

14. Land acquisition and determination of compensation under land acquisition laws, or any provision of law providing for land acquisition.

15. Any other subject-matter of dispute which may be notified by the Central Government.

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SECOND SCHEDULE

(*See* section 56)

1. The Industrial Disputes Act, 1947 (14 of 1947).

2. The Brahmaputra Board Act, 1980 (46 of 1980).

3. The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 (50 of 1981).

4. The Family Courts Act, 1984 (66 of 1984).

5. The Legal Services Authorities Act, 1987 (39 of 1987).

6. The Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (56 of 2007).

7. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (14 of 2013).

8. The Finance Act, 20l6 (28 of 2016).

9. The Industrial Relations Code, 2020 (35 of 2020).

THE THIRD SCHEDULE

(*See* section 58)

In section 28 of the Indian Contract Act, 1872 (9 of 1872), for *Exception* 1 and *Exception* 2, the following shall be substituted, namely:—

"*Exception* 1.—**Saving of contract to refer to arbitration or mediation dispute that may arise.—**This section shall not render illegal a contract, by which two or more persons agree that any dispute which may arise between them in respect of any subject or class of subjects shall be referred to resolution through arbitration or mediation.

Exception 2.—**Saving of contract to refer questions that have already arisen.—** Nor shall this section render illegal any contract in writing, by which two or more persons agree to refer to arbitration or mediation any question between them which has already arisen, or affect any provision of any law in force for the time being as to references to arbitration or mediation.".

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THE FOURTH SCHEDULE

(*See* section 59)

In the Code of Civil Procedure, 1908 (5 of 1908),—

(*i*) under Part V, under the heading SPECIAL PROCEEDINGS, the sub-heading "ARBITRATION" shall be omitted;

(*ii*) for section 89, the following section shall be substituted, namely:—

"89. Settlement of disputes outside the Court.—Where it appears to the Court that the dispute between the parties may be settled and there exists elements of settlement which may be acceptable to the parties, the Court may—

(*a*) refer the dispute to arbitration, and thereafter, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply as if the proceedings for arbitration were referred for settlement under the provisions of that Act; or

(*b*) refer the parties to mediation, to the court annexed mediation centre or to any other mediator as per the option of the parties, in accordance with the provisions of the Mediation Act, 2021; or

(*c*) refer the dispute to Lok Adalat, in accordance with the provisions of sub-section (*1*) of section 20 of Legal Services Authorities Act, 1987 (39 of 1987) and thereafter, all other provisions of that Act shall apply in respect of the dispute;

(*d*) effect compromise between the parties and shall follow such procedure as deemed fit for judicial settlement.".

THE FIFTH SCHEDULE

(*See* section 60)

In the Legal Services Authorities Act, 1987 (39 of 1987), in section 4, for clause (*f*), the following clause shall be substituted, namely:—

"(*f*) encourage the settlement of disputes, including online by way of negotiations, arbitration, mediation and conciliation;".

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THE SIXTH SCHEDULE

(*See* section 61)

In the Arbitration and Conciliation Act, 1996 (26 of 1996),—

(*a*) in section 43D,—

(*i*) in sub-section (*1*), the words "mediation, conciliation" shall be omitted;

(*ii*) in sub-section (*2*), in clauses (*e*), (*f*) and (*i*), the words "and conciliation" wherever they occur shall be omitted;

(*b*) for sections 61 to 81, the following sections shall be substituted, namely:—

"61. Reference of conciliation in enactments.—(*1*) Any provision, in any other enactment for the time being in force, providing for resolution of disputes through conciliation in accordance with the provisions of this Act, shall be construed as reference to mediation as provided under the Mediation Act, 2021.

(*2*) Conciliation as provided under this Act and the Code of Civil Procedure, 1908 (5 of 1908), shall be construed as mediation referred to in section 4 of the Mediation Act, 2021.

62. Saving.—Notwithstanding anything contained in section 61, any conciliation proceeding initiated in pursuance of sections 61 to 81 of this Act as in force before the commencement of the Mediation Act, 2021, shall be continued as such, as if the Mediation Act, 2021, had not been enacted.".

THE SEVENTH SCHEDULE

(*See* section 62)

In the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), for section 18, the following section shall be substituted, namely:—

"18. Reference to Micro and Small Enterprises Facilitation Council.—(*1*) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.

(*2*) On receipt of a reference under sub-section (*1*), the Council shall either conduct mediation itself or refer the matter to any mediation service provider as provided under the Mediation Act, 2021.

(*3*) The conduct of mediation under this section shall be as per the provisions of the Mediation Act, 2021.

(*4*) Where the mediation initiated under sub-section (*3*) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre providing alternative dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996), shall, then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (*1*) of section 7 of that Act.

(*5*) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternative dispute resolution services shall have jurisdiction to act as an Arbitrator or mediator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.".

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THE EIGHTH SCHEDULE

(*See* section 63)

In the Companies Act, 2013 (18 of 2013), for section 442, the following section shall be substituted, namely:—

"442. Reference to mediation.—(*1*) Any of the parties to a proceedings before the Central Government, Tribunal or the Appellate Tribunal may, at any time apply to the Central Government, Tribunal or the Appellate Tribunal, as the case may be, in such form along with such fees, if any, as may be prescribed, for referring the matter pertaining to such proceedings for mediation and the Central Government, Tribunal or the Appellate Tribunal, as the case may be, shall refer the matter to mediation to be conducted under the provisions of the Mediation Act, 2021.

(*2*) Nothing in this section shall prevent the Central Government, Tribunal or the Appellate Tribunal before which any proceeding is pending from referring any matter pertaining to such proceeding *suo motu* to mediation to be conducted under the provisions of Mediation Act, 2021 as the Central Government, Tribunal or the Appellate Tribunal, deems fit.

(*3*) The mediator or mediation service provider shall file the mediated settlement agreement arrived at between the parties with the Central Government or the Tribunal or the Appellate Tribunal under the Act.

(*4*) The Central Government or the Tribunal or the Appellate Tribunal shall pass an order or judgment making the said Mediated settlement agreement as part thereof.

(*5*) The fee of the mediator shall be such as may be prescribed.".

THE NINTH SCHEDULE

(*See* section 64)

In the Commercial Courts Act, 2015 (4 of 2016),—

(*a*) for Chapter IIIA, the following Chapter shall be substituted, namely:—

"CHAPTER IIIA

PRE-LITIGATION MEDIATION AND SETTLEMENT

12A. Pre-litigation Mediation and Settlement.—(*1*) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-litigation mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(*2*) For the purposes of pre-litigation mediation, the Central Government may, by notification, authorise—

(*i*) the Authority, constituted under the Legal Services Authorities Act, 1987 (39 of 1987); or

(*ii*) a mediation service provider as defined under clause (*l*) of section 3 of the Mediation Act, 2021.

(*3*) Notwithstanding anything contained in the Legal Services Authorities Act, 1987 (39 of 1987), the Authority or mediation service provider authorised by the Central Government under sub-section (*2*) shall complete the process of mediation within a period of six months from the date of application made by the plaintiff under sub-section (*1*):

Provided that the period of mediation may be extended for a further period of six months with the consent of the parties:

Provided further that, the period during which the parties spent for pre-litigation mediation shall not be computed for the purposes of limitation under the Limitation Act, 1963 (36 of 1963).

(*4*) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties and the mediator.

(*5*) The mediated settlement agreement arrived at under this section shall be dealt with in accordance with the provisions of sections 28 and 29 of the Mediation Act, 2021.";

(*b*) in section 21A, in sub-section (*2*), for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) the manner and procedure of pre-litigation mediation under sub-section (*1*) of section 12A;".

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THE TENTH SCHEDULE

(*See* section 65)

In the Consumer Protection Act, 2019 (35 of 2019),—

(*a*) in section 2, clauses (25) and (26) shall be omitted;

(*b*) for section 37, the following sections shall be substituted, namely:—

"37. Reference to mediation.—The District Commission or State Commission or the National Commission, as the case may be, shall either on an application by the parties at any stage of proceedings refer the disputes for settlement by mediation under the Mediation Act, 2021.

37A. Settlement through mediation.—(*1*) Pursuant to mediation, if an agreement is reached between the parties with respect to all of the issues involved in the consumer dispute or with respect to only some of the issues, the terms of such agreement shall be reduced to writing accordingly, and signed by the parties to such dispute or their authorised representatives.

(*2*) The mediator shall prepare a settlement report of the settlement and forward the signed agreement along with such report to the concerned Commission.

(*3*) Where no agreement is reached between the parties within the specified time or the mediator is of the opinion that settlement is not possible, he shall prepare his report accordingly and submit the same to the concerned Commission.

37B. Recording settlement and passing of order.—(*1*) The District Commission or the State Commission or the National Commission, as the case may be, shall, within seven days of the receipt of the settlement report, pass suitable order recording such settlement of consumer dispute and dispose of the matter accordingly.

(*2*) Where the consumer dispute is settled only in part, the District Commission or the State Commission or the National Commission, as the case may be, shall record settlement of the issues which have been so settled and continue to hear other issues involved in such consumer dispute.

(*3*) Where the consumer dispute could not be settled by mediation, the District Commission or the State Commission or the National Commission, as the case may be, shall continue to hear all the issues involved in such consumer dispute.";

(*c*) in section 38, in sub-section (*1*), the words "or in respect of case referred for mediation on failure of settlement by mediation," shall be omitted;

(*d*) in section 41, the third proviso shall be omitted;

(*e*) Chapter V shall be omitted;

(*f*) in section 101, in sub-section (*2*),—

(*i*) clause (*r*) shall be omitted;

(*ii*) clause (*zf*) shall be omitted;

(*g*) in section 102, in sub-section (*2*), clause (*p*) shall be omitted;

(*h*) in section 103, in sub-section (*2*), clauses (*c*) to (*h*) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

An effective dispute resolution process has a significant impact on the economy and doing business in the country, thereby promoting ease of living for citizens, access to justice and rule of law. The rapidly changing society and progress in various areas not limited to economic, industrial or financial sectors, demand commensurate expeditious settlement of dispute between the parties, which at present is time consuming. Thus, there is a need to further promote Alternative Dispute Resolution (ADR), *inter alia*, by institutional mediation. The ADR mechanism of mediation though finds mention in various existing laws, but as on date, there is no comprehensive law governing the various aspects of mediation.

2. Mediation results in amicable resolution of disputes in civil, commercial, family and matrimonial matters and fosters collaborative approach, reduces the burden on the courts, and preserves relationships amongst disputants. Therefore, bringing a comprehensive mediation law and providing for online mediation may serve the interests of all the stakeholders as effective alternative mechanism for resolving disputes.

3. The Bill covering the various aspects of mediation seeks to promote mediation as a preferred mode of ADR, *inter alia*, providing for—

(*i*) subsuming conciliation under Part III of the Arbitration and Conciliation Act, 1996, in mediation as per international practice of using the terms "conciliation" and "mediation" interchangeably;

(*ii*) compulsory pre-litigation mediation in matters of civil or commercial dispute, before parties approach a court or a tribunal as provided;

(*iii*) conduct of online mediation;

(*iv*) an indicative list of matters which are not fit for mediation under the First Schedule;

(*v*) mediation that will take place within the territorial jurisdiction of the court or tribunal of competent jurisdiction, unless parties agree otherwise or undertake mediation in online mode;

(*vi*) a period of one hundred and eighty days, for completing the mediation process which is further extendable to a maximum period of one hundred and eighty days with the mutual consent of the parties;

(*vii*) the mediated settlement agreement resulting from mediation which will be final and binding and will be enforceable in accordance with the provisions of Code of Civil Procedure, 1908, in the same manner as if it were a judgment or decree of a Court;

(*viii*) establishment of Mediation Council of India, objects of which would be, *inter alia*, to promote mediation and to develop India as a robust centre for domestic and international mediation, make regulations for registration of mediators, grade mediation service providers, specify criteria for recognition of mediation institutes and mediation service providers, to hold training workshops and courses in the area of mediation, etc.; and

(*ix*) conduct of community mediation with consent of parties for disputes which are likely to affect peace, harmony and tranquility amongst the residents or families of any area or locality.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 14*th December*, 2021.

KIREN RIJIJU.

Notes on clauses

Clause 1 of the Bill provides for short title, extent and commencement of the Act.

Clause 2 of the Bill provides for applicability of the Act.

Clause 3 of the Bill provides definition of various expressions used in the Bill.

Clause 4 of the Bill provides that mediation shall be a process whereby party or parties, request a third person referred to as mediator or mediation service provider to assist in the attempt to reach an amicable settlement of dispute.

Clause 5 of the Bill provides that mediation agreement shall be in writing, by or between parties and anyone claiming through them, to submit to mediation all or certain disputes which have arisen or which may arise between the parties. It further provides that mediation agreement may be in the form of a mediation clause in a contract or in the form of a separate agreement.

Clause 6 of the Bill provides that whether any mediation agreement exists or not, any party before filing any suit or proceedings of civil or commercial nature in any Court shall, take steps to settle the disputes by pre-litigation mediation in accordance with the provisions of the new law. It further provides that pre-litigation mediation in matters of commercial disputes of Specified Value, shall be undertaken in accordance with the provisions of section 12A of the Commercial Courts Act, 2015, and the rules made thereunder.

Clause 7 of the Bill provides an indicative list of disputes or matters which cannot be referred to mediation except some compoundable offences or matrimonial offences connected with or arising out of civil proceedings which can be referred to mediation by Court, if deemed appropriate. Settlement arrived in these cases not to have effect of judgement or decree of Court.

Clause 8 of the Bill provides that if exceptional circumstances exist, a party may, before the commencement of or during the continuation of mediation proceedings under this Part, file appropriate proceedings before a court or tribunal of competent jurisdiction for seeking urgent interim measures.

Clause 9 of the Bill provides that court or tribunal may, at any stage of pending proceeding, refer the parties to undertake mediation if a request to this effect is made by them.

Clause 10 of the Bill provides for the appointment of mediator.

Clause 11 of the Bill provides that mediation service provider while appointing mediator shall consider his suitability and the preference of the parties for resolving the dispute.

Clause 12 of the Bill provides that when a person is appointed as a mediator, he shall disclose in writing to the parties about any circumstances or potential circumstances, personal, professional or financial, that may constitute conflict of interest or that is likely to give rise to justifiable doubts as to such mediator's independence or impartiality in the conduct of the mediation process.

Clause 13 of the Bill provides for the termination of mandate of mediator.

Clause 14 of the Bill provides for the replacement of mediator.

Clause 15 of the Bill provides that mediation under this Act shall take place within the territorial jurisdiction of the court or tribunal of competent jurisdiction unless parties agree to conduct mediation outside the said territorial jurisdiction or by way of online mediation.

Clause 16 of the Bill provides that mediation proceedings with respect to a particular dispute shall be deemed to have commenced on the date on which a party issues notice to

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the other party in case of prior mediation agreement and in other cases on the day the parties have agreed to appoint a mediator of their choice or on the day when a party applies to a mediation service provider for mediation.

Clause 17 of the Bill provides that the mediator shall assist the parties in an independent, neutral and impartial manner in their attempt to reach an amicable settlement of their dispute. It further provides that mediator shall not be bound by the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872.

Clause 18 of the Bill provides that mediator shall attempt to facilitate voluntary resolution of the dispute by the parties, and communicate the view of each party to the other to the extent agreed to by them, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to resolve the dispute.

Clause 19 of the Bill provides that mediator shall not act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceeding in respect of a dispute that is the subject of the mediation proceedings and he shall not be presented by the parties as a witness in any arbitral or judicial proceeding.

Clause 20 of the Bill provides that parties may withdraw from mediation at any time after the first two mediation sessions. The court or tribunal can however, impose cost in subsequent litigation if a party fails to attend the first two mediation sessions without any reasonable cause thereby resulting in the failure of mediation.

Clause 21 of the Bill provides that mediation under this Act shall be completed within a period of one hundred and eighty days from the date fixed for the first appearance before the mediator and the period can be extended by further period of one hundred and eighty days with the mutual consent of the parties.

Clause 22 of the Bill provides that mediated settlement agreement means and includes an agreement in writing between some or all of the parties resulting from mediation including online mediation, settling some or all of the disputes between such parties, and authenticated by the mediator. It further provides that mediated settlement agreement arrived at between the parties other than those arrived in Court annexed mediation centres or under sections 21 and 22E of the Legal Services Authorities Act, 1987 shall be registered with the Authority constituted under the Legal Services Authorities Act, 1987 within a period of one hundred and eighty days. However, registration is not mandatory till the time regulations specifying the manner of registration are made by the Council.

Clause 23 of the Bill provides that the mediator, mediation service provider, the parties and participants in the mediation shall keep information and communication relating to the mediation proceedings confidential and no party to the mediation shall in any proceedings before a court or tribunal including arbitral tribunal, rely on or introduce as evidence any such information or communication. However, confidentiality shall not apply to the mediated settlement agreement where its disclosure is necessary for the purpose of registration, implementation, enforcement and challenge.

Clause 24 of the Bill provides immunity to the participants including experts and advisers engaged for the purpose of the mediation and persons involved in the administration of the mediation from disclosing by whatever description, any communication in mediation, or to state the contents or conditions of any document or nature or conduct of parties during mediation including the content of negotiations or offers or counter offers with which they have become acquainted during the mediation.

Clause 25 of the Bill provides for termination of mediation proceedings in certain circumstances.

Clause 26 of the Bill provides that court annexed mediation including pre-litigation mediation in court annexed mediation centre shall be conducted in accordance with the

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practice directions or rules by whatever name called by the Supreme Court or the High Courts. Also, Supreme Court or the High Court to constitute mediation committee for the empanelment of mediators who shall conduct mediation in all courts.

Clause 27 of the Bill provides that the provisions of the proposed Act shall not apply to the proceedings conducted by Lok Adalat and Permanent Lok Adalat under the Legal Services Authorities Act, 1987.

Clause 28 of the Bill provides that mediated settlement agreement resulting from mediation is final and binding and is enforceable in accordance with the provisions of Code of Civil Procedure, 1908, in the same manner as if it were a judgement or decree passed by a court.

Clause 29 of the Bill provides that mediated settlement agreement can be challenged on the grounds of fraud, corruption, impersonation or where mediation is conducted in a dispute or matter not fit for mediation and that such challenge can be made within a period of ninety days from the date of receipt of copy of mediated settlement agreement by the parties.

Clause 30 of the Bill provides that all costs of mediation, including the fees of the mediator and the charges of the mediation service provider shall be borne equally by the parties unless otherwise agreed by the parties.

Clause 31 of the Bill provides that the period during which the parties were engaged in the mediation shall be excluded for computing the period of limitation specified for any proceedings.

Clause 32 of the Bill provides that the online mediation including pre-litigation mediation may be conducted at any stage of mediation with the written consent of the parties and that such online mediation shall be conducted in the manner specified by the Council.

Clause 33 of the Bill provides for the establishment of Mediation Council of India as a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both moveable and immoveable, and to enter into contract, and shall, by the said name, sue or be sued.

Clause 34 of the Bill provides for the composition of Council and appointment and qualifications, term of office, salary and allowances, etc., of Chairperson, Full-Time Member and Part-Time Member.

Clause 35 of the Bill provides that any vacancy, defect in the appointment or any irregularity in procedure shall not invalidate the proceedings of the Council.

Clause 36 of the Bill provides for the procedure for resignation of Chairperson or the Full-Time Member and Part-Time Member by notice in writing, addressed to the Central Government.

Clause 37 of the Bill specifies the circumstances in which the Central Government may, remove Chairperson or a Full-Time Member or a Part-Time Member of the Council.

Clause 38 of the Bill provides for the appoint of experts and constitution of committees of experts as Council may consider necessary for the effective discharge of its functions.

Clause 39 of the Bill provides for the Chief Executive Officer of the Council as well as the Secretariat of the council, which shall comprise of such number of officers and employees as may be specified by the Council.

Clause 40 of the Bill provides the duties and functions of the Council.

Clause 41 of the Bill provides for the recognition and grading of mediation service provider by the Council.

Clause 42 of the Bill provides the functions to be performed by the mediation service provider.

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Clause 43 of the Bill provides for the recognition of mediation institutes by the Council and the functions and duties to be performed by such mediation institutes as may be specified by the Council.

Clause 44 of the Bill provides for community mediation, with prior mutual consent of parties, for resolution of disputes which are likely to affect peace, harmony and tranquility amongst the residents or families of any area or locality and empowers the concerned Authority or District Magistrate or Sub-Divisional Magistrate to constitute a panel of three mediators for conducting the community mediation.

Clause 45 of the Bill provides that a panel of three community mediators shall conduct community mediation in accordance with the procedure to be devise by them for resolving the dispute.

Clause 46 of the Bill provides that there shall be a fund to be called "Mediation Fund" for the purposes of promotion, facilitation and encouragement of mediation and empowers the Council to administer the Fund.

Clause 47 of the Bill provides that Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet, in such form and manner as may be made by rule in consultation with the Comptroller and Auditor-General of India. It further provides that the accounts of the Council shall be audited by the Comptroller and Auditor-General of India.

Clause 48 of the Bill empowers the Central Government to issue directions to the Council on questions of policy which shall be binding on the Council.

Clause 49 of the Bill provides that Central Government or State Government can frame any scheme or guidelines for resolution of any dispute through mediation or conciliation in cases where the Central Government or State Government or any of its entity or agencies is one of the party.

Clause 50 of the Bill provides that the settlement agreement arrived at in a dispute including a commercial dispute, wherein the Central Government or State Government or any of its agencies, public bodies, corporations and local bodies including entities is a party shall be signed only after obtaining the prior written consent of the competent authority.

Clause 51 of the Bill provides that no suit, prosecution or other legal proceedings shall lie against the Central Government or a State Government or any officer of such Government, or the Chairperson, Full-Time Member or Part-Time Member or Officer or employee of the Council or a mediator, mediation institutes, mediation service providers, which is done or is intended to be done in good faith.

Clause 52 of the Bill empowers the Central Government to make rules to carry out the provisions of this Act.

Clause 53 of the Bill empowers the Council to make regulations, by notification, with the previous approval of the Central Government. It further provides that the regulations shall be consistent with the provisions of the Act and the rules made thereunder.

Clause 54 of the Bill provides for laying of every notification issued under sub-clause (*2*) of clause 7 and sub-clause (*2*) of clause 56 and every rule made by the Central Government and every regulation made by the Council, as soon as may be, after it is made, before each House of Parliament.

Clause 55 of the Bill seeks to provide that, if any difficulty arises in giving effect to the provisions of the Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of the Act, as may appear to it to be necessary for removing the difficulty.

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Clause 56 of the Bill seeks to provide that the provisions of Act to have overriding effect on mediation or conciliation contained in other laws except those mentioned in the Second Schedule. It further provides that the Central Government may amend the Schedule by notification in the Official Gazette.

Clause 57 of the Bill seeks to provide that the Act shall not apply to, or in relation to, any mediation or conciliation commenced before the coming into force of this Act.

Clause 58 of the Bill amends the Indian Contract Act, 1872 in the manner specified in the Third Schedule.

Clause 59 of the Bill amends the Code of Civil Procedure, 1908 in the manner specified in the Fourth Schedule.

Clause 60 of the Bill amends the Legal Service Authorities Act, 1987 in the manner specified in the Fifth Schedule.

Clause 61 of the Bill amends the Arbitration and Conciliation Act, 1996 in the manner specified in the Sixth Schedule.

Clause 62 of the Bill amends the Micro, Small and Medium Enterprises Development Act, 2006 in the manner specified in the Seventh Schedule.

Clause 63 of the Bill amends the Companies Act, 2013 in the manner specified in the Eighth Schedule.

Clause 64 of the Bill amends the Commercial Courts Act, 2015 in the manner specified in the Ninth Schedule.

Clause 65 amends the Consumer Protection Act, 2019 in the manner specified in the Tenth Schedule.

FINANCIAL MEMORANDUM

Sub-clause (*1*) of clause 33 of the Bill provides for establishment of Mediation Council of India.

2. Sub-clause (*1*) of clause 34 of the Bill provides for the composition of the Mediation Council of India.

3. Sub-clauses (*3*) and (*4*) of clause 34 provides for the terms and conditions, salary and allowances payable to the Chairperson, Full-Time Member and Part-Time Member.

4. Clause 38 of the Bill provides for appointment of such experts and constitution of such committees of experts by the Mediation Council as it may consider necessary to discharge its functions.

5. Sub-clause (*1*) of clause 39 provides for appointment of a Chief Executive Officer, who shall be responsible for the day to day administration of the Council.

6. Sub-clause (*2*) of clause 39 provides for the qualification, appointment and other terms and conditions of Chief Executive Officer.

7. Sub-clause (*4*) of clause 39 provides for Secretariat to the Council consisting of such number of officers and employees. Further, sub-section (*5*) provides for qualification, appointment and other terms and conditions of the service of the employees and other officers of the Council.

8. Clause 46 of the Bill provides for maintenances of a Fund called "Mediation Fund" for crediting all monies provided by the Central Government; all fees and other charges received from mediation service provider, mediation institutes or bodies or persons; all monies received by the Council in the form of donations, grants, contributions and income from other sources; grants made by the Central Government or the State Government for the purposes of the Fund; amounts deposited by persons as contributions to the Fund; amounts received in the Fund from any other source; interest on the above or other income received out of the investment made from the Fund.

9. Sub-clause (*3*) of clause 46 provides that the Fund shall be applied towards meeting the salaries and other allowances of Chairperson, Full-Time Member, Part-Time Member, Chief Executive Officer, Officers and employees and the expenses of the Council including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

10. It is estimated that the proposed law when passed would entail an expenditure of approximately twenty-one crores one lakh fifteen thousand thirty-six rupees in the first year, twenty crores ninety-nine lakhs nine thousand forty in the second year, twenty-three crores sixteen lakhs seven thousand one hundred ninety-four in the third year of establishment of Council as initial establishment expenses, including salaries and allowances and other remuneration of Chairperson, Full-Time Member, Part-Time Member and its officers and other employees.

11. The Bill if enacted and brought into operation would not involve any other expenditure of a recurring or non-recurring nature from the Consolidated Fund of India.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (*2*) of clause 7 of the Bill provides for amendment of the First Schedule by notification by the Central Government.

2. Clause 33 of the Bill provides for the establishment of Mediation Council of India.

3. Clause 52 of the Bill empowers the Central Government to make rules with respect to the matters which relate to the terms and conditions and the salaries and allowances payable to the Chairperson and Full-Time Members; the travelling and other allowances payable to the Part-Time Members; the form and manner of annual statement of accounts, including the balance sheet and any other matter which is to be, or may be prescribed.

4. Clause 53 of the Bill provides for the Mediation Council of India, with the previous approval of the Central Government, to make regulations consistent with the Act and the rules made thereunder to carry out the provisions of this Act which, *inter alia* relate to qualification, experience and accreditation for mediators of foreign nationality; manner of registration of mediated settlement agreement; fees for registration of mediated settlement agreement; manner of process of conducting online mediation; the terms and conditions of experts and committees of experts; qualifications, appointment and other terms and conditions of service of the Chief Executive Officer; functions and duties to be performed by the Chief Executive Officer; the number of officers and employees of the Secretariat of the Council; the qualification, appointment and other terms and conditions of the employees and other officers of the Council; conditions for registration of mediators and renewal, withdrawal, suspension or cancellations of such registrations; standards for professional and ethical conduct of mediators; criteria for recognition of mediation institutes and mediation service providers; manner of maintenance of electronic depository of mediated settlement agreement; manner for grading of mediation service provider; functions of mediation service provider; duties and functions to be performed by mediation institutes; any other matter in respect of which provision is necessary for the performance of functions of the Council under this Act.

5. Sub-clause (*2*) of clause 56 provides for the amendment of the Second Schedule by notification to be issued by the Central Government.

6. The matters in respect of which notification, rules and regulations may be made under the aforesaid provisions are matters of procedure and administrative details and it is not practical to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACT FROM THE INDIAN CONTRACT ACT, 1872

(9 OF 1872)

* * * * *

Agreements in restraint of legal proceedings.

28. Every agreement,—

(*a*) by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights; or

(*b*) which extinguishes the rights of any party thereto, or discharges any party thereto, from any liability, under or in respect of any contract on the expiry of a specified period so as to restrict any party from enforcing his rights, is void to the extent.

Exception 1.—**Saving of contract to refer to arbitration dispute that may arise.—**This section shall not render illegal a contract, by which two or more persons agree that any dispute which may arise between them in respect of any subject or class of subjects shall be referred to arbitration, and that only the amount awarded in such arbitration shall be recoverable in respect of the dispute so referred.

Exception 2.—**Saving of contract to refer questions that have already arisen.—**Nor shall this section render illegal any contract in writing, by which two or more persons agree to refer to arbitration any question between them which has already arisen, or affect any provision of any law in force for the time being as to references to arbitration.

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EXTRACT FROM THE CODE OF CIVIL PROCEDURE, 1908

(5 OF 1908)

* * * * *

PART V

SPECIAL PROCEEDINGS

ARBITRATION

Settlement of disputes outside the Court.

89. (*1*) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the Court may reformulate the terms of a possible settlement and refer the same for:—

(*a*) arbitration;

(*b*) conciliation;

(*c*) judicial settlement including settlement through Lok Adalat; or

(*d*) mediation.

(*2*) Were a dispute has been referred—

(*a*) for arbitration or conciliation, the provisions of the Arbitration and Conciliation Act, 1996 shall apply as if the proceedings for arbitration or conciliation were referred for settlement under the provisions of that Act; 26 of 1996.

(*b*) to Lok Adalat, the Court shall refer the same to the Lok Adalat in accordance with the provisions of sub-section (*1*) of section 20 of the Legal Services Authorities 39 of 1987.

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Act, 1987 and all other provisions of that Act shall .apply in respect of the dispute so referred to the Lok Adalat;

(*c*) for judicial settlement, the Court shall refer the same to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and all the provisions of the Legal Services Authorities Act, 1987 shall apply as if the dispute were referred to a Lok Adalat under the provisions of that Act;

39 of 1987.

(*d*) for mediation, the Court shall effect a compromise between the parties and shall follow such procedure as may be prescribed

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EXTRACT FROM THE LEGAL SERVICES AUTHORITIES ACT, 1987

(39 OF 1987)

* * * * *

4. The Central Authority shall perform all or any of the following functions, namely:— Functions of the Central Authority.

* * * * *

(*f*) encourage the settlement of disputes by way of negotiations, arbitration and conciliation;

* * * * *

EXTRACTS FROM THE ARBITRATION AND CONCILIATION ACT, 1996

(26 OF 1996)

* * * * *

43D. (*1*) It shall be the duty of the Council to take all such measures as may be necessary to promote and encourage arbitration, mediation, conciliation or other alternative dispute resolution mechanism and for that purpose to frame policy and guidelines for the establishment, operation and maintenance of uniform professional standards in respect of all matters relating to arbitration. Duties and functions of Council.

(*2*) For the purposes of performing the duties and discharging the functions under this Act, the Council may—

* * * * *

(*e*) frame, review and update norms to ensure satisfactory level of arbitration and conciliation;

(*f*) act as a forum for exchange of views and techniques to be adopted for creating a platform to make India a robust centre for domestic and international arbitration and conciliation;

* * * * *

(*i*) conduct examination and training on various subjects relating to arbitration and conciliation and award certificates thereof;

* * * * *

PART III

CONCILIATION

61. (*1*) Save as otherwise provided by any law for the time being in force and unless the parties have otherwise agreed, this Part shall apply to conciliation of disputes arising out of legal relationship, whether contractual or not and to all proceedings relating thereto. Application and scope.

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(*2*) This Part shall not apply where by virtue of any law for the time being in force certain disputes may not be submitted to conciliation.

Commencement of conciliation proceedings.

62. (*1*) The party initiating conciliation shall send to the other party a written invitation to conciliate under this Part, briefly identifying the subject of the dispute.

(*2*) Conciliation proceedings, shall commence when the other party accepts in writing the invitation to conciliate.

(*3*) If the other party rejects the invitation, there will be no conciliation proceedings.

(*4*) If the party initiating conciliation does not receive a reply within thirty days from the date on which he sends the invitation, or within such other period of time as specified in the invitation, he may elect to treat this as a rejection of the invitation to conciliate and if he so elects, he shall inform in writing the other party accordingly.

Number of conciliators.

63. (*1*) There shall be one conciliator unless the parties agree that there shall be two or three conciliators.

(*2*) Where there is more than one conciliator, they ought, as a general rule, to act jointly.

Appointment of conciliators.

64. (*1*) Subject to sub-section (*2*)—

(*a*) in conciliation proceedings, with one conciliator, the parties may agree on the name of a sole conciliator;

(*b*) in conciliation proceedings with two conciliators, each party may appoint one conciliator;

(*c*) in conciliation proceedings with three conciliators, each party may appoint one conciliator and the parties may agree on the name of the third conciliator who shall act as the presiding conciliator.

(*2*) Parties may enlist the assistance of a suitable institution or person in connection with the appointment of conciliators, and in particular,—

(*a*) a party may request such an institution or person to recommend the names of suitable individuals to act as conciliator; or

(*b*) the parties may agree that the appointment of one or more conciliators be made directly by such an institution or person:

Provided that in recommending or appointing individuals to act as conciliator, the institution or person shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, with respect to a sole or third conciliator, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.

Submission of statements to conciliator.

65. (*1*) The conciliator, upon his appointment, may request each party to submit to him a brief written statement describing the general nature of the dispute and the points at issue. Each party shall send a copy of such statement to the other party.

(*2*) The conciliator may request each party to submit to him a further written statement of his position and the facts and grounds in support thereof, supplemented by any documents and other evidence that such party deems appropriate. The party shall send a copy of such statement, documents and other evidence to the other party.

(*3*) At any stage of the conciliation proceedings, the conciliator may request a party to submit to him such additional information as he deems appropriate.

Explanation.—In this section and all the following sections of this Part, the term "conciliator" applies to a sole conciliator, two or three conciliators, as the case may be.

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5 of 1908.
1 of 1872.

Conciliator not bound by certain enactments.

66. The conciliator is not bound by the Code of Civil Procedure, 1908 or the Indian Evidence Act, 1872 .

Role of conciliator.

67. (*1*) The conciliator shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.

(*2*) The conciliator shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous business practices between the parties.

(*3*) The conciliator may conduct the conciliation proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the conciliator hear oral statements, and the need for a speedy settlement of the dispute.

(*4*) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons therefor.

Administrative assistance.

68. In order to facilitate the conduct of the conciliation proceedings, the parties, or the conciliator with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

Communication between conciliator and parties.

69. (*1*) The conciliator may invite the parties to meet him or may communicate with them orally or in writing. He may meet or communicate with the parties together or with each of them separately.

(*2*) Unless the parties have agreed upon the place where meetings with the conciliator are to be held, such place shall be determined by the conciliator, after consultation with the parties, having regard to the circumstances of the conciliation proceedings.

Disclosure of information.

70. When the conciliator receives factual information concerning the dispute from a party, he shall disclose the substance of that information to the other party in order that the other party may have the opportunity to present any explanation which he considers appropriate:

Provided that when a party gives any information to the conciliator subject to a specific condition that it be kept confidential, the conciliator shall not disclose that information to the other party.

Co-operation of parties with conciliator.

71. The parties shall in good faith co-operate with the conciliator and, in particular, shall endeavour to comply with requests by the conciliator to submit written materials, provide evidence and attend meetings.

Suggestions by parties for settlement of dispute.

72. Each party may, on his own initiative or at the invitation of the conciliator, submit to the conciliator suggestions for the settlement of the dispute.

Settlement agreement.

73. (*1*) When it appears to the conciliator that there exist elements of a settlement which may be acceptable to the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, the conciliator may reformulate the terms of a possible settlement in the light of such observations.

(*2*) If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the conciliator may draw up, or assist the parties in drawing up, the settlement agreement.

(*3*) When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively.

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(*4*) The conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the parties.

Status and effect of settlement agreement.

74. The settlement agreement shall have the same status and effect as if it is an arbitral award on agreed terms on the substance of the dispute rendered by an arbitral tribunal under section 30.

Confidentiality.

75. Notwithstanding anything contained in any other law for the time being in force, the conciliator and the parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

Termination of conciliation proceedings.

76. The conciliation proceedings shall be terminated—

(*a*) by the signing of the settlement agreement by the parties, on the date of the agreement; or

(*b*) by a written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or

(*c*) by a written declaration of the parties addressed to the conciliator to the effect that the conciliation proceedings are terminated, on the date of the declaration; or

(*d*) by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration.

Resort to arbitral or judicial proceedings.

77. The parties shall not initiate, during the conciliation proceedings, any arbitral or judicial proceedings in respect of a dispute that is the subject-matter of the conciliation proceedings except that a party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights.

Costs.

78. (*1*) Upon termination of the conciliation proceedings, the conciliator shall fix the costs of the conciliation and give written notice thereof to the parties.

(*2*) For the purpose of sub-section (*1*), "costs" means reasonable costs relating to—

(*a*) the fee and expenses of the conciliator and witnesses requested by the conciliator with the consent of the parties;

(*b*) any expert advice requested by the conciliator with the consent of the parties;

(*c*) any assistance provided pursuant to clause (*b*) of sub-section (*2*) of section 64 and section 68.

(*d*) any other expenses incurred in connection with the conciliation proceedings and the settlement agreement.

(*3*) The costs shall be borne equally by the parties unless the settlement agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

Deposits.

79. (*1*) The conciliator may direct each party to deposit an equal amount as an advance for the costs referred to in sub-section(*2*) of section 78 which he expects will be incurred.

(*2*) During the course of the conciliation proceedings, the conciliator may direct supplementary deposits in an equal amount from each party.

(*3*) If the required deposits under sub-sections (*1*) and (*2*) are not paid in full by both parties within thirty days, the conciliator may suspend the proceedings or may make a written declaration of termination of the proceedings to the parties, effective on the date of that declaration.

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(*4*) Upon termination of the conciliation proceedings, the conciliator shall render an accounting to the parties of the deposits received and shall return any unexpended balance to the parties.

Role of conciliator in other proceedings.

80. Unless otherwise agreed by the parties,—

(*a*) the conciliator shall not act as an arbitrator or as a representative or counsel of a party in any arbitral or judicial proceeding in respect of a dispute that is the subject of the conciliation proceedings;

(*b*) the conciliator shall not be presented by the parties as a witness in any arbitral or judicial proceedings.

Admissibility of evidence in other proceedings.

81. The parties shall not rely on or introduce as evidence in arbitral or judicial proceedings, whether or not such proceedings relate to the dispute that is the subject of the conciliation proceedings,—

(*a*) views expressed or suggestions made by the other party in respect of a possible settlement of the dispute;

(*b*) admissions made by the other party in the course of the conciliation proceedings;

(*c*) proposals made by the conciliator;

(*d*) the fact that the other party had indicated his willingness to accept a proposal for settlement made by the conciliator.

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EXTRACT FROM THE MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT ACT, 2006

(27 OF 2006)

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Reference to Micro and Small Enterprises Facilitation Council.

18. (*1*) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.

(*2*) On receipt of a reference under sub-section (*1*), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 shall apply to such a dispute as if the conciliation was initiated under Part III of that Act.

26 of 1996.

(*3*) Where the conciliation initiated under sub-section (*2*) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer it to any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (*1*) of section 7 of that Act.

26 of 1996.

(*4*) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.

(*5*) Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference.

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ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

EXTRACT FROM THE COMPANIES ACT, 2013

(18 OF 2013)

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Mediation and Conciliation Panel.

442. (*1*) The Central Government shall maintain a panel of experts to be called as the Mediation and Conciliation Panel consisting of such number of experts having such qualifications as may be prescribed for mediation between the parties during the pendency of any proceedings before the Central Government or the Tribunal or the Appellate Tribunal under this Act.

(*2*) Any of the parties to the proceedings may, at any time during the proceedings before the Central Government or the Tribunal or the Appellate Tribunal, apply to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, in such form along with such fees as may be prescribed, for referring the matter pertaining to such proceedings to the Mediation and Conciliation Panel and the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, shall appoint one or more experts from the panel referred to in sub-section (*1*).

(*3*) The Central Government or the Tribunal or the Appellate Tribunal before which any proceeding is pending may, *suo motu*, refer any matter pertaining to such proceeding to such number of experts from the Mediation and Conciliation Panel as the Central Government or the Tribunal or the Appellate Tribunal, as the case may be, deems fit.

(*4*) The fee and other terms and conditions of experts of the Mediation and Conciliation Panel shall be such as may be prescribed.

(*5*) The Mediation and Conciliation Panel shall follow such procedure as may be prescribed and dispose of the matter referred to it within a period of three months from the date of such reference and forward its recommendations to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.

(*6*) Any party aggreived by the recommendation of the Mediation and Conciliation Panel may file objections to the Central Government or the Tribunal or the Appellate Tribunal, as the case may be.

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EXTRACT FROM THE COMMERCIAL COURTS ACT, 2015

(4 OF 2016)

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CHAPTER IIIA

PRE-INSTITUTION MEDIATION AND SETTLEMENT

Pre-Institution Mediation and Settlement.

12A. (*1*) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of preinstitution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(*2*) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987 , for the purposes of pre-institution mediation. 39 of 1987.

(*3*) Notwithstanding anything contained in the Legal Services Authorities Act, 1987, the Authority authorised by the Central Government under sub-section (*2*) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (*1*): 39 of 1987.

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:

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Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963 .

36 of 1963.

(*4*) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(*5*) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (*4*) of section 30 of the Arbitration and Conciliation Act, 1996 .

26 of 1996.

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EXTRACTS FROM THE CONSUMER PROTECTION ACT, 2019

(35 OF 2019)

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

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(*25*) "mediation" means the process by which a mediator mediates the consumer disputes;

(*26*) "mediator" means a mediator referred to in section 75;

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37. (*1*) At the first hearing of the complaint after its admission, or at any later stage, if it appears to the District Commission that there exists elements of a settlement which may be acceptable to the parties, except in such cases as may be prescribed, it may direct the parties to give in writing, within five days, consent to have their dispute settled by mediation in accordance with the provisions of Chapter V. Reference to mediation.

(*2*) Where the parties agree for settlement by mediation and give their consent in writing, the District Commission shall, within five days of receipt of such consent, refer the matter for mediation, and in such case, the provisions of Chapter V, relating to mediation, shall apply.

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38. (*1*) The District Commission shall, on admission of a complaint, or in respect of cases referred for mediation on failure of settlement by mediation, proceed with such complaint. Procedure on admission of complaint.

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41. Any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission on the grounds of facts or law within a period of forty-five days from the date of the order, in such form and manner, as may be prescribed: Appeal against order of District Commission.

Provided that the State Commission may entertain an appeal after the expiry of the said period of forty-five days, if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Commission, shall be entertained by the State Commission unless the appellant has deposited fifty per cent. of that amount in the manner as may be prescribed:

Provided also that no appeal shall lie from any order passed under sub-section (*1*) of section 81 by the District Commission pursuant to a settlement by mediation under section 80.

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CHAPTER V

MEDIATION

Establishment of consumer mediation cell.

74. (*1*) The State Government shall establish, by notification, a consumer mediation cell to be attached to each of the District Commissions and the State Commissions of that State.

(*2*) The Central Government shall establish, by notification, a consumer mediation cell to be attached to the National Commission and each of the regional Benches.

(*3*) A consumer mediation cell shall consist of such persons as may be prescribed.

(*4*) Every consumer mediation cell shall maintain—

(*a*) a list of empanelled mediators;

(*b*) a list of cases handled by the cell;

(*c*) record of proceeding; and

(*d*) any other information as may be specified by regulations.

(*5*) Every consumer mediation cell shall submit a quarterly report to the District Commission, State Commission or the National Commission to which it is attached, in the manner specified by regulations.

Empanelment of mediators.

75. (*1*) For the purpose of mediation, the National Commission or the State Commission or the District Commission, as the case may be, shall prepare a panel of the mediators to be maintained by the consumer mediation cell attached to it, on the recommendation of a selection committee consisting of the President and a member of that Commission.

(*2*) The qualifications and experience required for empanelment as mediator, the procedure for empanelment, the manner of training empanelled mediators, the fee payable to empanelled mediator, the terms and conditions for empanelment, the code of conduct for empanelled mediators, the grounds on which, and the manner in which, empanelled mediators shall be removed or empanelment shall be cancelled and other matters relating thereto, shall be such as may be specified by regulations.

(*3*) The panel of mediators prepared under sub-section (*1*) shall be valid for a period of five years, and the empanelled mediators shall be eligible to be considered for re-empanelment for another term, subject to such conditions as may be specified by regulations.

Nomination of mediators from panel.

76. The District Commission, the State Commission or the National Commission shall, while nominating any person from the panel of mediators referred to in section 75, consider his suitability for resolving the consumer dispute involved.

Duty of mediator to disclose certain facts.

77. It shall be the duty of the mediator to disclose—

(*a*) any personal, professional or financial interest in the outcome of the consumer dispute;

(*b*) the circumstances which may give rise to a justifiable doubt as to his independence or impartiality; and

(*c*) such other facts as may be specified by regulations.

Replacement of mediator in certain cases.

78. Where the District Commission or the State Commission or the National Commission, as the case may be, is satisfied, on the information furnished by the mediator or on the information received from any other person including parties to the complaint and after hearing the mediator, it shall replace such mediator by another mediator.

Procedure for mediation.

79. (*1*) The mediation shall be held in the consumer mediation cell attached to the District Commission, the State Commission or the National Commission, as the case may be.

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(*2*) Where a consumer dispute is referred for mediation by the District Commission or the State Commission or the National Commission, as the case may be, the mediator nominated by such Commission shall have regard to the rights and obligations of the parties, the usages of trade, if any, the circumstances giving rise to the consumer dispute and such other relevant factors, as he may deem necessary and shall be guided by the principles of natural justice while carrying out mediation.

(*3*) The mediator so nominated shall conduct mediation within such time and in such manner as may be specified by regulations.

Settlement through mediation.

80. (*1*) Pursuant to mediation, if an agreement is reached between the parties with respect to all of the issues involved in the consumer dispute or with respect to only some of the issues, the terms of such agreement shall be reduced to writing accordingly, and signed by the parties to such dispute or their authorised representatives.

(*2*) The mediator shall prepare a settlement report of the settlement and forward the signed agreement along with such report to the concerned Commission.

(*3*) Where no agreement is reached between the parties within the specified time or the mediator is of the opinion that settlement is not possible, he shall prepare his report accordingly and submit the same to the concerned Commission.

Recording settlement and passing of order.

81. (*1*) The District Commission or the State Commission or the National Commission, as the case may be, shall, within seven days of the receipt of the settlement report, pass suitable order recording such settlement of consumer dispute and dispose of the matter accordingly.

(*2*) Where the consumer dispute is settled only in part, the District Commission or the State Commission or the National Commission, as the case may be, shall record settlement of the issues which have been so settled and continue to hear other issues involved in such consumer dispute.

(*3*) Where the consumer dispute could not be settled by mediation, the District Commission or the State Commission or the National Commission, as the case may be, shall continue to hear all the issues involved in such consumer dispute.

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Power of Central Government to make rules.

101. (*1*) * * * * *

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for,—

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(*r*) the cases which may not be referred for settlement by mediation under sub-section (*1*) of section 37;

* * * * *

(*zf*) the persons in the consumer mediation cell under sub-section (*3*) of section 74;

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Power of State Government to make rules.

102. (*1*) * * * * *

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

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(*p*) the persons in the consumer mediation cell under sub-section (*3*) of section 74;

* * * * *

Power of National Commission to make regulations.

103. (*1*) * * * * *

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may make provisions for—

* * * * *

(*c*) the maintenance of any other information by the consumer mediation cell under sub-section (*4*) of section 74;

(*d*) the manner of submission of quarterly report by consumer mediation cell to the District Commission, the State Commission or the National Commission under sub-section (*5*) of section 74;

(*e*) the qualifications and experience required for empanelment as mediator, the procedure for empanelment, the manner of training empanelled mediators, the fee payable to empanelled mediator, the terms and conditions for empanelment, the code of conduct for empanelled mediators, the grounds on which, and the manner in which, empanelled mediators shall be removed or empanelment shall be cancelled and the other matters relating thereto under sub-section (*2*) of section 75;

(*f*) the conditions for re-empanelment of mediators for another term under sub-section (*3*) of section 75;

(*g*) the other facts to be disclosed by mediators under clause (*c*) of section 77;

(*h*) the time within which, and the manner in which, mediation may be conducted under sub-section (*3*) of section 79;

* * * * *

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RAJYA SABHA

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to promote and facilitate mediation, especially institutional mediation, for resolution of disputes, commercial or otherwise, enforce mediated settlement agreements, provide for a body for registration of mediators, to encourage community mediation and to make online mediation as acceptable and cost effective process and for matters connected therewith or incidental thereto.

(Shri Kiren Rijiju, Minister of Law and Justice)

MGIPMRND—1609RS—15-12-2021.

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AS PASSED BY LOK SABHA
ON 28.7.2023

Bill No. 101-C of 2023

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) AMENDMENT BILL, 2023

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BILL

further to amend the Mines and Minerals (Development and Regulation) Act, 1957.

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

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Mines and Minerals (Development and Regulation) Amendment Act, 2023.

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

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Amendment of section 3.

2. In section 3 of the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the principal Act), in section 3,— 67 of 1957.

(*i*) after clause (*aa*), the following clause shall be inserted, namely:—

'(*aaa*) "exploration licence" means a licence granted for undertaking reconnaissance operations or prospecting operations or both in respect of minerals specified in the Seventh Schedule;';

(*ii*) in clause (*ae*), after the words "composite licence", the words ", exploration licence" shall be inserted;

(*iii*) for clause (*ha*), the following clause shall be substituted, namely:—

'(*ha*) "reconnaissance operations" means any operations undertaken for preliminary prospecting of a mineral through regional, aerial, geophysical or geochemical surveys and geological mapping, and include pitting, trenching, drilling and sub-surface excavation;'.

Amendment of section 4.

3. In section 4 of the principal Act, in sub-section (*1*), after the words "prospecting licence", the words "or of a exploration licence" shall be inserted.

Amendment of section 4A.

4. In section 4A of the principal Act,—

(*i*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Termination of prospecting licences, exploration licences or mining leases.";

(*ii*) in sub-section (*1*), for the words "prospecting licence", at both the places where they occur, the words "prospecting licence or exploration licence" shall be substituted;

(*iii*) in sub-section (*3*), after the words "prospecting licence", the words "or exploration licence" shall be inserted.

Amendment of section 5.

5. In section 5 of the principal Act, for the marginal heading, the following marginal heading shall be substituted, namely:—

"Restrictions on the grant of mineral concession.".

Amendment of section 6.

6. In section 6 of the principal Act,—

(*a*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Maximum area for which mineral concession may be granted.";

(*b*) in sub-section (*1*),—

(*i*) after clause (*aa*), the following clause shall be inserted, namely:—

"(*ab*) one or more exploration licences covering a total area of more than five thousand square kilometres:

Provided that the area granted under a single exploration licence shall not exceed one thousand square kilometres;";

(*ii*) in clause (*c*), for the words "reconnaissance permit, mining lease or prospecting licence", the words "mineral concession" shall be substituted.

Substitution of Chapter heading of Chapter III.

7. In Chapter III of the principal Act, for Chapter heading, the following Chapter heading shall be substituted, namely:—

"PROCEDURE FOR OBTAINING MINERAL CONCESSION IN RESPECT OF LAND IN WHICH THE MINERALS VEST IN THE GOVERNMENT".

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Amendment of section 10.

8. In section 10 of the principal Act,—

(*i*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Application for mineral concession.";

(*ii*) in sub-section (*4*), in clause (*a*), for the words, figures and letters "sections 10B, 11, 11A or the rules made under section 11B", the words, figures and letters "sections 10B, 10BA, 11, 11A, 11B or 11D" shall be substituted.

Insertion of new section 10BA.

9. After section 10B of the principal Act, the following section shall be inserted, namely:—

Grant of exploration licence for minerals specified in Seventh Schedule through auction.

"10BA. (*1*) The provisions of this section shall not apply to—

(*a*) the areas covered under section 17A;

(*b*) the minerals specified in Part A of the First Schedule;

(*c*) the minerals specified in Part B of the First Schedule where the grade of atomic mineral is equal to or greater than such threshold value as may be notified by the Central Government from time to time;

(*d*) any land in respect of which the minerals do not vest in the Government.

(*2*) Notwithstanding anything contained in sections 10B and 11, an exploration licence may be granted in any area by the State Government for the purpose of undertaking reconnaissance or prospecting operations or both in respect of any mineral specified in the Seventh Schedule.

(*3*) The Central Government may, by notification in the Official Gazette, and for reasons to be recorded in writing, amend the Seventh Schedule so as to modify the entries therein with effect from such date as may be specified in the said notification.

(*4*) The State Government shall, after obtaining the previous approval of the Central Government, and in such manner as may be prescribed by the Central Government, notify the areas in which exploration licence shall be granted, subject to such terms and conditions as may be specified in the notification.

(*5*) The Central Government may require the State Government to notify the area for grant of exploration licence within such period as may be fixed in consultation with the State Government, and in case the State Government does not notify the area within such period, the Central Government may, after the expiry of the period so fixed, notify the area for grant of exploration licence.

(*6*) The State Government shall, for the purpose of granting exploration licence through auction by method of competitive bidding, including e-auction, select an applicant who fulfils the eligibility conditions as specified in this Act and grant exploration licence to such applicant.

(*7*) Where—

(*a*) the State Government has not successfully completed auction for the grant of exploration licence; or

(*b*) after completion of auction, the exploration licence or letter of intent for grant of exploration licence has been terminated or lapsed for any reason whatsoever,

the Central Government may require the State Government to conduct and complete the auction or re-auction process, as the case may be, within such period as may be fixed in consultation with the State Government, and in cases where such auction or re-auction process is not completed within such period, the Central Government may, after the expiry of the period so fixed, conduct auction for the grant of exploration licence for such area:

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Provided that upon successful completion of the auction, the Central Government shall intimate the details of the preferred bidder in the auction to the State Government and the State Government shall grant exploration licence for such area to such preferred bidder in such manner as may be prescribed by the Central Government.

(*8*) The holder of exploration licence shall be entitled to a share of applicable amount quoted in the auction of mining leases payable by the lessee to the State Government in respect of the area granted in mining lease pursuant to the prospecting operations undertaken by the holder of such exploration licence:

Provided that the share in applicable amount payable to the holder of exploration licence by the lessee of such area shall be allowed only in respect of the minerals specified in the Seventh Schedule.

(*9*) The Central Government shall by rules provide for the manner of conducting auction for grant of exploration licence, including its terms and conditions, the bidding parameters for selection, share payable to the holder of exploration licence from out of the applicable amount quoted in auction of mining leases payable by the lessee of such area, the period for such payment and such other conditions as may be necessary.

(*10*) Notwithstanding anything contained in section 7,—

(*a*) the exploration licence shall be granted for a period of five years from the date of execution of the exploration licence;

(*b*) if, after three years from the date of execution of exploration licence, but before the date of its expiry, the holder of the exploration licence makes an application for the extension of the period of that licence, the State Government may, on being satisfied that within the period of five years, it shall not be possible for the holder of such licence to complete the reconnaissance or prospecting operations for reasons beyond his control, extend the said period to a further period not exceeding two years.

(*11*) After three years from the date of execution of the exploration licence, the holder of such licence may retain an area not exceeding twenty-five per cent. of the total area covered under that licence for the purpose of continuing reconnaissance or prospecting operations and shall surrender the remaining area after submitting a report to the State Government stating the reasons for retention of the area proposed to be retained by him and the boundaries of that area.

(*12*) The holder of the exploration licence shall, within three months of the completion of the operations for which licence has been granted, or of the date of expiry of the exploration licence, whichever is earlier, submit a geological report to the State Government explaining the result of the reconnaissance and prospecting operations, in such manner as may be prescribed.

(*13*) If the holder of the exploration licence fails to complete the reconnaissance and prospecting operations before expiry of the exploration licence, or fails to submit the geological report within the period specified in sub-section (*12*), the State Government may take such action as it deems fit, including imposition of penalty.

(*14*) Within six months from the date of receipt of the geological report from the holder of the exploration licence, the Central Government or the State Government shall initiate the auction process for grant of one or more separate mining leases under section 10B or section 11 or section 11D, as the case may be, in respect of the area where existence of mineral content is established and shall select the preferred bidder for grant of such mining leases within one year from the date of receipt of the geological report:

Provided that in case the preferred bidder is not selected within the period so specified, the State Government shall pay to the person who was the holder of exploration licence such amount, and in such manner, as may be prescribed.".

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10. After section 11C, the following section shall be inserted, namely:— Insertion of new section 11D.

"11D. (*1*) Notwithstanding anything contained in this Act, the Central Government shall, for the purpose of granting mining lease or composite licence in any area in respect of any mineral specified in the Part D of the First Schedule, select, through auction by method of competitive bidding, including e-auction, a preferred bidder who fulfils the eligibility conditions as specified in section 5, on such terms and conditions, and in such manner, as may be prescribed. Central Government to conduct auction for grant of mining lease or composite licence in respect of minerals specified in Part D of First Schedule.

(*2*) Upon successful completion of the auction, the Central Government shall intimate the details of the preferred bidder in the auction to the State Government and the State Government shall grant mining lease or composite licence for such area, to such preferred bidder, in such manner, as may be prescribed by the Central Government.

(*3*) The royalty, dead rent, applicable amount quoted in the auction and any other statutory payment in relation to the mining lease or composite licence auctioned by the Central Government shall accrue to the State Government or concerned authorities, as the case may be, as if the auction has been conducted by the State Government.".

11. In section 12 of the principal Act,— Amendment of section 12.

(*a*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Registers of mineral concession.";

(*b*) in sub-section (*1*),—

(*i*) in clause (*e*), the word "and" shall be omitted;

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

"(*g*) a register of applications for exploration licences; and

(*h*) a register of exploration licences,".

12. In section 12A of the principal Act,— Amendment of section 12A.

(*i*) after the words "composite licence", wherever they occur, the words "or exploration licence" shall be inserted;

(*ii*) in sub-section (*4*), in the proviso, for the words "or of a composite licence", the words "or composite licence" shall be substituted.

13. In Chapter IV of the principal Act, for Chapter heading, the following Chapter heading shall be substituted, namely:— Substitution of Chapter heading of Chapter IV.

"RULES FOR REGULATING THE GRANT OF MINERAL CONCESSIONS".

14. In section 13 of the principal Act, in sub-section (*2*),— Amendment of section 13.

(*i*) clause (*ac*) shall be omitted;

(*ii*) in clause (*qqg*), for the words, figures and letters "mining lease or composite licence under section 10B, 11, 11A, 11B", the words, figures and letters "mineral concession under section 10B, 10BA, 11, 11A, 11B, 11D" shall be substituted;

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

"(*va*) the manner of notifying the areas for grant of exploration licence under sub-section (*4*) of section 10BA;

(*vb*) the manner of granting exploration licence to the preferred bidder under the proviso to sub-section (*7*) of section 10BA;

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(*vc*) the manner of conducting auction for grant of exploration licence, the terms and conditions thereof, the bidding parameters for selection, the share payable to the holder, the period for payment and other conditions under sub-section (*9*) of section 10BA;

(*vd*) the manner of submitting geological report under sub-section (*12*) of section 10BA;

(*ve*) the amount to be paid and the manner of payment under the proviso to sub-section (*14*) of section 10BA;";

(*iv*) after clause (*x*), the following clauses shall be inserted, namely:—

"(*xa*) the terms and conditions and the manner of selecting a preferred bidder under sub-section (*1*) of section 11D;

(*xb*) the manner of granting a mining lease or composite licence to a preferred bidder under sub-section (*2*) of section 11D;".

Amendment of section 17A.

15. In section 17A of the principal Act, in sub-sections (*1*), (*1A*) and (*2*), after the words "prospecting licence", the words "or exploration licence" shall be inserted.

Amendment of section 18A.

16. In section 18A of the principal Act, in sub-section (*1*), after the words "prospecting licence", at both the places where they occur, the words "or exploration licence" shall be inserted.

Amendment of section 19.

17. In section 19 of the principal Act, for the marginal heading, the following marginal heading shall be substituted, namely:—

"Mineral concession to be void if in contravention of Act.".

Amendment of section 21.

18. In section 21 of the principal Act, in the *Explanation*, after the words "composite licence", the words ", exploration licence" shall be inserted.

Amendment of section 24A.

19. In section 24A of the principal Act, for the marginal heading, the following marginal heading shall be substituted, namely:—

"Rights and liabilities of a holder of mineral concession.".

Amendment of First Schedule.

20. In the principal Act, in the First Schedule,—

(*i*) after the figures and letter "11C", the figures and letter "11D" shall be inserted;

(*ii*) for Part B, the following Part shall be substituted, namely:—

"*PART B*

Atomic minerals

1. Minerals of the "rare earths" group containing Uranium and Thorium.

2. Phosphorites and other phosphatic ores containing Uranium.

3. Pitchblende and other Uranium ores.

4. Uraniferous allanite, monazite and other thorium minerals.

5. Uranium bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores.

6. Beach sand minerals, that is, economic heavy minerals found in the teri or beach sands, which include ilmenite, rutile, leucoxene, garnet, monazite, zircon and sillimanite.";

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(*iii*) after Part C, the following Part shall be inserted, namely:—

"*PART D*

Critical and Strategic Minerals

1. Beryl and other beryllium bearing minerals.
2. Cadmium bearing minerals.
3. Cobalt bearing minerals.
4. Gallium bearing minerals.
5. Glauconite.
6. Graphite.
7. Indium bearing minerals.
8. Lithium bearing minerals.
9. Molybdenum bearing minerals.
10. Nickel bearing minerals.
11. Niobium bearing minerals.
12. Phosphate (without uranium).
13. Platinum group of elements bearing minerals.
14. Potash.
15. Minerals of the "rare earths" group not containing Uranium and Thorium.
16. Rhenium bearing minerals.
17. Selenium bearing minerals.
18. Tantalum bearing minerals.
19. Tellurium bearing minerals.
20. Tin bearing minerals.
21. Titanium bearing minerals and ores (ilmenite, rutile and leucoxene).
22. Tungsten bearing minerals.
23. Vanadium bearing minerals.
24. Zirconium bearing minerals and ores including zircon.".

21. In the principal Act, after Sixth Schedule, the following shall be inserted, namely:— Insertion of new Seventh Schedule.

"THE SEVENTH SCHEDULE

[*See* sections 3 (*aaa*), 10BA(*2*) and 10BA(*3*)]

Minerals

1. Apatite.
2. Beryl and other beryllium bearing minerals.
3. Cadmium bearing minerals.
4. Cobalt bearing minerals.
5. Copper bearing minerals.

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6. Diamond.

7. Gold.

8. Graphite.

9. Indium bearing minerals.

10. Lead bearing minerals.

11. Lithium bearing minerals.

12. Molybdenum bearing minerals.

13. Niobium bearing minerals.

14. Nickel bearing minerals.

15. Potash.

16. Platinum group of elements bearing minerals.

17. Minerals of 'rare earths' group.

18. Rhenium bearing minerals.

19. Rock Phosphate.

20. Selenium.

21. Silver.

22. Tantalum bearing minerals.

23. Tellurium bearing minerals.

24. Tin bearing minerals.

25. Titanium bearing minerals and ores (ilmenite, rutile and leucoxene).

26. Tungsten bearing minerals.

27. Vanadium bearing minerals.

28. Zinc bearing minerals.

29. Zirconium bearing minerals and ores including zircon.".

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LOK SABHA

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further to amend the Mines and Minerals (Development and Regulation) Act, 1957.

(*As passed by Lok Sabha*)

MGIPMRND—185LS(S3)—28-07-2023.

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As passed by Lok Sabha
on 25.7.2023

Bill No. 215-C of 2022

THE MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2023

A

BILL

further to amend the Multi-State Co-operative Societies Act, 2002.

Be it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Multi-State Co-operative Societies (Amendment) Act, 2023.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Amendment of section 3.

39 of 2002.

2. In section 3 of the Multi-State Co-operative Societies Act, 2002 (hereinafter referred to as the principal Act),—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) "Authority" means the Co-operative Election Authority established under sub-section (*1*) of section 45;';

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(*ii*) in clause (*d*), for the words, brackets and figures "under sub-section (*1*) of section 4", the words, brackets, letters and figures "as per clause (*f*) of article 243ZH of the Constitution read with sub-section (*1*) of section 4" shall be substituted;

(*iii*) after clause (*f*), the following clause shall be inserted, namely:—

'(*fa*) "Co-operative Ombudsman" means the Ombudsman appointed by the Central Government under section 85A;';

(*iv*) clause (*i*), shall be omitted;

(*v*) after clause (*k*), the following clause shall be inserted, namely:—

'(*ka*) "financial year", in relation to any multi-State co-operative society or class of such societies, means the year ending on the 31st day of March of the year and where the accounts of such society or class of such societies are, with the previous sanction of the Central Registrar, balanced on any other day, the year ending on such day;";

(*vi*) in clause(*s*), after the words "Official Gazette", the words "and the expression 'notified' with its cognate meanings and grammatical variations shall be construed accordingly" shall be inserted.

Amendment of section 7.

3. In section 7 of the principal Act, for sub-sections (*2*) and (*3*), the following sub-sections shall be substituted, namely:—

"(*2*) Without prejudice to the provisions of sub-section (*1*), the Central Registrar may register a multi-State co-operative society if the aggregate value of the paid-up capital and provision of reserves along with liquidity, exposure and other prudential norms specified in the bye-laws of the proposed multi-State co-operative society in the business of thrift and credit are in accordance with such guidelines as may be prescribed:

Provided that the multi-State co-operative societies registered before the commencement of the Multi-State Co-operative Societies (Amendment) Act, 2023 shall meet such norms within a period of five years from the date of commencement of the said Act:

Provided further that if the liquidity, exposure, prudential and other parameters of the multi-State credit society do not meet such norms within the period mentioned above, the Central Registrar shall have powers to issue such directions as it deems appropriate to such society to take relevant action:

Provided also that in the case of multi-State co-operative bank, the aggregate value of the paid-up capital and provision of reserves along with liquidity norms provided in the bye-laws shall be such as may be laid down by the Reserve Bank from time to time.

(*3*) The application for registration shall be disposed of by the Central Registrar within a period of three months from the date of receipt of such application by him:

Provided that the Central Registrar may, for rectification of mistakes, if any, in the application, extend the period of three months with such further period, for reasons to be recorded in writing, not exceeding two months on the request of the applicant.

(*4*) Where the Central Registrar refuses to register a multi-State co-operative society, he shall communicate the order of such refusal stating therein the reasons for such refusal, to the applicant within the period specified in sub-section (*3*):

Provided that no order of refusal shall be made, unless the applicant has been given an opportunity of being heard:

Provided further that if the application for registration is not disposed of within the period specified in sub-section (*3*) or the Central Registrar fails to communicate the order of refusal within the said period, the application shall be deemed to have been accepted for registration and the Central Registrar shall issue the registration certificate in accordance with the provisions of this Act and the rules made thereunder.".

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4. In section 10 of the principal Act, in sub-section (*2*), in clause (*a*), for the word "address", the words and brackets "address, including e-mail address" shall be substituted. Amendment of section 10.

5. In section 14 of the principal Act— Amendment of section 14.

(*i*) for the marginal heading "Change of address", the marginal heading "Address" shall be substituted;

(*ii*) for the word "address", the words "address, including e-mail address," shall be substituted.

6. In section 17 of the principal Act, after sub-section (*9*), the following sub-section shall be inserted, namely:— Amendment of section 17.

"(*10*) Any co-operative society may, by a resolution passed by majority of not less than two-thirds of the members present and voting at a general meeting of such society, decide to merge into an existing multi-State co-operative society:

Provided that such resolution shall be subject to the provisions of the respective State Co-operative Societies Act for the time being in force under which such co-operative society is registered.".

7. In section 19 of the principal Act, in the *Explanation*, in clause (*a*),— Amendment of section 19.

(*i*) in sub-clause (*ii*), the word "or" occurring at the end shall be omitted;

(*ii*) sub-clause (*iii*) shall be omitted.

8. In section 22 of the principal Act, in sub-section (*5*), for clause (*c*), the following clause shall be substituted, namely:— Amendment of section 22.

"(*c*) the co-operative society shall be deemed to have been de-registered under the law relating to such co-operative society for the time being in force in that State, from the date of the certificate as issued by the Central Registrar and forwarded to such co-operative society, along with a copy of the registered amendment under sub-section (*3*).".

9. In section 26 of the principal Act,— Amendment of section 26.

(*i*) in the proviso, the words "be entitled to subscribe the shares of such society or" shall be omitted;

(*ii*) after the proviso, the following provisos shall be inserted, namely:—

"Provided further that nominal or associate member can be issued non-voting shares which may not confer any interest in the management of the multi-State co-operative society including right to vote, to be elected as a director of the board or participate in the general body meetings:

Provided also that in case of multi-State co-operative bank, such shares shall be issued in accordance with the instructions issued by the Reserve Bank from time to time.".

10. In section 28 of the principal Act, for the words "to the society in respect of membership,", the words "of all dues to the multi-State co-operative society including the payment in respect of membership or has availed such minimum level of product or services as specified in the bye-laws," shall be substituted. Amendment of section 28.

11. In section 29 of the principal Act, for clause (*b*), the following clause shall be substituted, namely:— Amendment of section 29.

"(*b*) he fails to use the minimum level of the products or services as specified in the bye-laws for two consecutive years; or".

12. In section 30 of the principal Act, in sub-section (*2*), for the words "one year", the words "three years" shall be substituted. Amendment of section 30.

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Substitution of new section for section 35.

13. For section 35 of the principal Act, the following section shall be substituted, namely:—

Redemption of shares.

35. (*1*) The shares of the authorities referred to in clauses (*c*) and (*d*) of sub-section (*1*) of section 25, held in multi-State co-operative societies,—

(*a*) shall not be redeemed without the prior approval of such authorities; and

(*b*) may be redeemed in such manner as may be agreed upon between the multi-State co-operative society and such authorities.

(*2*) The shares held in a multi-State co-operative society by any of the authorities referred to in clauses (*e*) to (*g*) of sub-section (*1*) of section 25, shall be redeemed in accordance with the bye-laws of such multi-State co-operative society and in case, where the bye-laws do not contain any provision, in such manner as may be agreed upon between the multi-State co-operative society and such authorities.

(*3*) The redemption of shares referred to in sub-sections (*1*) and (*2*), shall be on the face value of shares.

Amendment of section 39.

14. In section 39 of the principal Act, in sub-section (*1*), after clause (*o*), the following clause shall be inserted, namely:—

"(*p*) appointment of auditor.".

Amendment of section 41.

15. In section 41 of the principal Act, for sub-section (*3*), the following sub-sections shall be substituted, namely:—

'(*3*) The board shall consist of such number of directors not exceeding twenty-one, as may be specified by the bye-laws, out of which one Member shall be Scheduled Caste or Scheduled Tribe and two shall be women in the board of multi-State co-operative society consisting of individuals and having members from such class or category of persons:

Provided that the board may co-opt as Members of the board having experience in the field of banking, management, co-operative management and finance or specialisation in any other field relating to the objects and activities undertaken by such multi-State co-operative society:

Provided further that the number of such co-opted Members shall not exceed two in addition to twenty-one directors specified in this sub-section.

(*4*) The co-opted directors referred to in sub-section (*3*) shall not have the right to vote in any election of the office bearers or be eligible to be elected as office bearers of the board.

(*5*) The functional directors in a multi-State co-operative society shall also be the members of the board and such directors shall be excluded for the purpose of counting the total number of directors specified in sub-section (*3*).

(*6*) No director of a multi-State co-operative society shall, as a director, be present in the discussion of, or vote on, any contract or arrangement entered into, or to be entered into, by or on behalf of such society, if he or his relative is directly or indirectly concerned or interested in such contract or arrangement and no relative of any of the sitting directors of the multi-State co-operative society shall be recruited as employee including the Chief Executive of that society.

Explanation.—For the purposes of this sub-section, the term "relative" with reference to an individual, includes—

(*a*) spouse;

(*b*) father (including step father);

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(*c*) mother (including step mother);

(*d*) son (including step son);

(*e*) son's wife;

(*f*) daughter (including step daughter);

(*g*) daughter's husband;

(*h*) father's father;

(*i*) father's mother;

(*j*) mother's father;

(*k*) mother's mother;

(*l*) son's son;

(*m*) son's son's wife;

(*n*) son's daughter;

(*o*) son's daughter's husband;

(*p*) daughter's son;

(*q*) daughter's son's wife;

(*r*) daughter's daughter;

(*s*) daughter's daughter's husband;

(*t*) brother (including step brother);

(*u*) brother's wife;

(*v*) sister (including step sister);

(*w*) sister's husband; and

(*x*) Hindu undivided family.

(*7*) Any director of the board who violates the provision of sub-section (*6*), shall be disqualified for being a member of the board and deemed to have vacated his office from the date of such meeting of the board as is referred to in the said sub-section and such proceedings shall be deemed to be void.'.

Amendment of section 43.

16. In section 43 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) in clause (*a*), after the words "to be insolvent", the words "or has been a director of an insolvent company" shall be inserted;

(*b*) in clause (*h*), after the words "under this Act", the words "or under any other Act specified in the Third Schedule" shall be inserted;

(*c*) after clause (*n*), the following clause shall be inserted, namely:—

"(*o*) has been disqualified under sub-section (*7*) of section 41.";

(*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) A member who has been a director of the board of any multi-State co-operative society or co-operative bank, where such board has been superseded, shall not be eligible to be elected as director of the board of another multi-State co-operative society or co-operative bank for a period of five years, from the date of such supersession:

Provided that no member shall be declared ineligible under this sub-section unless an opportunity of being heard has been given to such member by the Central Registrar and declaration for ineligibility shall be made only after ascertaining that the member concerned has been responsible by acts of omission or commission leading to such supersession.";

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(*iii*) in sub-section (*2*),—

(*a*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) to provide information, documents, personnel, funds or expenses or any other assistance as required by the Co-operative Election Authority for conducting elections under this Act in such manner as may be prescribed; or";

(*b*) in clause (*c*), for the words "general meeting" occurring at the end, the words "general meeting; or" shall be substituted;

(*c*) after clause (*c*), the following clauses shall be inserted, namely:—

"(*d*) to make contribution to the co-operative education fund referred to in clause (*b*) of sub-section (*1*) of section 63 or the Co-operative Rehabilitation, Reconstruction and Development Fund established under section 63A; or

(*e*) to file annual return specified in section 120 within the time specified therein; or

(*f*) to get the audit of the society conducted within six months of the close of the financial year to which such account relate:

Provided that before taking any action under this sub-section, he shall be given an opportunity of being heard by the Central Registrar.".

Substitution of new section for section 45.

17. For section 45 of the principal Act, the following sections shall be substituted, namely:—

Establishment of Co-operative Election Authority.

"**45.** (*1*) The Central Government shall, by notification, establish an Authority to be known as the Co-operative Election Authority which shall consist of a Chairperson, a Vice-Chairperson and Members not exceeding three to be appointed by the Central Government on the recommendation of the Selection Committee consisting of such persons as may be prescribed.

(*2*) The head office of the Authority shall be at such place as may be notified by the Central Government.

(*3*) A person shall not be qualified for appointment as a,—

(*i*) Chairperson of the Authority unless he held the post of Additional Secretary to the Government of India or equivalent rank;

(*ii*) Vice-Chairperson of the Authority unless he held the post of Joint Secretary to the Government of India or equivalent rank; and

(*iii*) Member unless he fulfils such qualification and experience as may be prescribed.

(*4*) The Chairperson, Vice-Chairperson or Member of the Authority shall hold office for a period of three years from the date on which they enter upon their office or until they attain the age of sixty-five years, whichever is earlier and they shall be eligible for re-appointment:

Provided that in case of appointment of a Government servant as a Chairperson, Vice-Chairperson or a Member, he shall be treated as an *ex officio* Member and he shall continue so long as he holds the office by virtue of which he is a Chairperson, Vice-Chairperson or Member.

(*5*) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Authority, other than the *ex officio* Member, shall be such as may be prescribed.

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Power of Chairperson.

45A. The Chairperson of the Authority shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such other powers and functions as may be prescribed.

Removal and suspension of Chairperson, Vice-Chairperson and Members.

45B. (*1*) The Central Government may, by order, remove from office the Chairperson, Vice-Chairperson or Member of the Authority, other than *ex officio* Member, if the Chairperson, Vice-Chairperson or Member of the Authority, as the case may be,—

(*a*) has been adjudged as an insolvent;

(*b*) has been convicted of an offence which, in the opinion of the Central Government involves moral turpitude;

(*c*) has been physically or mentally incapable of acting as a Chairperson, Vice-Chairperson or Member of the Authority;

(*d*) has acquired such financial or other interests, as is likely to affect prejudicially his function as a Chairperson, Vice-Chairperson or Member of the Authority;

(*e*) has so abused his position, as to render his continuance in office prejudicial to the public interest; or

(*f*) has engaged at any time during his term of office in any other employment.

(*2*) The Chairperson, Vice-Chairperson or Member of the Authority shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity after the Central Government has, on an inquiry, held in accordance with the procedure prescribed in this behalf by it, come to the conclusion that the Chairperson, Vice-Chairperson or Member of the Authority ought on any such ground to be removed.

(*3*) The Central Government may suspend the Chairperson, Vice-Chairperson or Member of the Authority in respect of whom an inquiry under sub-section (*2*) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

Disclosure and declaration of interest.

45C. (*1*) Before appointing any person as Chairperson, Vice-Chairperson or Member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson, Vice-Chairperson or Member.

(*2*) The Chairperson, Vice-Chairperson or Members shall immediately after entering office and every year thereafter, make a declaration as to the extent of their interest, whether direct or indirect and whether financial or otherwise, in any co-operative society.

(*3*) The declaration so made under sub-section (*2*) shall be placed in the public domain by the Authority.

Resignation of Members.

45D. The Chairperson, Vice-Chairperson or Members, other than *ex officio* Members, may, by notice in writing of not less than thirty days under their hand addressed to the Central Government, resign their office and on such resignation being accepted by that Government, shall be deemed to have vacated their office:

Provided that the Chairperson, Vice-Chairperson or Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

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Filling of casual vacancy.

45E. If a casual vacancy occurs in the office of the Chairperson, Vice-Chairperson or Member of the Authority, whether by reason of his death, resignation or otherwise, such vacancy shall be filled within a period of ninety days by making a fresh appointment in accordance with the provisions of section 45 and the person so appointed shall hold office for the remainder of the term of office for which the Chairperson, Vice-Chairperson or Member of the Authority, as the case may be, in whose place he is so appointed.

Restriction of re-employment.

45F. The Chairperson, Vice-Chairperson and Member of the Authority, on ceasing to hold office shall not, for a period of two years, accept any employment (including as consultant or otherwise) in any co-operative society:

Provided that nothing contained in this section shall apply to any employment under the Central Government or in any State Government or any Corporation established by or under any Central or State Act or a Government Company as defined under clause (*45*) of section 2 of the Companies Act, 2013. 18 of 2013.

Vacancies, etc., not to invalidate proceedings of Authority.

45G. No act or proceeding of the Authority shall be invalid merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of the Authority;

(*b*) any defect in the appointment of a person as Chairperson or Member of the Authority; or

(*c*) any irregularity in the procedure of the Authority not affecting the merits of the case.

Meetings of Authority.

45H. (*1*) The Authority shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings), as may be prescribed.

(*2*) The Chairperson of the Authority shall preside at the meeting of the Authority and if for any reason the Chairperson of the Authority is unable to attend a meeting of the Authority, the Vice-Chairperson of the Authority shall preside at the meeting.

(*3*) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting and, in the event of an equality of votes, the Chairperson or the Vice-Chairperson of the Authority presiding shall have the right to exercise a second or casting vote.

(*4*) Save as otherwise provided in sub-section (*1*), every Member shall have one vote.

Functions of Authority.

45I. The Authority shall discharge the following functions, namely:—

(*i*) conduct the elections of the multi-State co-operative society;

(*ii*) supervise, direct and control the matters relating to preparation of electoral rolls; and

(*iii*) such other functions as may be prescribed.

Elections of Members of board.

45J. (*1*) No person shall be eligible to be elected as a member of the board or office bearer of a multi-State co-operative society, unless he is an active member of the general body of that society.

Explanation.—For the purposes of this sub-section, the term "active member" means any member—

(*i*) availing minimum level of products or services of the society; or

(*ii*) attending not less than three consecutive general meetings,

as specified in section 29.

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(*2*) A member of the board or office bearer of a multi-State co-operative society shall cease to be such member or office bearer, if he ceases to be a member of general body of that society.

(*3*) The election of members of board shall be held by secret ballot in such manner as may be prescribed.

(*4*) The election of the members of the board shall be held in the general meeting of the members of the multi-State co-operative society and the elected members of the board shall, if the bye-laws of such society permit, be eligible for re-election.

(*5*) The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be co-terminus with the term of the board:

Provided that the board may fill casual vacancies upto one-third of number of elected directors on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term:

Provided further that in case the number of such casual vacancies in the same term of the board exceeds one-third of number of elected directors, such vacancies shall be filled by elections.

(*6*) The expenses for holding elections by the Authority shall be borne by the multi-State co-operative society in such manner as may be prescribed.

(*7*) The Central Government may make rules to provide for the powers and the procedure to be followed by the Authority for conduct of election of members of the board.

(*8*) The Chairperson and the Chief Executive of the multi-State co-operative society shall inform the Authority, six months before the expiry of the term of the existing board, to conduct the elections within time.

(*9*) The multi-State co-operative society in respect of which the election is being held shall provide such infrastructure, personnel, information, documents or other assistance to the Authority as it may require.

Appointment of Returning Officer and other officers.

45K. (*1*) The Authority may appoint a Returning Officer to conduct the election of the multi-State co-operative societies and discharge such functions, as directed by the Authority, in such manner as may be prescribed.

(*2*) The Central Government shall provide such staff and officers to the Authority as may be necessary for the efficient discharge of functions by the Authority under the Act.

(*3*) The Authority may appoint,—

(*a*) such observers as it may consider necessary to supervise the elections and discharge such other functions as may be prescribed; and

(*b*) such number of Assistant Returning Officers as it may consider necessary to assist the Returning Officer.

Power to issue directions.

45L. The Authority may, by general or special order, issue such directions to the board, its members, Chief Executive and other staff of the multi-State co-operative society as may be necessary for the conduct of free and fair elections and the board, its members, Chief Executive and staff of the society shall comply with such directions.''.

Amendment of section 49.

18. In section 49 of the principal Act, in sub-section (*2*),—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) to elect the Chairperson and Vice-Chairperson or President and Vice-President of the multi-State co-operative society from amongst the elected members of the board in accordance with the directions of the Authority:

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Provided that the certificate of election shall be issued by the Chief Executive of the multi-State co-operative society after conclusion of resolution by the board;";

(*ii*) in clause (*e*), the following proviso shall be inserted, namely:—

"Provided that the recruitment of such employees shall be subject to such procedure as may be prescribed.".

Amendment of section 50.

19. In section 50 of the principal Act,—

(*a*) in sub-section (*1*), the following provisos shall be inserted, namely:—

"Provided that where such Chairperson or President fails to direct the Chief Executive to convene the meeting of the board within the quarter, such Chief Executive shall convene the meeting on the basis of requisition of the Vice-Chairperson or Vice-President or any other Member of the board:

Provided further that notwithstanding anything contained in the first proviso, the Chief Executive may also convene the meeting on the basis of requisition from at least fifty per cent. of Members of the board;

(*b*) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) The Chairperson or President, if for any reason, is unable to attend a meeting of the board, the Vice-Chairperson or Vice-President and in the absence of both, any other Member of the board chosen by the Members of the board present from amongst themselves at the meeting, shall preside over the meeting.

(*4*) The quorum for a meeting of the board of directors of a multi-State co-operative society shall be one-third of its total number of elected directors.".

Amendment of section 51.

20. In section 51 of the principal Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

''(*1A*) No multi-State co-operative society shall appoint or continue the employment of any person as the Chief Executive who—

(*a*) is below the age of twenty-one years or has attained the age of seventy years:

Provided that any person above the age of seventy years may be appointed by a special resolution passed by three-fourth of the board members, in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;

(*b*) is an undischarged insolvent or has any time been adjudged as an insolvent;

(*c*) has at any time been convicted by a court of an offence and sentenced for a period of more than six months; or

(*d*) does not meet the criteria for 'fit and proper', as determined by the Central Registrar in case of multi-State credit societies or in case of non-credit multi-State societies, does not meet the criteria as Central Government may prescribe in terms of education qualifications and relevant experience.''.

Amendment of section 52.

21. In section 52 of the principal Act, in clause (*j*), for the words "thirty days", the words "forty-five days" shall be substituted.

Amendment of section 53.

22. In section 53 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) The board may constitute an Executive Committee, and such other committees or sub-committees as may be specified in the bye-laws of the multi-State co-operative society:

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Provided that the board shall constitute—

(*a*) an Audit and Ethics Committee;

(*b*) a Committee on prevention of sexual harassment at work place.".

Amendment of section 63.

23. In section 63 of the principal Act, in sub-section (*1*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) credit annually one per cent. of net profit to co-operative education fund to be maintained by the Central Government in such manner as may be prescribed and the proceeds from such fund shall be used for co-operative education and training through the National Co-operative Union of India and any other agency in such manner as may be determined by the Central Government;".

Insertion of new sections 63A, 63B and 63C.

24. After section 63 of the principal Act, the following sections shall be inserted, namely:—

Establishment of Co-operative Rehabilitation, Reconstruction and Development Fund.

'**63A.** (*1*) The Central Government shall establish a Fund, to be called the Co-operative Rehabilitation, Reconstruction and Development Fund for revival of sick multi-State co-operative societies as referred to in section 63B and for development purposes in such manner as may be determined by it and there shall be credited to such Fund annually by multi-State co-operative societies which are in profit for the preceding three financial years one crore rupees or one per cent. of the net profits of such multi-State co-operative society, whichever is less.

(*2*) The Central Government shall, by notification, constitute a Committee, consisting of such members as it may deem fit, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*3*) The Committee shall spend the money out of the Fund for carrying out the objects for which such Fund has been established.

Rehabilitation and reconstruction of sick societies.

63B. (*1*) If, at any time, the Central Registrar, is of the opinion that a multi-State co-operative society has become sick, he may, by an order, declare such society as sick co-operative society.

(*2*) Where a multi-State co-operative society is declared as a sick co-operative society under sub-section (*1*), the Central Government or any person or agency authorised by it, may prepare a scheme for rehabilitation and reconstruction of the society and hand it over to the society for approval of the general body.

(*3*) The Central Government may, on the recommendation of the general body and to give effect to the scheme for rehabilitation and reconstruction referred to in sub-section (*2*), re-organise the board of such society with such persons, having experience in the field of co-operation, management, finance, accountancy and any other area relating to such societies as may be recommended by the general body:

Provided that in respect of a sick multi-State co-operative bank, any scheme for rehabilitation or reconstruction shall be done with the prior approval of the Reserve Bank.

Explanation.––For the purposes of this section, the expression "sick co-operative society" means a multi-State co-operative society being a society registered under the provisions of this Act which has at the end of any financial year accumulated losses equal to or exceeding total of its paid-up capital, free reserves and surpluses and has also suffered cash losses in such financial year and the financial year immediately preceding such financial year.

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Financial assistance to multi-State co-operative societies for development.

63C. (*1*) The Central Government may, on an application made by a multi-State co-operative society which has contributed to the Fund for continuous five preceding financial years, grant such financial assistance as it may consider appropriate to the society out of the Fund for infrastructural requirement:

Provided that at least fifty per cent. of the total requirement shall be borne by the multi-State co-operative society and the financial assistance from the Fund shall not exceed more than the fifty per cent. of such requirement.

(*2*) The Committee constituted under sub-section (*2*) of section 63A shall examine and recommend to the Central Government for providing the financial assistance to the multi-State co-operative society to such extent and on such terms and conditions as it may consider necessary.'.

Amendment of section 64.

25. In section 64 of the principal Act,—

(*i*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) in any of the securities issued by the Central Government, State Government, Government Corporations, Government Companies, Authorities, Public Sector Undertakings or any other securities ensured by Government guarantees;";

(*ii*) in clause (*d*), after the words "any other institution", the words "in the same line of business as the multi-State co-operative society" shall be inserted;

(*iii*) for clauses (*e*) and (*f*), the following clauses shall be substituted, namely:—

"(*e*) with any other scheduled or nationalised bank.

Explanation.—For the purposes of this clause, the expression,—

(*i*) "scheduled bank" shall have the same meaning as assigned to it in clause (*e*) of section 2 of the Reserve Bank of India Act, 1934; and 2 of 1934.

(*ii*) "nationalised bank" means a corresponding new bank constituted under sub-section (*1*) of section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980; or 5 of 1970. 40 of 1980.

(*f*) in such other manner as may be determined by the Central Government.".

Amendment of section 67.

26. In section 67 of the principal Act, in sub-section (*1*), in the first proviso, for the words "ten times", the words "such multiples as may be determined by the Central Government" shall be substituted.

Amendment of section 70.

27. In section 70 of the principal Act,—

(*a*) in sub-section (*2*), for the proviso, the following provisos shall be substituted, namely:—

"Provided that such auditors or auditing firm shall be appointed from a panel approved by the Central Registrar:

Provided further that in case of multi-State co-operative banks, multi-State credit societies with deposits of above five hundred crore rupees and multi-State non-credit societies with turnover of above five hundred crore rupees, the auditor shall be appointed from a panel of auditors approved for audit of such societies by the Central Registrar.

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*3A*) An auditor appointed under sub-section (*2*) shall submit the audit of accounts report to the multi-State co-operative society, within

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six months from the date of closing of the financial year, to which such accounts relate.";

(*c*) in sub-section (*7*), in clause (*a*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that where such vacancy is caused by the resignation or death of an auditor, the vacancy shall be filled by the board from the panel of auditors from which such auditor was appointed.";

(*d*) after sub-section (*9*) and the *Explanation* thereunder, the following sub-section shall be inserted, namely:—

"(*10*) The audit report of the accounts of the national co-operative societies shall be laid before each House of Parliament.".

Insertion of new section 70A.

28. After section 70 of the principal Act, the following section shall be inserted, namely:—

Concurrent Audit.

"**70A.** In case of multi-State co-operative societies,—

(*i*) having an annual turnover more than the amount as determined by the Central Government; or

(*ii*) having deposit of more than the amount as determined by the Central Government,

the concurrent audit shall be carried out by an auditor appointed from a panel of auditors approved by the Central Registrar.".

Amendment of section 73.

29. In section 73 of the principal Act, after sub-section (*5*), the following sub-section shall be inserted, namely:—

"(*6*) the multi-State co-operative society or class of multi-State co-operative societies, as the case may be, shall adopt such standards of auditing and accounting as may be determined by the Central Government:

Provided that until such standards of auditing and accounting are specified, the auditing and accounting standards specified by the Institute of Chartered Accountants of India constituted by sub-section (*1*) of section 3 of the Chartered Accountants Act, 1949 shall be deemed to be the standards of auditing and accounting:

38 of 1949.

Provided further that the multi-State co-operative banks shall adopt the standards of accounting and auditing, if any, laid down by the Reserve Bank.".

Amendment of section 78.

30. In section 78 of the principal Act, after sub-section (*1*), the following sub-sections shall be inserted, namely:—

"(*1A*) If the Central Registrar is satisfied on the basis of information available with him or furnished to him by a Government agency, that the business of a multi-State co-operative society is being carried on for a fraudulent or unlawful purpose, he may, after informing the multi-State co-operative society of the allegations made against it, by a written order, call on the multi-State co-operative society to furnish in writing any information or explanation, with the endorsement of the board of the society, on matters contained in such order within the time specified therein:

Provided that if the Central Registrar is not satisfied with the explanation of the society, he shall either himself or through an office or agency authorised by him, conduct inquiry into the constitution, working and financial condition of the society.

(*1B*) Notwithstanding anything contained in this Act, the Central Registrar shall, either *suo moto* or through an officer or agency authorised by him, conduct inquiry into the constitution, working and financial condition of any multi-State co-operative society, once in such period as may be determined by the Central Government.".

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Insertion of new Chapter IXA.

31. After Chapter IX of the principal Act, the following chapter shall be inserted, namely:—

"CHAPTER IXA

REDRESSAL OF COMPLAINTS

Co-operative Ombudsman.

85A. (*1*) The Central Government shall appoint, one or more Co-operative Ombudsman with territorial jurisdiction for inquiring into the complaints made by any member of the multi-State co-operative societies regarding their deposits, equitable benefits of society's functioning or any other issue affecting the individual rights of the concerned member, in such manner, as may be prescribed.

(*2*) The Co-operative Ombudsman shall, on receipt of a complaint, complete the process of inquiry and adjudicate within a period of three months from the date of receipt of the complaint and may issue necessary directions to the society during the course of inquiry and the society shall be bound to comply with the same within a period of one month from the date of issuance of such directions.

(*3*) The multi-State co-operative society aggrieved by any directions of the Ombudsman may file an appeal in such manner as may be prescribed, within a period of one month before the Central Registrar who shall decide the appeal within a period of forty-five days and the decision of the Central Registrar shall be final and binding:

Provided that the Central Registrar may entertain the appeal after the expiry of said period of one month, if he is satisfied that the society was prevented by sufficient cause from preferring the appeal in time.

(*4*) The Ombudsman shall submit periodic reports to the Central Registrar of Co-operative Societies.

(*5*) The Co-operative Ombudsman while conducting the inquiry under sub-section (*1*), shall exercise the same powers as are vested in a civil court under the Code of Civil Procedure, 1908,— 5 of 1908.

(*a*) for summoning and enforcing the attendance of persons;

(*b*) examining them on oath;

(*c*) discovery and production of books of account and other documents; and

(*d*) any other matter which may be prescribed.".

Amendment of section 86.

32. In section 86 of the principal Act,—

(*a*) in sub-section (*1*), after the words and figures "under section 79", the words and figures "or section 108" shall be inserted;

(*b*) in sub-section (*2*),—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) where the number of members or the number of societies or the number of persons, as the case may be, has at any time reduced below the number of members or societies or persons as specified in sub-section (*2*) of section 6:

Provided that the multi-state co-operative society shall be given six months' time to restore the number of members or societies or persons to the requisite number;";

(*ii*) in clause (*b*), for the words "co-operative principles.", the words "co-operative principles; or" shall be substituted;

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(*iii*) after clause (*b*), the following clause shall be inserted, namely:—

"(*c*) where the Central Registrar has reasons to believe that the registration was obtained by misrepresentation of facts, submission of false or misleading information, suppression of material facts or fraud thereby compromising the spirit of co-operation.".

(*c*) for sub-section (*5*), the following sub-section shall be substituted, namely:—

"(*5*) Notwithstanding anything contained in this section, in case of winding up of multi-State co-operative banks, the provisions of the Banking Regulation Act, 1949 shall also apply.".

10 of 1949.

(*d*) in sub-section (*6*), the following shall be inserted, namely:—

'Provided that prior to winding up, "no objection" from the institutional lenders, who have outstanding loans from the society, shall be required in writing.

Explanation.—For the purposes of this proviso, the expression "institutional lenders" includes banks, savings and loan association, trust company, insurance company, real estate investment trust, pension fund and the like.'.

Amendment of section 94.

33. In section 94 of the principal Act, in the opening paragraph, after the words and figures "section 83 or", the words and figures "section 84 or" shall be inserted.

Amendment of section 98.

34. In section 98 of the principal Act, after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*3*) The Central Registrar shall also have the power to recover the following dues by attaching bank accounts of defaulting multi-State co-operative societies—

(*a*) the co-operative education fund referred to in clause (*b*) of sub-section (*1*) of section 63;

(*b*) the Co-operative Rehabilitation, Reconstruction and Development Fund established under section 63A; and

(*c*) the expenses incurred by the Co-operative Election Authority for conduct of elections.".

Insertion of new section 98A.

35. After section 98 of the principal Act, the following section shall be inserted, namely:—

Review of decision.

"**98A.** The Central Registrar may, on an application received from any party, review his decision under clause (*a*) or clause (*b*) or clause (*c*) of sub-section (*1*) of section 94:

Provided that no application for review shall be entertained against the recovery certificate issued by the Central Registrar or by any person authorised by him in writing in this behalf, unless the applicant deposits with the concerned society, fifty per cent. of the amount of the recoverable dues:

Provided further that no application for review shall be entertained, if made after sixty days of the date of receipt of the decision or order:

Provided also that the Central Registrar may entertain any such application made after such period, if the applicant satisfies that he had sufficient cause for not making the application within such period.".

Amendment of section 103.

36. In section 103 of the principal Act, in sub-section (*1*), the following provisos shall be inserted, namely:—

"Provided that where all the successor States take necessary steps to divide or reorganise such deemed multi-State co-operative society into State co-operative

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societies in order to confine their objects, services and the members to respective States within a period of three years, such deemed multi-State co-operative society shall cease to be a multi-State co-operative society:

Provided further that the deemed multi-State co-operative society other than those mentioned in the first proviso shall submit an application for registration and obtain the certificate of registration from the Central Registrar.".

Amendment of section 104.

37. In section 104 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) after the words "furnishing false information", the words "or failing to file any return or information" shall be inserted;

(*ii*) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;

(*iii*) for the words "ten thousand rupees", the words "one lakh rupees" shall be substituted;

(*b*) in sub-section (*2*), for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

(*c*) in sub-section (*3*),—

(*i*) after the word and figures "section 89", the words and figures "or to a person required to file return under section 120" shall be inserted;

(*ii*) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;

(*iii*) for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

(*d*) in sub-section (*4*),—

(*i*) in clause (*h*), after the words "to any person", the words "or receives such gift, promise or gratification" shall be inserted;

(*ii*) in the long line, occurring after sub-clause (*iii*) of clause (*h*), after the words "or with both", the words "and shall also be debarred from contesting elections for a period of three years" shall be inserted;

(*e*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*5*) Where a multi-State co-operative society,—

(*a*) which is required to provide an explanation or make a statement during the course of inspection, inquiry or investigation, destroys, mutilates or falsifies, or conceals or tampers or unauthorisedly removes, or causes the destruction, mutilation or falsification or concealment or tampering or unauthorised removal of, any document relating to the property, assets or affairs of the society or makes or causes to make a false entry in any document concerning the society;

(*b*) makes any investment in contravention of the provision of section 64 or the bye-laws made under this Act;

(*c*) causes unlawful loss to the assets and property of the society; or

(*d*) causes unlawful loss to the depositor,

the board of directors or the responsible officers of the multi-State co-operative society shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine which shall not

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be less than five thousand rupees but may extend to one lakh rupees or with both.

(*6*) Where the board of directors or officers of the multi-State co-operative society receive any unlawful gains while transacting matters related to such society or utilise any assets of the society for personal unlawful gains, such directors or officers concerned shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine which shall not be less than five thousand rupees but may extend to one lakh rupees or with both and the proceeds of such unlawful gains shall be recovered from them and deposited in such manner as may be prescribed.".

38. After section 105 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 105A.

"**105A.** The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.". Provisions of this Act not in derogation of any other law.

39. For section 106 of the principal Act, the following sections shall be substituted, namely:— Substitution of new sections for section 106.

"**106.** (*1*) Every multi-State co-operative society shall appoint a Co-operative Information Officer to provide the information relating to affairs and management of the society to the members of the society and such information shall be confined to the information falling under the disclosure norms specified by the society in its bye-laws. Appointment of Co-operative Information Officer.

(*2*) Any member of multi-State co-operative society shall make an application, accompanying such fee as may be prescribed, to get information specified in sub-section (*1*).

(*3*) The Co-operative Information Officer shall, within thirty days from the date of receipt of application, either provide the information or reject the application specifying the reason to do so.

(*4*) Any member of the multi-State co-operative society whose application has been rejected may prefer an appeal to the Co-operative Ombudsman within a period of one month from the date of such rejection and his decision shall be final and binding.

106A. Every Chief Executive of multi-State co-operative society shall keep a copy of the rules and its bye-laws and also a list of its members, open to inspection free of charge at all reasonable times, at the registered address of the multi-State co-operative society.". Copy of rules and bye-laws, etc., for inspection.

40. In section 108 of the principal Act, in sub-section (*1*), in clause (*i*), after the words "Central Registrar" the words, "or any person authorised by him in this behalf, not below the rank of Assistant Commissioner or equivalent" shall be inserted. Amendment of section 108.

41. In section 109 of the principal Act, in clause (*a*) for the words “co-operative year”, the words “financial year” shall be substituted. Amendment of section 109.

42. In section 116 of the principal Act,— Amendment of section 116.

(*i*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Power to amend Schedules";

(*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the First Schedule and the Third Schedule

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and thereupon such Schedules shall be deemed to have been amended accordingly:

Provided that in case of the First Schedule, such notification shall be used only for adding to the co-operative principles in the list.";

(*iii*) in sub-section (*2*), for the word, brackets and figure "sub-section (*1*)", the words, brackets, figures and letter "sub-sections (*1*) and (*1A*)" shall be substituted.

Amendment of section 120.

43. In section 120 of the principal Act,—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) annual report of the activities including details of board decisions which were not unanimous;",

(*ii*) for clause (*f*), the following clauses shall be substituted, namely:—

"(*f*) disclosure regarding employees who are relatives of Members of board;

(*g*) declaration of any related party transactions by the board of directors; and

(*h*) any other information required by the Central Registrar in pursuance of any of the provisions of this Act or the rules made thereunder.".

Insertion of new sections 120A and 120B.

44. After section 120 of the principal Act, the following sections shall be inserted, namely:—

Filing of applications, documents, inspections, etc., in electronic form.

"**120A.** (*1*) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions of the Information Technology Act, 2000, the Central Government may, from such date as may be notified, require that— 21 of 2000.

(*a*) such applications, returns, reports, statement of accounts, or any other particulars or document as may be required to be filed or delivered under this Act or the rules made thereunder, shall be filed in the electronic form and authenticated;

(*b*) such document, notice, any communication or intimation, as may be required to be served or delivered under this Act, shall be served or delivered in the electronic form and authenticated;

(*c*) such applications, returns, reports, statement of accounts, registers, bye-laws or any other particulars or documents and returns filed under this Act or the rules made thereunder shall be maintained by the Central Registrar in the electronic form and registered or authenticated, as the case may be;

(*d*) such inspection of bye-laws, returns, reports, statement of accounts or any other particulars or documents maintained in the electronic form, as is otherwise available for inspection under this Act or the rules made thereunder, may be made by any person through the electronic form; and

(*e*) such fees, charges or other sums payable under this Act or the rules made thereunder shall be paid through the electronic form,

in such manner as may be prescribed.

(*2*) The Central Registrar shall—

(*a*) issue certificate of registration;

(*b*) register the amendment of bye-laws;

(*c*) register change of registered office;

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(*d*) register any document;

(*e*) issue any certificate;

(*f*) issue notice; and

(*g*) receive such communication as may be required to be registered or issued or recorded or received, as the case may be,

under this Act or the rules made thereunder or perform duties or discharge functions or exercise powers under this Act or the rules made thereunder or do any act which is by this Act directed to be performed or discharged or exercised or done by the Central Registrar, in the electronic form in such manner as may be prescribed.

Application of Banking Regulation Act, 1949.

120B. The provisions of this Act shall apply to a multi-State co-operative society in respect of matters relating to incorporation, regulation and winding up:

Provided that in case of a multi-State co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply.".

10 of 1949.

Amendment of section 121.

45. In section 121 of the principal Act, in sub-section (*1*), for the words and figures "the Companies Act, 1956" and "the Monopoly and Restrictive Trade Practices Act, 1969", the words and figures "the Companies Act, 2013" and "the Competition Act, 2002" shall respectively be substituted;

1 of 1956. 54 of 1969. 18 of 2013. 12 of 2003.

Amendment of section 123.

46. In section 123 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) for the portion beginning with "or has committed any act" and ending with "the aggregate period does not exceed one year", the following shall be substituted, namely:—

"or has committed any act including fraud, misappropriation and the like which is prejudicial to the interests of the society or its members, or has omitted or failed to comply with any directions given to it under section 122 in public interest or that there is a stalemate in the constitution or functions of the board or the Co-operative Election Authority has failed to conduct elections in accordance with the provisions of this Act, the Central Government may, after giving the board an opportunity to state its objections, if any, and considering the objections, if received, by order in writing, supersede or suspend the board and appoint one or more administrators, who need not be members of the society, to manage the affairs of the society for such period not exceeding six months, as may be specified in the order:";

(*b*) for the proviso, the following proviso shall be substituted, namely:—

Provided that while taking a decision for supersession or suspension on grounds of failure to conduct election, such action shall only be taken if the Board had not given requisition to hold election to the Co-operative Election Authority within the time limit or not extended necessary assistance as per the provisions of section 45.

(*ii*) for the *Explanation,* the following *Explanation* shall be substituted, namely:—

''*Explanation*.—For the purposes of section 122 and this section, the expression "specified multi-State co-operative society" means any multi-State co-operative society where there is Government shareholding or loan or financial assistance or any guarantee by the Government.''.

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Amendment of section 124.

47. In section 124 of the principal Act,—

(*a*) in sub-section (*2*),—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) the guidelines under sub-section (*2*) of section 7;";

(*ii*) after clause (*j*), the following clause shall be inserted, namely:—

"(*ja*) the manner in which the board of a multi-State co-operative society shall provide information, documents, personnel, funds or expenses or any other assistance as sought by the Co-operative Election Authority for conducting elections under clause (*a*) of sub-section (*2*) of section 43;";

(*iii*) for clause (*k*), the following clauses shall be substituted, namely:—

"(*k*) the composition of the Selection Committee for appointment of Chairperson, Vice-Chairperson and Members of the Co-operative Election Authority under sub-section (*1*) of section 45;

(*ka*) the qualification and experience for appointment of Member of the Authority under clause (*iii*) of sub-section (*3*) of section 45;

(*kb*) the salaries and allowances payable to, and other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Authority under sub-section (*5*) of section 45;

(*kc*) the other powers and functions of Chairperson under section 45A;

(*kd*) the procedure of inquiry under sub-section (*2*) of section 45B;

(*ke*) time, places and the procedure to be observed by the Authority in regard to transaction of business at its meetings under sub-section (*1*) of section 45H;

(*kf*) other functions of the Authority under clause (*iii*) of section 45I;

(*kg*) the manner of election of members of board by secret ballot under sub-section (*3*) of section 45J;

(*kh*) the manner of bearing the expenses for holding elections by the Authority under sub-section (*6*) of section 45J;

(*ki*) the manner of discharge of functions by the Returning Officers and observers under sub-section (*1*) and clause (*a*) of sub-section (*3*) of section 45K;";

(*kj*) other functions of the observers under clause (*a*) of sub-section (*3*) of section 45K;

(*iv*) after clause (*m*), the following clause shall be inserted, namely:—

"(*ma*) the procedure for recruitment of employees under proviso to clause (*e*) of sub-section (*2*) of section 49";

(*v*) clause (*o*) shall be omitted;

(*vi*) after clause (*q*), the following clause shall be inserted, namely:—

"(*qa*) the manner of maintenance of fund under clause (*b*) of sub-section (*1*) of section 63.

(*vii*) after clause (*s*), the following clauses shall be inserted, namely:—

(*sa*) the manner of appointment of Co-operative Ombudsman and submission of complaints to such Ombudsman under sub-section (*1*) of section 85A;

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(*sb*) the manner of filing an appeal by society against directions of Ombudsman under sub-section (*3*) of section 85A;

(*sc*) other matters under clause (*d*) of sub-section (*5*) of section 85A";

(*viii*) after clause (*w*), the following clauses shall be inserted, namely:—

"(*wa*) the manner of recovery and deposit of proceeds of unlawful gains under sub-section (*6*) of section 104;

(*wb*) the manner to make an application with such fee for the purpose of getting information under sub-section (*2*) of section 106;";

(*ix*) after clause (*x*), the following clauses shall be inserted, namely:—

"(*xa*) the manner of powers being exercised by the Central Government in respect of matters relating to filing of applications, documents, inspections and the like in electronic form under sub-section (*1*) of section 120A;

(*xb*) the manner of discharging the functions or exercising powers with respect to matters mentioned therein by the Central Registrar in electronic form under sub-section (*2*) of section 120A;

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

"(*3*) Every rule made under this section and any notification issued under section 116 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 expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the rules and any notification issued under section 116 should not be made, the rule and any notification issued under section 116 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 be without prejudice to the validity of anything previously done under that rule and any notification issued under section 116.".

Amendment of section 125.

48. In section 125 of the principal Act, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Notwithstanding anything contained in sub-section (*1*), if any difficulty arises in giving effect to the provisions of this Act as amended by the Multi-State Co-operative Societies (Amendment) Act, 2023, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of the Multi-State Co-operative Societies (Amendment) Act, 2023.".

Insertion of Third Schedule.

49. After the Second Schedule to the principal Act, the following Schedule shall be inserted, namely:—

"THE THIRD SCHEDULE

[*See* clause (*h*) of sub-section (*1*) of section 43]

Sl. No.	Name of the Act	Act Number
1.	The Indian Stamp Act, 1899	2 of 1899.
2.	The Reserve Bank of India Act, 1934	2 of 1934.
3.	The Central Excise Act, 1944	1 of 1944.

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Sl. No.	Name of the Act	Act Number
4.	The Industries (Development and Regulation) Act, 1951	65 of 1951.
5.	The Prevention of Food Adulteration Act, 1954	37 of 1954.
6.	The Essential Commodities Act, 1955	10 of 1955.
7.	The Securities Contracts (Regulation) Act, 1956	42 of 1956.
8.	The Wealth-Tax Act,1957	27 of 1957.
9.	The Customs Act, 1962	52 of 1962.
10.	The Prize Chits and Money Circulation Schemes (Banning) Act, 1978	43 of 1978.
11.	The Sick Industrial Companies (Special Provisions) Act, 1985	1 of 1986.
12.	The Securities and Exchange Board of India Act, 1992	15 of 1992.
13.	The Foreign Trade (Development and Regulation) Act, 1992	22 of 1992.
14.	The Foreign Exchange Management Act, 1999	42 of 1999.
15.	The Competition Act, 2002	12 of 2003.
16.	The Prevention of Money-Laundering Act, 2002	15 of 2003.
17.	The Companies Act, 2013	18 of 2013.".

LOK SABHA

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further to amend the Multi-State Co-operative Societies Act, 2002.

(As passed by Lok Sabha)

MGIPMRND—163LS(S3)—25-07-2023.

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As passed by Lok Sabha
on 28.7.2023

Bill No. 82-C of 2023

THE NATIONAL DENTAL COMMISSION BILL, 2023

ARRANGEMENT OF CLAUSES

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THE SCHEDULE.

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AS PASSED BY LOK SABHA
ON 28.7.2023

Bill No. 82-C of 2023

THE NATIONAL DENTAL COMMISSION BILL, 2023

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BILL

to regulate the profession of dentistry in the country, to provide for quality and affordable dental education, to make accessible high quality oral healthcare and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the National Dental Commission Act, 2023. Short title, extent and commencement.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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Definitions.

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

(*a*) "Autonomous Board" means any of the Autonomous Boards constituted under section 16;

(*b*) "Chairperson" means the Chairperson of the National Dental Commission appointed under section 4;

(*c*) "Commission" means the National Dental Commission constituted under section 3;

(*d*) "Council" means the Dental Advisory Council constituted under section 11;

(*e*) "Dental Assessment and Rating Board" means the Board constituted under section 16;

(*f*) "dental auxiliary" includes a dental hygienist or a dental mechanic or a dental operating room assistant or such other category as may be specified by the Commission;

(*g*) "dental hygienist" means a person not being a dentist or a medical practitioner who scales, cleans or polishes teeth, or gives instruction in dental hygiene;

(*h*) "dental institution" means any institution within or outside India which grants degrees, diplomas, certificates for certification courses or licences in dentistry and includes affiliated colleges, deemed to be Universities and institutions mentioned in the Schedule;

(*i*) "dental mechanic" means a person qualified to perform laboratory work required for the prosthetic rehabilitation of dental and maxillofacial structures and orthodontic appliances;

(*j*) "dental operating room assistant" means a person who assists the dentist in sterilising and handing over instruments as required by the dentist at the chair side;

(*k*) "dentist" means a person who practices dentistry;

(*l*) "dentistry" includes the science, practice and research in dental and oral health, directed towards—

(*i*) facilitating healthy development of dentition, jaws and dentofacial structures;

(*ii*) prevention of oral diseases and promotion of oral health;

(*iii*) diagnosis and use of diagnostic tests, investigations and procedure to decide the normal and abnormal state or diseases of teeth, gums, jaws and related tissues necessary for the functions of the oral cavity;

(*iv*) performing procedures for the optimisation of dental and oral health, which may include restoration, rehabilitation, surgery or a combination thereof, to restore the functions, structural anatomy and aesthetics of the stomatognathic system and the masticatory apparatus;

(*v*) creating awareness and working knowledge of the effects of systemic health on dentition and oral cavity and to perform the duties of an active member of the healthcare team, including basic life support;

(*vi*) promoting good systemic health through diagnosis and necessary interventions related to oral health conditions; and

(*vii*) bringing awareness of oral health related issues of the society and of nation and to facilitate implementation of the updated policies of the Government or Government bodies in this regard.

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(*m*) "Ethics and Dental Registration Board" means the Board constituted under section 16;

(*n*) "Fund" means the National Dental Commission Fund referred to in sub-section (*1*) of section 39;

(*o*) "leader" means the Head of a Department or the Head of an Institute or organisation;

(*p*) "licence" means a licence to practice dentistry granted under sub-section (*1*) of section 31;

(*q*) "Member" means a Member of the Commission appointed under section 4 and includes the Chairperson thereof, or, as the case may be, a Member of the Autonomous Board referred to in section 17 and includes the President thereof;

(*r*) "National Register" means the National Register for Dentists or the National Register for Dental Auxiliaries, as the case may be, maintained by the Ethics and Dental Registration Board under section 30;

(*s*) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(*t*) "prescribed" means prescribed by rules made under this Act;

(*u*) "President" means the President of an Autonomous Board appointed under section 18;

(*v*) "recognised dental qualification" means a dental qualification recognised under section 33 or section 34 or section 35, as the case may be;

(*w*) "regulations" means the regulations made by the Commission under this Act;

(*x*) "registered professional" means any dentist or dental auxiliary who is registered in the National Register or the State Register under section 30;

(*y*) "Schedule" means the Schedule to this Act;

(*z*) "State Dental Council" means a dental council constituted under any law for the time being in force in any State or Union territory for regulating the practice and registration of practitioners of dentistry in that State or Union territory and includes a Joint Dental Council referred to in sub-section (*7*) of section 29;

(*za*) "State Register" means the State Register for Dentists or the State Register for Dental Auxiliaries, as the case may be, maintained under any law for the time being in force in any State or Union territory for registration of dentists or dental auxiliaries, as the case may be;

(*zb*) "Under-Graduate and Post-Graduate Dental Education Board" means the Board constituted under section 16;

(*zc*) "University" shall have the same meaning as assigned to it in clause (*f*) of section 2 of the University Grants Commission Act, 1956 and includes a health University. 3 of 1956.

CHAPTER II

National Dental Commission

Constitution of National Dental Commission.

3. (*1*) The Central Government shall, by notification in the Official Gazette, with effect from such date as it may appoint, constitute a Commission, to be known as the National Dental Commission, to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

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(*2*) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(*3*) The head office of the Commission shall be at New Delhi.

Composition of Commission.

4. (*1*) The Commission shall consist of the following persons to be appointed by the Central Government, namely:—

(*a*) a Chairperson;

(*b*) eight *ex officio* Members; and

(*c*) twenty-four part-time Members.

(*2*) The Chairperson shall be a dentist of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in dentistry from any University or institutes of national importance and having experience of not less than twenty years in the field of dentistry, out of which at least ten years shall be as a leader in the area of dental education.

(*3*) The following persons shall be the *ex officio* Members of the Commission, namely:—

(*a*) the President of the Under-Graduate and Post-Graduate Dental Education Board;

(*b*) the President of the Dental Assessment and Rating Board;

(*c*) the President of the Ethics and Dental Registration Board;

(*d*) the Director General of Health Services, Directorate General of Health Services, New Delhi;

(*e*) Chief of the Centre for Dental Education and Research, All India Institute of Medical Sciences, New Delhi;

(*f*) Head of the Oral Health Sciences Centre, Postgraduate Institute of Medical Education and Research, Chandigarh;

(*g*) one person, not below the rank of Joint Secretary to the Government of India, to represent the Ministry of Health and Family Welfare, to be nominated by that Ministry;

(*h*) the Chairperson, National Medical Commission or nominee from that Commission.

(*4*) The following persons shall be appointed as part-time Members of the Commission, namely:—

(*a*) three Members, to be appointed from amongst persons of ability, integrity and standing, who have special knowledge and professional experience in such areas including management, law, medical ethics, health research, consumer or patient rights advocacy, science and technology and economics, in such manner as may be prescribed, for a term of four years;

(*b*) ten Members to be appointed on rotational basis from amongst the nominees of the States and Union territories under clauses (*c*) and (*d*) of sub-section (*2*) of section 11 in the Dental Advisory Council, in such manner as may be prescribed, for a term of two years;

(*c*) nine members to be appointed on rotational basis from amongst the nominees of the States and Union territories under clause (*e*) of sub-section (*2*) of section 11 in the Dental Advisory Council, in such manner as may be prescribed, for a term of two years;

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(*d*) two dental faculties, from any Central or State or Autonomous Government Institutes, doing exemplary work in the field of dental education, to be nominated by the Central Government, in such manner as may be prescribed, for a term of four years.

Search-cum-Selection Committee for appointment of Chairperson and Members.

5. (*1*) The Central Government shall appoint—

(*i*) the Chairperson referred to in sub-section (*2*) of section 4;

(*ii*) part-time Members referred to in clause (*a*) of sub-section (*4*) of section 4;

(*iii*) the Secretary referred to in section 8; and

(*iv*) the President and Members of Autonomous Boards referred to in section 16,

on the recommendation of a Search-cum-Selection Committee consisting of—

(*a*) the Cabinet Secretary—Chairperson;

(*b*) three experts, possessing outstanding qualifications and experience of not less than twenty-five years in the field of dental education, public health education and health research, to be nominated by the Central Government, in such manner as may be prescribed—Members;

(*c*) one person, possessing outstanding qualifications and experience of not less than twenty-five years in the field of management or law or economics or science and technology, to be nominated by the Central Government, in such manner as may be prescribed—Member;

(*d*) the Secretary to the Government of India in charge of the Ministry of Health and Family Welfare, to be the Convener—Member.

(*2*) The Central Government shall, within one month from the date of occurrence of any vacancy, including by reason of death, resignation or removal, of the Chairperson or Member or Secretary of the Commission or the President or Member of the Autonomous Board, as the case may be, or within three months before the end of tenure of such person, make a reference to the Search-cum-Selection Committee for filling up of the vacancy.

(*3*) The Search-cum-Selection Committee shall recommend a panel of at least three names for every vacancy referred to it.

(*4*) The Search-cum-Selection Committee shall, before recommending any person for appointment as the Chairperson or Member or Secretary, satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member or Secretary.

(*5*) No appointment of the Chairperson or Member or Secretary of the Commission or the President or Member of the Autonomous Board, as the case may be, shall be invalid merely by reason of any vacancy or absence of a Member in the Search-cum-Selection Committee.

(*6*) Subject to the provisions of sub-sections (*2*) to (*5*), the Search-cum-Selection Committee may regulate its own procedure.

Term of office and conditions of service of Chairperson and Members.

6. (*1*) The Chairperson appointed under sub-section (*2*) of section 4, and Member of the Commission appointed or nominated under clauses (*a*) and (*d*) of sub-section (*4*) of section 4 shall not be eligible for any extension of term beyond four years or for reappointment and such person shall cease to hold office after attaining the age of seventy years.

(*2*) The term of office of an *ex officio* Member shall continue as long as he holds the office by virtue of which he is such Member.

(*3*) Where a Member, other than an *ex officio* Member, is absent from three consecutive ordinary meetings of the Commission and the cause of such absence is not attributable to

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any valid reason in the opinion of the Commission, such Member shall be deemed to have vacated the seat.

(*4*) The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members appointed or nominated under clauses (*a*) and (*d*) of sub-section (*4*) of section 4, other than an *ex officio* Member, shall be such as may be prescribed.

(*5*) The Chairperson or a Member or Secretary of the Commission may,—

(*a*) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or

(*b*) be removed from his office in accordance with the provisions of section 7:

Provided that such person may be relieved from duties earlier than three months or be allowed to continue beyond three months until a successor is appointed, if the Central Government so decides.

(*6*) The Chairperson and every Member of the Commission shall make declaration of his assets and liabilities at the time of entering upon his office and at the time of demitting his office and also declare his professional and commercial engagement or involvement in such form and manner as may be prescribed, and such declaration shall be published on the website of the Commission.

(*7*) The Chairperson or a Member appointed or nominated under clauses (*a*) and (*d*) of sub-section (*4*) of section 4 or the Secretary, ceasing to hold office as such, shall not accept, for a period of two years from the date of demitting such office, any employment, in any capacity, including as a consultant or an expert, in any private dental institution, whose matter has been dealt with by such person, directly or indirectly:

Provided that nothing herein shall be construed as preventing such person from accepting an employment in a body or institution, including dental institution, controlled or maintained by the Central Government or a State Government:

Provided further that nothing herein shall prevent the Central Government from permitting the Chairperson or Member or Secretary of the Commission to accept any employment in any capacity, including as a consultant or expert in any private dental institution whose matter has been dealt with by such Chairperson or Member or Secretary.

Removal of Chairperson and Member of Commission.

7. (*1*) The Central Government may, by order, remove from office the Chairperson or any other Member, who—

(*a*) has been adjudged an insolvent; or

(*b*) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(*c*) has become physically or mentally incapable of acting as a Member; or

(*d*) is of unsound mind and stands so declared by a competent court; or

(*e*) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(*f*) has so abused his position as to render his continuance in office prejudicial to public interest.

(*2*) No Member shall be removed under clauses (*e*) and (*f*) of sub-section (*1*) unless he has been given a reasonable opportunity of being heard in the matter.

Appointment of Secretary, experts, professionals, officers and other employees of Commission.

8. (*1*) There shall be a Secretariat for the Commission to be headed by a Secretary, to be appointed by the Central Government in accordance with the provisions of section 5.

(*2*) The Secretary of the Commission shall be a person of proven administrative capacity and integrity, possessing such qualifications and experience as may be prescribed.

(*3*) The Secretary shall be appointed by the Central Government for a term of four years and shall not be eligible for any extension or reappointment.

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(*4*) The Secretary shall also be the Member Secretary of each of the Autonomous Boards constituted under section 16.

(*5*) The Secretary shall discharge such functions of the Commission, and of each of the Autonomous Boards constituted under section 16, as may be specified by regulations.

(*6*) The Commission may, for the efficient discharge of its functions under this Act, appoint such officers and other employees of the Commission, other than Secretary, as it considers necessary, against the posts created by the Central Government on the recommendation of the Commission.

(*7*) The salaries and allowances payable to, and other terms and conditions of service of the Secretary, officers and other employees of the Commission shall be such as may be prescribed.

(*8*) The Commission may engage, in accordance with the procedure specified by regulations, such number of experts, consultants and professionals of integrity and outstanding ability, who have special knowledge and experience in such fields, including dental education, public health, management, health economics, quality assurance, patient advocacy, health research, science and technology, administration, finance, accounts and law, as it deems necessary, to assist the Commission in the discharge of its functions under this Act:

Provided that the Commission may, to facilitate global mobility and employability of registered professionals, invite such number of experts and domain specialists from a foreign country, as it deems necessary, who have special knowledge of dental curriculum, practical training and pattern of examination including licentiate examination of that country, to the meetings of the Commission, in such manner as may be specified by regulations.

Meetings, etc., of Commission.

9. (*1*) The Commission shall meet at least once every quarter at such time and place as may be appointed by the Chairperson.

(*2*) The Chairperson shall preside at the meeting of the Commission and if, for any reason, the Chairperson is unable to attend the meeting of the Commission, any other Member, being the President of an Autonomous Board, nominated by the Chairperson, shall preside at the meeting.

(*3*) Unless the procedure to be followed at the meetings of the Commission is otherwise provided by regulations, one-half of the total number of Members of the Commission including the Chairperson shall constitute the quorum and all the acts of the Commission shall be decided by a majority of the members present and voting and in the event of equality of votes, the Chairperson, or in his absence, the President of the Autonomous Board nominated under sub-section (*2*), shall have the casting vote.

(*4*) The general superintendence, direction and control of the administration of the Commission shall vest in the Chairperson.

(*5*) No act done by the Commission shall be questioned on the ground of the existence of a vacancy in, or a defect in the constitution of, the Commission.

Powers and functions of Commission.

10. (*1*) The Commission shall, for ensuring coordinated and integrated development of education and maintenance of the standards of delivery of services, take all such steps, as it may think fit, and revise the same periodically, as may be specified by regulations.

(*2*) The Commission shall perform the following functions, namely:—

(*a*) lay down policies and regulate standards for the governance of dental education, examination and training and make necessary regulations in this behalf;

(*b*) promote adoption of additional degrees or diplomas, higher qualifications, including certification courses and development of soft skills for advancement of career of the dentists and dental auxiliaries;

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(*c*) regulate dental institutions, dental researches, dentists and dental auxiliaries and make necessary regulations in this behalf;

(*d*) ensure that all admissions to undergraduate dental course, namely, Bachelor of Dental Surgery in all dental institutions which are governed by the provisions of this Act or any other law for the time being in force, shall be through National Eligibility-cum-Entrance Test conducted under section 14 of the National Medical Commission Act, 2019;

30 of 2019.

(*e*) to identify and regulate any other category of dental auxiliaries;

(*f*) to collaborate with industry and institutions for use of cutting-edge technology and hybrid education to drive innovation and research in the field of dental education and examinations and make necessary regulations in this behalf;

(*g*) assess the requirements in dental healthcare, including human resources for dental health, career progression of dentists and dental auxiliaries and healthcare infrastructure and develop a road map for meeting such requirements;

(*h*) promote, coordinate and frame guidelines and lay down policies by making necessary regulations for the proper functioning of the Commission, the Autonomous Boards, the Dental Advisory Council, the State Dental Councils and the Joint Dental Councils;

(*i*) ensure coordination among the Autonomous Boards;

(*j*) take such measures, as may be necessary, to ensure compliance by the State Dental Councils of the guidelines framed and regulations made under this Act for their effective functioning under this Act;

(*k*) exercise appellate jurisdiction with respect to the decisions of the Autonomous Boards;

(*l*) promote preventive dental care services;

(*m*) lay down policies and codes to ensure observance of professional ethics in dental profession and to promote ethical conduct during the provision of care by dentists;

(*n*) frame guidelines for determination of fees and all other charges in respect of fifty per cent. of seats in private dental institutions and deemed to be Universities which are governed under the provisions of this Act;

(*o*) take measures to enhance skills and competency of registered professionals for facilitating global mobility;

(*p*) exercise such other powers and perform such other functions as may be prescribed.

(*3*) The Commission may delegate such of its functions (except the power to make regulations) to the Autonomous Boards as it may deem necessary.

(*4*) The Commission may give such directions, as may deem necessary, to a State Council for carrying out all or any of the provisions of this Act and the State Council shall comply with such directions.

(*5*) All orders and decisions of the Commission shall be authenticated by the signature of the Secretary.

(*6*) The Commission may delegate such of its powers of administrative and financial matters, as it deems fit, to the Secretary.

(*7*) The Commission may constitute sub-committees and delegate such of its powers to such sub-committees as may be necessary to enable them to accomplish specific tasks.

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CHAPTER III

Dental Advisory Council

Constitution and composition of Dental Advisory Council.

11. (*1*) The Central Government shall constitute an advisory body to be known as the Dental Advisory Council.

(*2*) The Council shall consist of a Chairperson and the following members, namely:—

(*a*) the Chairperson of the Commission shall be the *ex officio* Chairperson of the Council;

(*b*) every *ex officio* member of the Commission appointed under sub-section (*3*) of section 4, and the part-time members appointed under clauses (*a*) and (*d*) of sub-section (*4*) of that section, shall be the *ex officio* members of the Council;

(*c*) one member to represent each State, who is the Dean or Principal of a Government Dental College in that State, to be nominated by that State Government:

Provided that the term of office of the member shall continue as long as he holds the post by virtue of which he has been nominated, subject to a maximum of four years;

(*d*) one member to represent each Union territory, who is the Dean or Principal of a Government Dental College in that Union territory, to be nominated by the Ministry of Home Affairs in the Government of India:

Provided that the term of office of the member shall continue as long as he holds the post by virtue of which he has been nominated, subject to a maximum of four years:

Provided further that if there is no Government Dental College in any State or Union territory, the State Government or in case of a Union territory, the Ministry of Home Affairs shall nominate a member possessing such dental qualifications and experience, as may be prescribed;

(*e*) one member to represent each State and each Union territory from amongst the members of the State Dental Council, to be nominated by that State Dental Council for a term of four years and shall not be eligible for any extension or reappointment:

Provided that if such member ceases to be a member of the State Dental Council before the completion of his four year term, then, he shall cease to be a member of the Dental Advisory Council as well, and in such an eventuality, the State Dental Council shall nominate another member to represent that State or Union territory, as the case may be, for the remaining term of office of the member in whose place he is so nominated;

(*f*) the Chairman, University Grants Commission;

(*g*) the Director, National Assessment and Accreditation Council;

(*h*) three members to be nominated by the Central Government from amongst persons holding the post of Director in the institutions of national importance or Vice-Chancellor in the Universities;

(*i*) Director General of Indian Council for Medical Research or his nominee not below the rank of Scientist 'H';

(*j*) Director General Dental Services, Army Dental Corps or nominee.

Functions of Dental Advisory Council.

12. (*1*) The Council shall be the primary platform through which the States and Union territories may put forth their views and concerns before the Commission and help in shaping the overall agenda, policy and action relating to dental education and training.

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(*2*) The Council shall advise the Commission on measures to determine and maintain, and to coordinate maintenance of, the minimum standards in all matters relating to dental education, training and research.

(*3*) The Council shall advise the Commission on measures to enhance equitable access to dental education and uniform system of examination.

Meetings of Dental Advisory Council.

13. (*1*) The Council shall meet at least once a year at such time and place as may be decided by the Chairperson.

(*2*) The Chairperson shall preside at the meeting of the Council and if for any reason the Chairperson is unable to attend a meeting of the Council, such other member as nominated by the Chairperson shall preside over the meeting.

(*3*) Unless the procedure is otherwise provided by regulations, fifty per cent. of the members of the Council including the Chairperson shall form the quorum and all acts of the Council shall be decided by a majority of the members present and voting.

CHAPTER IV

National Examination

National Eligibility-cum-Entrance Test.

14. (*1*) All admissions to the undergraduate course of Bachelor of Dental Surgery in all dental institutions which are governed by the provisions of this Act or any other law for the time being in force shall be through National Eligibility-cum-Entrance Test conducted under section 14 of the National Medical Commission Act, 2019. 30 of 2019.

(*2*) Till such time as the National Exit Test (Dental) becomes operational under section 15, all admissions to the postgraduate courses of Master of Dental Surgery in all dental institutions which are governed by the provisions of this Act or any other law for the time being in force shall be through National Eligibility-cum-Entrance Test (MDS) to be conducted by the designated authority appointed by the Central Government.

(*3*) The Commission shall specify by regulations the manner of conducting common counselling by the designated authority for admission to undergraduate and postgraduate seats in all the dental institutions which are governed by the provisions of this Act:

Provided that the designated authority appointed or nominated by the Central Government shall conduct the common counselling for all India seats and the designated authority of the State Government shall conduct the common counselling for the seats at the State level.

CHAPTER V

National Exit Test (Dental)

National Exit Test (Dental).

15. (*1*) A common final year undergraduate dental examination, to be known as the 'National Exit Test (Dental)' shall be held for granting licence to practice dentistry as dentists and for enrolment in the State Register or the National Register, as the case may be.

(*2*) The Commission shall conduct the National Exit Test (Dental) through such designated authority and in such manner as may be specified by regulations.

(*3*) The National Exit Test (Dental) shall become operational on such date, within three years from the date of commencement of this Act, as may be appointed by the Central Government, by notification.

(*4*) Any person with a foreign dental qualification shall have to qualify National Exit Test (Dental) for the purpose of obtaining licence to practice dentistry as dentist and for enrolment in the State Register or the National Register, as the case may be, in such manner as may be specified by regulations.

(*5*) The National Exit Test (Dental) shall be the basis for admission to the postgraduate dental education in dental institutions which are governed under the provisions of this Act

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or under any other law for the time being in force and shall be done in such manner as may be specified by regulations.

(*6*) The Commission shall specify by regulations the manner of conducting common counselling by the designated authority for admission to the postgraduate seats in the dental institutions referred to in sub-section (*5*).

(*7*) The designated authority of the Central Government shall conduct the common counselling for All India seats and the designated authority of the State Government shall conduct the common counselling for the seats at the State level.

CHAPTER VI

AUTONOMOUS BOARDS

Constitution of Autonomous Boards.

16. (*1*) The Central Government shall, by notification, constitute the following Autonomous Boards, under the overall supervision of the Commission, to perform the functions assigned to such Boards under this Act, namely:—

(*a*) the Under-Graduate and Post-Graduate Dental Education Board;

(*b*) the Dental Assessment and Rating Board; and

(*c*) the Ethics and Dental Registration Board.

(*2*) Every Autonomous Board shall carry out its functions under this Act in such manner as may be specified by regulations.

Composition of Autonomous Boards.

17. (*1*) Every Autonomous Board shall consist of a President, not more than two whole-time Members and not more than two part-time Members.

(*2*) The President of each Autonomous Board, two whole-time Members and one part-time Member of the Under-Graduate and Post-Graduate Dental Education Board, and one whole-time Member and one part-time Member of the Dental Assessment and Rating Board and of the Ethics and Dental Registration Board, shall be persons of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in any discipline of dentistry from any University and having hands-on clinical experience of not less than fifteen years, out of which at least seven years shall be as a leader in the area of dental education.

(*3*) The second whole-time Member of the Dental Assessment and Rating Board shall be a person of outstanding ability and integrity, possessing a postgraduate degree in any of the disciplines of management, quality assurance, law or science and technology from any University, having experience of not less than fifteen years in such field, out of which at least seven years shall be as a leader.

(*4*) The second whole-time Member of the Ethics and Dental Registration Board shall be a person of outstanding ability who has demonstrated public record of work on dental or medical ethics or a person of outstanding ability possessing a postgraduate degree in any of the disciplines of quality assurance, public health, law or patient advocacy from any University and having experience of not less than fifteen years in such field, out of which at least seven years shall be as a leader.

(*5*) The second part-time Member of the Under-Graduate and Post-Graduate Dental Education Board, the Dental Assessment and Rating Board and the Ethics and Dental Registration Board shall be chosen from amongst the Members appointed under clause (*c*) of sub-section (*4*) of section 4 in such manner as may be prescribed.

Search-cum-Selection Committee for appointment of President and Members.

18. The Central Government shall appoint the President and Members of the Autonomous Boards, except Members referred to in sub-section (*5*) of section 17, on the recommendations made by the Search-cum-Selection Committee constituted under section 5 in accordance with the procedure specified in that section.

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Term of office and conditions of service of President and Members.

19. (*1*) The President and Members (other than part-time Members) of each Autonomous Board shall hold the office for a term not exceeding four years and shall not be eligible for any extension or reappointment:

Provided that part-time Members of each Autonomous Board shall hold the office for a term of two years:

Provided further that the President or a Member shall cease to hold office after attaining the age of seventy years.

(*2*) The salaries and allowances payable to, and other terms and conditions of service of the President and Members (other than part-time Members) of an Autonomous Board shall be such as may be prescribed:

Provided that part-time Members of each Autonomous Board shall be entitled for such allowances as may be prescribed.

(*3*) The provisions of sub-sections (*3*), (*5*), (*6*) and (*7*) of section 6 relating to other terms and conditions of service of, and section 7 relating to removal from the office of, the Chairperson and Members of the Commission shall also be applicable to the President and Members of the Autonomous Boards.

Advisory committees of experts.

20. (*1*) Each Autonomous Board, except the Ethics and Dental Registration Board, shall be assisted by such advisory committees of experts as may be constituted by the Commission for the efficient discharge of the functions of such Boards under this Act:

Provided that the advisory committee for the Under-Graduate and Post-Graduate Dental Education Board shall also have at least one member from amongst personnel of each category of the dental auxiliaries to be nominated by the Chairperson of the Commission, in such manner as may be specified by regulations.

(*2*) The Ethics and Dental Registration Board shall be assisted by such ethics committees of experts as may be constituted by the Commission for the efficient discharge of the functions of that Board under this Act.

Staff of Autonomous Boards.

21. The experts, consultants, professionals, officers and other employees appointed under section 8 shall be made available to the Autonomous Boards in such number, and in such manner, as may be specified by regulations by the Commission:

Provided that the experts and domain specialists from foreign countries invited by the Commission under sub-section (*8*) of section 8 shall also be made available to the Autonomous Boards in such number and manner, as may be specified by regulations.

Meetings, etc., of Autonomous Boards.

22. (*1*) Every Autonomous Board shall meet at least once every month, or earlier, as the case may be, at such time and place as it may appoint.

(*2*) All decisions of the Autonomous Boards shall be made by majority of votes of the President and Members.

(*3*) Subject to the provisions of section 28, a person who is aggrieved by any decision of an Autonomous Board may prefer an appeal to the Commission against such decision within thirty days of the communication of such decision; and the Commission shall, after giving an opportunity of being heard, dispose of the appeal within a period of sixty days from the date of such appeal:

Provided that the President of the concerned Board shall not attend proceedings of the hearing of the appeal made against the decision of his Board.

Powers of Autonomous Boards and delegation of powers.

23. (*1*) The President of each Autonomous Board shall have such administrative and financial powers as may be delegated to it by the Commission to enable such Board to function efficiently.

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(*2*) The President of an Autonomous Board may further delegate any of his powers to a Member or an officer of that Board, and such person shall exercise his powers subject to the general control, supervision and direction of the President.

Powers and functions of Under-Graduate and Post-Graduate Dental Education Board.

24. (*1*) The Under-Graduate and Post-Graduate Dental Education Board shall perform the following functions, namely: —

(*a*) determine minimum requirements and standards of dental education at undergraduate level and postgraduate level for dentists and dental auxiliaries in accordance with the regulations made under this Act, and oversee all aspects relating thereto;

(*b*) develop competency based dynamic curriculum at undergraduate level and postgraduate level for dentists and dental auxiliaries for addressing the needs of basic dental care services, including public dentistry and community dental care, in accordance with the provisions of regulations made under this Act with a view to develop appropriate skill, knowledge, attitude, values and ethics to provide dental care, impart dental education and conduct dental research;

(*c*) frame guidelines for setting up of dental institutions for imparting undergraduate courses and postgraduate courses for dentists and dental auxiliaries, having regard to the needs of the country and the global norms, in accordance with the regulations made under this Act;

(*d*) determine the minimum requirements and standards for conducting courses and examinations at undergraduate level and postgraduate level for dentists and dental auxiliaries in dental institutions, having regard to the needs of creativity at local levels, including designing of some courses by individual institutions, in accordance with provisions of the regulations made under this Act;

(*e*) determine standards and norms for infrastructure, faculty and quality of education in dental institutions providing undergraduate and postgraduate dental education for dentists and dental auxiliaries in accordance with provisions of the regulations made under this Act;

(*f*) facilitate development and training of faculty members teaching undergraduate courses for dentists and dental auxiliaries;

(*g*) facilitate research and the international student and faculty exchange programme relating to undergraduate and postgraduate dental education;

(*h*) specify norms for compulsory annual disclosures, electronically or otherwise, by dental institutions, in respect of their functions which have a bearing on the interest of all stakeholders, including students, faculty, State Dental Councils, Joint Dental Council, the Commission and the Central Government;

(*i*) grant recognition to a dental qualification at the undergraduate level and postgraduate level for dentists and dental auxiliaries.

(*2*) The Under-Graduate and Post-Graduate Dental Education Board shall, in the discharge of its duties, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

Powers and functions of Dental Assessment and Rating Board.

25. (*1*) The Dental Assessment and Rating Board shall perform the following functions, namely:—

(*a*) determine the procedure for assessing and rating the dental institutions for their compliance with the standards laid down by the Under-Graduate and Post-Graduate Dental Education Board in accordance with the regulations made under this Act;

(*b*) grant permission for establishment of a new dental institution, or to start any postgraduate course or to increase number of seats, in accordance with the provisions of section 28;

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(*c*) conduct inspections of dental institutions using Information Technology based tools or otherwise for assessing and rating such institutions in accordance with the regulations made under this Act:

Provided that the Dental Assessment and Rating Board may, if it deems necessary, hire and authorise any other third party agency or accreditation body or persons for carrying out inspections of dental institutions for assessing and rating such institutions:

Provided further that where inspection of dental institutions is carried out by such third party agency or accreditation body or persons authorised by the Dental Assessment and Rating Board, it shall be obligatory on such institutions to provide access to such agency or person;

(*d*) conduct, or where it deems necessary, empanel independent rating agencies to conduct, inspection to assess and rate all dental institutions, within such period of their opening, and every year thereafter, at such time, and in such manner, as may be specified by regulations:

Provided that the Dental Assessment and Rating Board may conduct evaluation and assessment of any dental institution at any time, either directly or through any other expert having integrity and experience of dental profession and without any prior notice and assess and evaluate the performance, standards and benchmarks of such dental institution;

(*e*) make available on its website or in public domain the assessment and ratings of dental institutions at regular intervals in accordance with the regulations made under this Act;

(*f*) take such measures, including issuing warning, imposition of monetary penalty, reducing intake or stoppage of admissions and recommending to the Commission for withdrawal of recognition, against a dental institution for failure to maintain the minimum essential standards specified by the Under-Graduate and Post-Graduate Dental Education Board, in accordance with the regulations made under this Act:

Provided that the monetary penalty so imposed shall not be less than one-tenth, and not more than five times, of the total amount charged, by whatever name called, by such institution for one full batch of students of undergraduate course or postgraduate course, as the case may be:

Provided further that the Dental Assessment and Rating Board shall consult the Under-Graduate and Post-Graduate Dental Education Board before recommending to the Commission for withdrawal of recognition of a dental institution that fails to maintain the minimum essential standards specified by the Under-Graduate and Post-Graduate Dental Education Board.

(*2*) The Dental Assessment and Rating Board shall, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

Powers and functions of Ethics and Dental Registration Board.

26. (*1*) The Ethics and Dental Registration Board shall perform the following functions, namely:—

(*a*) maintain an online and live National Registers of all licensed dentists and dental auxiliaries in accordance with the provisions of section 30;

(*b*) regulate the standards, scope of practice, professional conduct and promote dental ethics in accordance with the regulations made under this Act:

Provided that the Ethics and Dental Registration Board shall ensure compliance of the code of professional and ethical conduct through the State Dental Council in a

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case where such State Dental Council has been conferred power to take disciplinary actions in respect of professional or ethical misconduct by dentists under respective State Acts;

(*c*) approve or reject the application for registration or suspend or cancel registration or licence granted to dentists and dental auxiliaries on grounds of professional and ethical misconduct;

(*d*) develop mechanisms to have continuous interaction with State Dental Councils to effectively promote and regulate the conduct of dentists and professionals;

(*e*) exercise appellate jurisdiction under sub-section (*5*) of section 29 with respect to the actions taken by a State Dental Council.

(*2*) The Ethics and Dental Registration Board shall, in the discharge of its duties, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

Permission for establishment of new dental college or to start postgraduate course or to increase number of seats.

27. (*1*) No person shall establish a new dental college or start any postgraduate course or increase number of seats without obtaining prior permission of the Dental Assessment and Rating Board:

Provided that the Dental Assessment and Rating Board shall consult the Under-Graduate and Post-Graduate Dental Education Board before approving or disapproving such permission.

(*2*) For the purposes of obtaining permission under sub-section (*1*), a person may submit a scheme to the Dental Assessment and Rating Board in such form, containing such particulars, accompanied by such fee, and in such manner, as may be specified by regulations.

(*3*) The Dental Assessment and Rating Board shall, having due regard to the criteria specified in section 28, consider the scheme received under sub-section (*2*) and either approve or disapprove such scheme within a period of six months from the date of such receipt:

Provided that the Dental Assessment and Rating Board shall consult the Under-Graduate and Post-Graduate Dental Education Board before approving such scheme:

Provided further that before disapproving the scheme, an opportunity to rectify the defects, if any, shall be given to the person concerned.

(*4*) Where a scheme is approved under sub-section (*3*), such approval shall be the permission under sub-section (*1*) to establish new dental college or to start any postgraduate course or to increase number of seats, as the case may be.

(*5*) Where a scheme is disapproved under sub-section (*3*), or where no decision is taken within six months of submitting a scheme under sub-section (*1*), the person concerned may prefer an appeal to the Commission for approval of the scheme within fifteen days of such disapproval or, as the case may be, lapse of six months, in such manner as may be specified by regulations.

(*6*) The Commission shall decide the appeal received under sub-section (*5*) within a period of sixty days from the date of receipt of the appeal and in case the Commission approves the scheme, such approval shall be the permission under sub-section (*1*) to establish a new dental college or to start any postgraduate course or to increase number of seats, as the case may be, and in case the Commission disapproves the Scheme, or fails to give its decision within the specified period, the person concerned may prefer a second appeal to the Central Government within thirty days of communication of such disapproval or, as the case may be, lapse of specified period.

(*7*) The Dental Assessment and Rating Board may conduct evaluation and assessment of any dental institution at any time, either directly or through any other expert having

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integrity and experience in dental profession, without any prior notice and assess and evaluate the performance, standards and benchmarks of such dental institution.

Explanation.—For the purposes of this section, the term "person" includes a University, trust or any other association of persons or body of individuals, but does not include the Central Government.

Criteria for approving or disapproving scheme.

28. While approving or disapproving a scheme under section 27, the Dental Assessment and Rating Board, or the Commission, as the case may be, shall take into consideration the following criteria, namely:—

(*a*) adequacy of financial resources;

(*b*) whether adequate academic faculty and other necessary facilities have been provided to ensure proper functioning of dental college or undertaken to be provided within the time-limit specified in the scheme;

(*c*) whether adequate hospital facilities have been provided or undertaken to be provided within the time-limit specified in the scheme;

(*d*) such other factors as may be specified by regulations.

CHAPTER VII

State Dental Council or Joint Dental Council

State Dental Council or Joint Dental Council.

29. (*1*) The State Government shall, within one year of the commencement of this Act, take necessary steps to establish a State Dental Council having the following composition, namely:—

(*a*) a dentist of outstanding ability, proven administrative capacity and integrity and possessing a postgraduate degree in any discipline of dentistry from any University or institute of national importance with experience of not less than twenty years in the field of dentistry, out of which at least ten years shall be as a leader, to be appointed by the State Government—Chairperson;

(*b*) one representative of the department of medical education or health services in the State Government not below the rank of Additional Director—Member, *ex officio*;

(*c*) four persons to be elected by dentists registered in the State Register from among themselves, in such manner as may be prescribed by the State Government—Members;

(*d*) two persons, having experience of not less than ten years in any field of dentistry from any Government Dental College in that State, to be nominated by the State Government—Members:

Provided that if the State does not have a Government Dental College, the State Government may nominate one of the senior-most dentist with minimum of ten years' service in any Government hospital or in the dental department of a Government Medical College;

(*e*) two persons having experience of not less than ten years in any field of dentistry from any recognised private dental college in the State, to be nominated by the State Government—Members:

Provided that if the State does not have a private dental college, the State Government may nominate one of the senior-most dentist with minimum of ten years' service in any private hospital or in the dental department of a private medical college;

(*f*) two persons of eminence having experience of not less than ten years in any field of dentistry, to be nominated by the State Government—Members.

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(*2*) The State Dental Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the same name sue or be sued.

(*3*) The Chairperson of the State Dental Council and Members elected or nominated under clauses (*c*), (*d*), (*e*) and (*f*) of sub-section (*1*) shall hold office for a term not exceeding four years from the date on which they enter upon their office and shall not be eligible for extension or reappointment:

Provided that such person shall cease to hold office after attaining the age of seventy years.

(*4*) Where a State Act confers power upon the State Dental Council to take disciplinary actions in respect of any professional or ethical misconduct by a registered dentist or professional, the State Dental Council shall act in accordance with the regulations made, and the guidelines framed, under this Act:

Provided that till such time as a State Dental Council is established in a State, the Ethics and Dental Registration Board shall receive the complaints and grievances relating to any professional or ethical misconduct against a registered dentist or professional in that State in accordance with such procedure as may be specified by regulations:

Provided further that the Ethics and Dental Registration Board or the State Dental Council, as the case may be, shall give an opportunity of being heard to the dentist or professional concerned before taking any action, including imposition of any monetary penalty against such person.

(*5*) A registered professional or any other person who is aggrieved by any action taken by a State Dental Council under sub-section (*4*) may prefer an appeal to the Ethics and Dental Registration Board within sixty days against such action, and the Ethics and Dental Registration Board shall decide on the appeal within a period of sixty days and the decision, if any, of the Ethics and Dental Registration Board thereupon shall be binding on the State Dental Council, unless a second appeal is preferred under sub-section (*6*).

(*6*) A registered professional or any other person who is aggrieved by the decision of the Ethics and Dental Registration Board may prefer an appeal to the Commission within sixty days of communication of such decision and the Commission shall dispose of such appeal within a period of ninety days from the date of that appeal.

(*7*) Notwithstanding anything to the contrary contained in this section, two or more States Governments may enter into an agreement to constitute a Joint Dental Council with representation of the participating States, not exceeding the composition specified in sub-section (*1*), to be in force for such period and subject to renewal for such further period, as may be specified in the agreement.

Explanation.—For the purposes of this Act,—

(*a*) "State" includes Union territory and the expressions "State Government" and "State Dental Council", in relation to a Union territory, shall respectively mean the "Central Government" and "Union Territory Dental Council";

(*b*) the expression "professional or ethical misconduct" includes any act of commission or omission as may be specified by regulations.

CHAPTER VIII

National Register and State Register

National Register and State Register.

30. (*1*) The Ethics and Dental Registration Board shall maintain an online and live National Register for Dentists containing the name, address, all recognised qualifications possessed by a licensed dentist and such other particulars as may be specified by regulations.

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(*2*) The Ethics and Dental Registration Board shall also maintain a separate online and live National Register for each category of dental auxiliaries, containing the name, address, recognised qualifications possessed by the dental auxiliaries and such other particulars as may be specified by regulations.

(*3*) The National Register referred to in sub-sections (*1*) and (*2*) shall be maintained in such form, including in electronic or digital form and in such manner as may be specified by regulations.

(*4*) The manner in which a name or qualification may be added to, or removed from, the National Register and the grounds for removal thereof, shall be such as may be specified by regulations.

(*5*) The National Register shall be a public document within the meaning of section 74 of the Indian Evidence Act, 1872. 1 of 1872.

(*6*) The National Register shall be made available to the public in form of a digital portal accessible on the website of the Ethics and Dental Registration Board in such manner and form as may be specified by regulations.

(*7*) Every State Dental Council shall maintain and regularly update the State Register for Dentists and the State Register for dental auxiliaries in the specified electronic format and supply a physical copy of the same to the Ethics and Dental Registration Board within three months of the commencement of this Act.

(*8*) The Ethics and Dental Registration Board shall ensure electronic synchronisation of the National Register and the State Registers in such manner that any change in one register is automatically reflected in the other register.

Rights of persons to have licence to practice and to be enrolled in National Register or State Register and their obligations thereto.

31. (*1*) Any person who qualifies the National Exit Test (Dental) held under section 15 shall be granted a licence to practice dentistry and shall have his name and qualifications enrolled in the National Register or a State Register, as the case may be:

Provided that a person who has been registered in the Indian Dental Register maintained under the Dentists Act, 1948 prior to the coming into force of this Act and before the National Exit Test (Dental) becomes operational under sub-section (*3*) of section 15, shall be deemed to have been registered under this Act and be enrolled in the National Register maintained under this Act. 16 of 1948.

(*2*) No person who has obtained dental qualification from a dental institution established in any country outside India and is recognised as a dentist in that country, shall, after the commencement of this Act and the National Exit Test (Dental) becomes operational under sub-section (*3*) of section 15, be enrolled in the National Register unless he qualifies the National Exit Test (Dental).

(*3*) When a person whose name is entered in the State Register or the National Register, as the case may be, obtains any title, diploma or other qualification for proficiency in sciences or public health or dentistry which is a recognised dental qualification under section 33 or section 34 or section 35, as the case may be, he shall be entitled to have such title, diploma or qualification entered against his name in the State Register or the National Register, as the case may be, in such manner as may be specified by regulations.

Bar to practice.

32. (*1*) No person other than a person who is enrolled in the State Register or the National Register, as the case may be, shall—

(*a*) be allowed to practice dentistry as a qualified dentist;

(*b*) hold office as a dentist or any other office, by whatever name called, which is meant to be held by a dentist;

(*c*) be entitled to sign or authenticate a medical or fitness certificate or any other certificate relating to dentistry, required by any law to be signed or authenticated by a duly qualified dentist;

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(*d*) be entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872 on any matter relating to dentistry: 1 of 1872.

Provided that a foreign citizen who is enrolled in his country as a dentist in accordance with the law regulating the registration of dentists in that country may be permitted temporary registration in India for such period and in such manner as may be specified by regulations.

(*2*) Any person who contravenes any of the provisions of this section shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees or with both.

CHAPTER IX

Recognition of dental qualifications

Recognition of dental qualifications granted by Universities or dental institutions in India.

33. (*1*) The dental qualification granted by any University or dental institution in India shall be listed and maintained by the Under-Graduate and Post-Graduate Dental Education Board in such manner as may be specified by regulations and such dental qualification shall be a recognised dental qualification for the purposes of this Act.

(*2*) Any University or dental institution in India which grants an undergraduate or postgraduate dental qualification not included in the list maintained by the Under-Graduate and Post-Graduate Dental Education Board shall apply to that Board for granting recognition to such qualification.

(*3*) The Under-Graduate and Post-Graduate Dental Education Board shall examine the application for grant of recognition to a dental qualification within a period of six months in such manner as may be specified by regulations.

(*4*) Where the Under-Graduate and Post-Graduate Dental Education Board decides to grant recognition to a dental qualification, it shall include such dental qualification in the list maintained by it and also specify the date of effect of such recognition.

(*5*) Where the Under-Graduate and Post-Graduate Dental Education Board decides not to grant recognition to a dental qualification, the University or the dental institution concerned may prefer an appeal to the Commission for grant of recognition within sixty days of the communication of such decision, in such manner as may be specified by regulations.

(*6*) The Commission shall examine the appeal received under sub-section (*5*) within sixty days from the date of filing of appeal and after giving an opportunity of being heard, pass such orders, as it thinks fit.

(*7*) Where the Commission decides not to grant recognition to the dental qualification or fails to take a decision within the specified period, the University or the dental institution concerned may prefer a second appeal to the Central Government within thirty days of the communication of such decision or lapse of the specified period, as the case may be.

(*8*) All dental qualifications which have been recognised before the date of commencement of this Act and are included in Part I and Part II of the Schedule to the Dentists Act, 1948, shall also be recognised dental qualifications for the purposes of this Act, and shall be listed and maintained by the Under-Graduate and Post-Graduate Dental Education Board in such manner as may be specified by regulations. 16 of 1948.

Recognition of dental qualifications granted by dental institutions outside India.

34. (*1*) Any primary dental qualification or higher dental qualification which is recognised for enrolment as a dentist in a foreign country shall, in respect of a person who qualifies the National Exit Test (Dental) for primary dental qualification, or the Screening Test for higher dental qualification, be deemed to be a recognised dental qualification for the purposes of this Act.

(*2*) The Commission shall, for the purposes of sub-section (*1*), conduct Screening Test for higher dental qualification through such designated authority, and in such manner, as may be specified by regulations.

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(*3*) All dental qualifications which have been recognised before the date of commencement of this Act and are included in Part III of the Schedule to the Dentists Act, 1948, shall also be recognised dental qualifications for the purposes of this Act, and shall be listed and maintained by the Commission in such manner as may be specified by regulations. 16 of 1948.

Recognition of dental qualifications granted by statutory or other body in India.

35. (*1*) The dental qualifications granted by any statutory or other dental body in India which are covered by the categories listed in the Schedule shall be recognised dental qualifications for the purposes of this Act.

(*2*) The Central Government may, on the recommendation of the Commission, and having regard to the objects of this Act, by notification, add to, or, as the case may be, omit from, the Schedule any categories of dental qualifications granted by a statutory or other body in India and on such addition, or as the case may be, omission, the dental qualifications granted by such statutory or other body in India shall be, or shall cease to be, recognised dental qualifications for the purposes of this Act.

Withdrawal of recognition granted to dental qualification granted by dental institutions in India.

36. (*1*) Where, upon receiving the recommendation from the Dental Assessment and Rating Board under section 25, or otherwise, if the Commission is of the opinion that—

(*a*) the courses of study and examination to be undergone in, or the proficiency required from candidates at any examination held by, a University or dental institution do not conform to the standards specified by the Under-Graduate and Post-Graduate Dental Education Board; or

(*b*) the standards and norms for infrastructure, faculty and quality of education in dental institution as determined by the Under-Graduate and Post-Graduate Dental Education Board are not adhered to by any University or dental institution, and such University or dental institution has failed to take necessary corrective action to maintain specified minimum standards,

the Commission may initiate action in accordance with the provisions of sub-section (*2*):

Provided that the Commission shall, before taking any action for *suo motu* withdrawal of recognition granted to the dental qualification awarded by a University or dental institution, impose penalty in accordance with the provisions of clause (*f*) of sub-section (*1*) of section 25.

(*2*) The Commission shall, after making such further inquiry as it deems fit, and after holding consultations with the concerned State Government and the authority of the concerned University or dental institution, comes to the conclusion that the recognition granted to a dental qualification ought to be withdrawn, it may, by order, withdraw recognition granted to such dental qualification and direct the Under-Graduate and Post-Graduate Dental Education Board to amend the entries against the University or dental institution concerned in the list maintained by that Board to the effect that the recognition granted to such dental qualification is withdrawn with effect from the date specified in that order.

De-recognition of dental qualifications granted by dental institutions outside India.

37. Where, after verification with the authority in any country outside India, the Commission is of the opinion that a recognised dental qualification granted by dental institutions outside India which is included in the list maintained by it is to be de-recognised, it may, by order, de-recognise such dental qualification and remove it from the list maintained by the Commission with effect from the date of such order.

CHAPTER X

GRANTS, ACCOUNTS AND AUDIT

Grants by Central Government.

38. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as the Central Government may think fit.

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National Dental Commission Fund.

39. (*1*) There shall be constituted a fund to be called "the National Dental Commission Fund" which shall form part of the public account of India and there shall be credited thereto—

(*a*) all fees, penalties and charges received by the Commission and the Autonomous Boards;

(*b*) all sums received by the Commission from such other sources as may be decided by it.

(*2*) The Fund shall be applied for making payment towards—

(*a*) the salaries and allowances payable to the Chairperson, Members appointed or nominated under clauses (*a*) and (*d*) of sub-section (*4*) of section 4 and the Secretary of the Commission, the Presidents and Members of the Autonomous Boards and the administrative expenses including the salaries and allowances payable to the officers and other employees of the Commission and Autonomous Boards;

(*b*) the expenses incurred in carrying out the provisions of this Act, including in connection with the discharge of the functions of the Commission and the Autonomous Boards.

Audit and accounts.

40. (*1*) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed, in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other persons appointed by him in connection with the audit of the accounts of the Commission shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of, and complete access to, records, books, accounts, connected vouchers and other documents and papers and to inspect the office of the Commission.

(*4*) The accounts of the Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually by the Commission to the Central Government which shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.

Furnishing of returns and reports to Central Government.

41. (*1*) The Commission shall furnish to the Central Government, at such time, in such form and in such manner, as may be prescribed or as the Central Government may direct, such reports and statements, containing such particulars in regard to any matter under the jurisdiction of the Commission, as the Central Government may, from time to time, require.

(*2*) The Commission shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(*3*) A copy of the report received under sub-section (*2*) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER XI

MISCELLANEOUS

Power of Central Government to give directions to Commission and Autonomous Boards.

42. (*1*) Without prejudice to the foregoing provisions of this Act, the Commission and the Autonomous Boards shall, in exercise of their powers and discharge of their functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to them from time to time:

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Provided that the Commission and the Autonomous Boards shall, as far as practicable, be given an opportunity to express their views before any direction is given under this sub-section.

(*2*) The decision of the Central Government as to whether a question is one of policy or not shall be final.

Power of Central Government to give directions to State Governments.

43. (*1*) The Central Government may give such directions on questions of policy, as it may deem necessary, to a State Government for carrying out all or any of the provisions of this Act and the State Government shall comply with such directions.

(*2*) The decision of the Central Government as to whether a question is one of policy or not shall be final.

Information to be furnished by Commission and publication thereof.

44. (*1*) The Commission shall furnish such reports, copies of its minutes, abstracts of its accounts, and other information to the Central Government as that Government may require.

(*2*) The Central Government may publish, in such manner as it may think fit, the reports, minutes, abstracts of accounts and other information furnished to it under sub-section (*1*).

Obligation of Universities and dental institutions.

45. Every University and dental institution governed under this Act shall maintain a website at all times and display on its website all such information as may be required by the Commission or an Autonomous Board, as the case may be.

Completion of courses of studies in dental institutions.

46. (*1*) Notwithstanding anything contained in this Act, any student who was studying for a degree, diploma or certificate in any dental institution immediately before the commencement of this Act shall continue to so study and complete his course for such degree, diploma or certificate, and such institution shall continue to provide instructions and examination for such student in accordance with the syllabus and studies as existed before such commencement, and such student shall be deemed to have completed his course of study under this Act and shall be awarded degree, diploma or certificate under this Act.

(*2*) Notwithstanding anything contained in this Act, where recognition granted to a dental institution has lapsed, whether by efflux of time or by its voluntary surrender or for any other reason whatsoever, such dental institution shall continue to maintain and provide the minimum standards required to be provided under this Act till such time as all candidates who are admitted in that dental institution complete their study.

Joint sittings of Commission with relevant regulatory bodies.

47. The Commission shall, at least once a year, hold a meeting with the National Medical Commission, the Pharmacy Council of India, the Indian Nursing Council, National Commission for Indian System of Medicine, the National Commission for Homoeopathy and the National Commission for Allied and Healthcare Professions or the corresponding National Regulator for regulating the above professions, at such time and place as they mutually appoint, to enhance the interface between different workforce categories in modern system of medicine, develop consensus on issues and promote team based approach to healthcare delivery.

State Government to promote preventive and promotive dental care in rural areas.

48. Every State Government may, for the purposes of addressing or promoting public dentistry and community dental care in rural areas, take necessary measures to enhance the capacity of the dental professionals.

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Chairperson, Members, officers of Commission and of Autonomous Boards to be public servants.

49. The Chairperson, Members, officers and other employees of the Commission and the President, Members and officers and other employees of the Autonomous Boards shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

50. No suit, prosecution or other legal proceeding shall lie against the Government, the Commission or any Autonomous Board or a State Dental Council or any Committee thereof, or any officer or other employee of the Government or of the Commission acting under this Act for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Cognizance of offences.

51. No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made in this behalf by an officer authorised by the Commission or the Ethics and Dental Registration Board or a State Dental Council, as the case may be.

Power of Central Government to supersede Commission.

52. (*1*) If, at any time, the Central Government is of opinion that—

(*a*) the Commission is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(*b*) the Commission has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act,

the Central Government may, by notification, supersede the Commission for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable opportunity to the Commission to show cause as to why it should not be superseded and shall consider the explanations and objections, if any, of the Commission.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding the Commission,—

(*a*) all the Members shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Commission, shall, until the Commission is re-constituted under sub-section (*3*), be exercised and discharged by such person or persons as the Central Government may direct;

(*c*) all property owned or controlled by the Commission shall, until the Commission is re-constituted under sub-section (*3*), vest in the Central Government.

(*3*) On the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government may—

(*a*) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(*b*) re-constitute the Commission by fresh appointment and in such case the Members who vacated their offices under clause (*a*) of sub-section (*2*) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (*1*) or as extended under this sub-section, take action under clause (*b*) of this sub-section.

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(*4*) The Central Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest.

Power of Central Government to make rules.

53. (*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner of appointing ten Members of the Commission on rotational basis from amongst the nominees of the States and Union territories in the Dental Advisory Council under clause (*b*) of sub-section (*4*) of section 4;

(*b*) the manner of appointing nine members of the Commission under clause (*c*) of sub-section (*4*) of section 4;

(*c*) the manner of nominating two members from amongst dental faculties, under clause (*d*) of sub-section (*4*) of section 4;

(*d*) the salaries and allowances payable to, and other terms and conditions of service of the Chairperson and Members under sub-section (*4*) of section 6;

(*e*) the form and the manner of making declaration under sub-section (*6*) of section 6;

(*f*) the qualifications and experience to be possessed by the Secretary of the Commission under sub-section (*2*) of section 8;

(*g*) the salaries and allowances payable to, and other terms and conditions of service of the Secretary, officers and other employees of the Commission under sub-section (*7*) of section 8;

(*h*) the other powers and functions of the Commission under clause (*p*) of sub-section (*2*) of section 10;

(*i*) the dental qualifications and experience to be possessed by a member under the second proviso to clause (*d*) of sub-section (*2*) of section 11;

(*j*) the manner of choosing second part-time Members under sub-section (*5*) of section 17;

(*k*) the salaries and allowances payable to, and other terms and conditions of service of the President and Members of an Autonomous Board and the allowances payable to part-time Members under sub-section (*2*) of section 19;

(*l*) the form for preparing annual statement of accounts under sub-section (*1*) of section 40;

(*m*) the time within which, and the form and the manner in which, the reports and statements shall be furnished by the Commission under sub-section (*1*) of section 41;

(*n*) the form and the time for preparing annual report under sub-section (*2*) of section 41;

(*o*) the amount of compensation payable to employees under the proviso to sub-section (*5*) of section 58;

(*p*) any other matter in respect of which provision is to be made by rules.

Power to make regulations.

54. (*1*) The Commission may, after previous publication, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

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(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the functions to be discharged by the Secretary of the Commission under sub-section (*5*) of section 8;

(*b*) the procedure in accordance with which experts, consultants and professionals may be engaged, or the experts and domain specialists from foreign country may be invited, and the number of such experts and professionals under sub-section (*8*) of section 8;

(*c*) the procedure to be followed at the meetings of the Commission under sub-section (*3*) of section 9;

(*d*) the quality and standards to be maintained in dental education under clause (*a*) of sub-section (*2*) of section 10;

(*e*) the manner of regulating dental institutions, dental research, dentists and dental auxiliaries under clause (*c*) of sub-section (*2*) of section 10;

(*f*) the manner of functioning of the Commission, the Autonomous Boards, the State Dental Councils and the Joint Dental Councils under clause (*h*) of sub-section (*2*) of section 10;

(*g*) the procedure to be followed at the meetings of the Dental Advisory Council under sub-section (*3*) of section 13;

(*h*) the manner of conducting common counselling by the designated authority for admission to the undergraduate and postgraduate dental education under sub-section (*3*) of section 14;

(*i*) the designated authority, and the manner for conducting the National Exit Test (Dental) under sub-section (*2*) of section 15;

(*j*) the manner in which a person with foreign dental qualification shall qualify National Exit Test (Dental) and the manner of his enrolment in the State Register or the National Register under sub-section (*4*) of section 15;

(*k*) the manner in which admission to the postgraduate dental education shall be made on the basis of National Exit Test (Dental) under sub-section (*5*) of section 15;

(*l*) the manner of conducting common counselling by the designated authority for admission to the postgraduate dental education under sub-section (*6*) of section 15;

(*m*) the manner of nominating one member from amongst personnel of each category of the dental auxiliaries to the advisory committee for the Under-Graduate and Post-Graduate Dental Education Board under the proviso to sub-section (*1*) of section 20;

(*n*) the number of, and the manner in which, the experts, professionals, officers and other employees, including the experts and domain specialists from foreign countries invited by the Commission, under sub-section (*8*) of section 8 shall be made available by the Commission to the Autonomous Boards under section 21;

(*o*) the competency based dynamic curriculum at undergraduate level and postgraduate level under clause (*b*) of sub-section (*1*) of section 24;

(*p*) the manner of imparting undergraduate courses and postgraduate courses for dentists and dental auxiliaries by dental institutions under clause (*c*) of sub-section (*1*) of section 24;

(*q*) the minimum requirements and standards for conducting courses and examinations at undergraduate level and postgraduate level for dentists and dental auxiliaries in dental institutions under clause (*d*) of sub-section (*1*) of section 24;

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(*r*) the standards and norms for infrastructure, faculty and quality of education at undergraduate level and postgraduate level for dentists and dental auxiliaries in dental institutions under clause (*e*) of sub-section (*1*) of section 24;

(*s*) the procedure for assessing and rating of dental institutions under clause (*a*) of sub-section (*1*) of section 25;

(*t*) the manner of carrying out inspections of dental institutions for assessing and rating such institutions under clause (*c*) of sub-section (*1*) of section 25;

(*u*) the manner of conducting, and the manner of empaneling independent rating agencies to conduct assessment and rating of dental institutions and the time period for such assessment and rating under clause (*d*) of sub-section (*1*) of section 25;

(*v*) the manner of making available on website or in public domain the assessment and ratings of dental institutions under clause (*e*) of sub-section (*1*) of section 25;

(*w*) the measures to be taken against a dental institution for failure to maintain the minimum essential standards under clause (*f*) of sub-section (*1*) of section 25;

(*x*) the manner of regulating professional conduct and promoting dental ethics under clause (*b*) of sub-section (*1*) of section 26;

(*y*) the form of scheme, the particulars thereof, the fee to be accompanied and the manner of submitting scheme for establishing new dental college or for starting any postgraduate course or for increasing number of seats under sub-section (*2*) of section 27;

(*z*) the manner of preferring an appeal to the Commission for approval of the scheme under sub-section (*5*) of section 27;

(*za*) the other factors under clause (*d*) of section 28;

(*zb*) the manner of taking disciplinary action by a State Dental Council for professional or ethical misconduct of registered dentist or professional and the procedure for receiving complaints and grievances by Ethics and Dental Registration Board under sub-section (*4*) of section 29;

(*zc*) the act of commission or omission which amounts to professional or ethical misconduct under clause (*b*) of the *Explanation* to section 29;

(*zd*) other particulars to be contained in the National Register for Dentists under sub-section (*1*) of section 30;

(*ze*) the particulars to be contained in the National Register for Dental Auxiliaries under sub-section (*2*) of section 30;

(*zf*) the form, including the electronic form and the manner of maintaining the National Registers, under sub-section (*3*) of section 30;

(*zg*) the manner in which any name or qualification may be added to, or removed from, the National Register and the grounds for removal thereof, under sub-section (*4*) of section 30;

(*zh*) the manner of entering the title, diploma or qualification in the State Register or the National Register, under sub-section (*3*) of section 31;

(*zi*) the period for which, and the manner in which, a foreign citizen who is enrolled in his country as a dentist may be permitted temporary registration in India, under the proviso to sub-section (*1*) of section 32;

(*zj*) the manner of listing and maintaining dental qualifications granted by a University or dental institution in India under sub-section (*1*) of section 33;

(*zk*) the manner of examining the application for grant of recognition under sub-section (*3*) of section 33;

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(*zl*) the manner of including a dental qualification in the list maintained by the Board under sub-section (*4*) of section 33;

(*zm*) the manner of preferring an appeal to the Commission for grant of recognition under sub-section (*5*) of section 33;

(*zn*) the manner of listing and maintaining dental qualifications which have been granted recognition before the date of commencement of this Act under sub-section (*8*) of section 33;

(*zo*) the designated authority for conducting Screening Test for higher dental qualification, and the manner of conducting the Screening Test under sub-section (*2*) of section 34;

(*zp*) the manner of listing and maintaining dental qualifications which have been granted recognition before the date of commencement of this Act under sub-section (*3*) of section 34.

Rules and regulations to be laid before Parliament.

55. Every rule and every regulation made, and every notification issued, 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 expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or notification or both Houses agree that the rule or regulation or notification should not be made, the rule or regulation or notification 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 be without prejudice to the validity of anything previously done under that rule or regulation or notification.

Power of State Government to make rules.

56. (*1*) The State Government may, by notification, make rules to carry out the provisions of section 29 and section 48 of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing powers under sub-section (*1*), such rules may provide for the following matters, namely:—

(*a*) the salary and allowances payable to, and other conditions of service of, the Chairperson and Members of the State Dental Council and Joint Dental Council;

(*b*) the manner of filling up of vacancies arising in the State Dental Council and Joint Dental Council;

(*c*) any other matter in respect of which provision is to be made by rules.

(*3*) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

Power to remove difficulties.

57. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it be necessary, for removing the difficulty:

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.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each house of Parliament.

Repeal and saving.

16 of 1948.

58. (*1*) With effect from such date as the Central Government may appoint in this behalf, the Dentists Act, 1948 shall stand repealed and the Dental Council of India constituted under section 3 of the said Act shall stand dissolved.

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(*2*) Notwithstanding the repeal of the Act referred to in sub-section (*1*), it shall not affect,—

(*a*) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(*c*) any penalty incurred in respect of any contravention under the Act so repealed; or

(*d*) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty may be imposed as if that Act had not been repealed.

(*3*) On the dissolution of the Dental Council of India, the person acting as the President and Members of the Dental Council of India holding office as such immediately before such dissolution shall vacate their respective offices and such President and Members shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of term of their office or of any contract of service.

(*4*) Every officer who has been appointed on deputation basis in the Dental Council of India shall, on its dissolution, stand reverted to his parent cadre, Ministry or Department, as the case may be.

(*5*) The services of other employees who have been, before the dissolution of the Dental Council of India, employed on regular basis by the Dental Council of India, shall continue for no longer than one year after the commencement of this Act, as an interim arrangement and thereafter, further continuity or otherwise of their services shall be determined by the Commission on the basis of their performance appraisal or evaluation:

Provided that such employees of the erstwhile Dental Council of India shall be entitled to such compensation which shall not be less three months' pay and allowances, as may be prescribed.

(*6*) Notwithstanding the repeal of the aforesaid enactment, any order made, any licence to practice issued, any registration made, any permission to start new dental college or to start higher course of studies or for increase in the admission capacity granted, any recognition of dental qualifications granted, under the Dentists Act, 1948, which are in force as on the date of commencement of this Act, shall continue to be in force till the date of their expiry for all purposes, as if they had been issued or granted under the provisions of this Act or the rules or regulations made thereunder. 16 of 1948.

Transitory provisions.

59. (*1*) The Commission shall be the successor in interest to the Dental Council of India including its subsidiaries or owned trusts and all the assets and liabilities of the Dental Council of India shall be deemed to have been transferred to the Commission.

(*2*) Notwithstanding the repeal of the Dentists Act, 1948, the educational standards, requirements and other provisions of the said Act and the rules and regulations made thereunder shall continue to be in force and operate till new standards or requirements are specified under this Act or the rules and regulations made thereunder: 16 of 1948.

Provided that anything done or any action taken as regards the educational standards and requirements under the enactment under repeal and the rules and regulations made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or by any action taken under this Act.

(*3*) Notwithstanding the repeal of the Dentists Act, 1948, the State Council and the Joint State Council constituted respectively under section 21 and section 23 of the said Act shall continue to operate until a new State Dental Council is established by the State Government in accordance with the provisions of section 29 of this Act. 16 of 1948.

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THE SCHEDULE
(*See* section 35)

LIST OF CATEGORIES OF DENTAL QUALIFICATIONS GRANTED BY STATUTORY OR OTHER DENTAL BODY IN INDIA

Sl. No.	Categories of dental qualifications
1.	All dental qualifications granted by All India Institutes of Medical Sciences.
2.	All dental qualifications granted by the Oral Health Sciences Centre, Post Graduate Institute of Medical Education and Research, Chandigarh.
3.	All dental qualifications granted by the Jawaharlal Institute of Postgraduate Medical Education and Research, Puducherry.

LOK SABHA

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to regulate the profession of dentistry in the country, to provide for quality and affordable dental education, to make accessible high quality oral healthcare and for matters connected therewith or incidental thereto.

(*As passed by Lok Sabha*)

MGIPMRND—183LS—28.07.2023.

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As passed by Lok Sabha
on 28.07.2023

Bill No. 83-C of 2023

THE NATIONAL NURSING AND MIDWIFERY COMMISSION BILL, 2023

ARRANGEMENT OF CLAUSES

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AS PASSED BY LOK SABHA
ON 28.07.2023

Bill No. 83-C of 2023

THE NATIONAL NURSING AND MIDWIFERY COMMISSION BILL, 2023

A

BILL

to provide for regulation and maintenance of standards of education and services by nursing and midwifery professionals, assessment of institutions, maintenance of a National Register and State Registers and creation of a system to improve access, research and development and adoption of latest scientific advancement and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the National Nursing and Midwifery Commission Act, 2023. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

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Definitions.

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

(*a*) "Autonomous Board" means any of the Autonomous Boards constituted under section 11;

(*b*) "Chairperson" means the Chairperson of the National Nursing and Midwifery Commission appointed under section 4;

(*c*) "Fund" means the National Nursing and Midwifery Commission Fund referred to in section 38;

(*d*) "midwifery" means a skilled, knowledgeable, and compassionate care for childbearing women, new-born infants and families across the continuum from pre-pregnancy, pregnancy, birth, postpartum and the early weeks of life and includes—

(*i*) preventive measures;

(*ii*) promotion of normal birth;

(*iii*) detection of complications in mother and child;

(*iv*) accessing of medical care or other appropriate assistance;

(*v*) appropriate and timely referrals; and

(*vi*) carrying out emergency measures as per the scope of practice as specified by the National Nursing and Midwifery Commission;

(*e*) "midwifery associate" means a member of the health team, who has acquired the recognised qualification and is granted licence to practice as midwifery associate by the National Nursing and Midwifery Commission, who—

(*i*) assists doctors or nurse practitioners in midwifery in the delivery of babies; and

(*ii*) provides care during pregnancy, labour and postpartum period and instruct parents in baby care as per the scope of practice specified by the National Nursing and Midwifery Commission;

(*f*) "midwifery professional" means a person who has obtained the recognised basic or advance qualification and is granted licence to practise by the National Nursing and Midwifery Commission;

(*g*) "National Commission" means the National Nursing and Midwifery Commission constituted under section 3;

(*h*) "National Register" means the Indian Nurses and Midwives' Register maintained by the Nursing and Midwifery Ethics and Registration Board under section 25;

(*i*) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variation and cognate expressions shall be construed accordingly;

(*j*) "nurse" means a healthcare professional who—

(*i*) has completed a formally recognised programme of basic, generalised nursing education and who has acquired the requisite qualification and is granted licence to practice nursing by the National Nursing and Midwifery Commission; and

(*ii*) demonstrates competency in the practice of nursing;

(*k*) "nurse practitioner" means a licensed nurse who—

(*i*) has completed a formally recognised advanced education and training programme and has acquired the requisite qualification and is granted licence to practice by the National Commission; and

(*ii*) demonstrates clinical competencies for the scope of practice, complex decision making and have expert knowledge in the area of specialisation;

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(*l*) "nurse practitioner in midwifery" means a licensed nurse, who—

(*i*) has completed a formally recognised advanced education and training programme and who has acquired the requisite qualification and is granted licence to practice by the National Commission; and

(*ii*) demonstrates clinical competency for the scope of practice, complex decision making and have expert knowledge in the area of specialisation;

(*m*) "nursing" means the autonomous and collaborative care of individuals of all ages, families, groups and communities, sick or well and includes the promotion of health, prevention of illness, care of physically ill, mentally ill, disabled and dying people in all healthcare and other community settings by—

(*i*) carrying out healthcare teaching;

(*ii*) participating fully as a member of the healthcare team; and

(*iii*) supervising and training nursing and healthcare auxiliaries, additional key nursing roles including advocacy, promotion of a safe environment, research, participation in shaping health policy, in-patient health systems management and education;

(*n*) "Nursing and Midwifery Assessment and Rating Board" means the Nursing and Midwifery Assessment and Rating Board constituted under clause (*b*) of sub-section (*1*) of section 11;

(*o*) "Nursing and Midwifery Ethics and Registration Board" means the Nursing and Midwifery Ethics and Registration Board constituted under clause (*c*) of sub-section (*1*) of section 11;

(*p*) "nursing and midwifery institution" means an educational and training institution or a research institution within India, recognised under this Act, which grants diploma or undergraduate or postgraduate or any other post degree diploma or certificate in nursing and midwifery, and includes affiliated colleges and deemed to be Universities;

(*q*) "nursing and midwifery leader" means any nursing or midwifery professional, who is the Dean of a nursing educational institution, or Principal or Vice-Principal of a college of nursing, or Nursing Superintendent, or Chief Nursing Officer of the Nursing and Midwifery Department, in any institution or healthcare facility and possessing such qualifications and experience as may be prescribed;

(*r*) "Nursing and Midwifery Undergraduate and Postgraduate Education Board" means the Nursing and Midwifery Undergraduate and Postgraduate Education Board constituted under clause (*a*) of sub-section (*1*) of section 11;

(*s*) "nursing associate" means a member of the health team, who has acquired the recognised qualification and is granted licence to practice as nursing associate by the National Commission, who provides care for the sick and injured including those in need of nursing care in varied health settings within his authorised scope of practice;

(*t*) "nursing professional" means a nurse registered with the National Commission, having basic or advance qualification and includes a nurse practitioner in any speciality;

(*u*) "prescribed" means prescribed by rules made under this Act;

(*v*) "qualification" means the level of courses such as diploma, undergraduate degree, postgraduate degree and higher qualification including certification courses, inclusive of the specified curriculum of such courses or programmes;

(*w*) "recognised nursing and midwifery qualification" means a nursing and midwifery qualification recognised under section 28 or section 29 or section 32, as the case may be;

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(*x*) "registered professional" means any associate or professional in nursing and midwifery who is registered with any of the State Commissions or, as the case may be, the National Commission under section 25;

(*y*) "regulations" means the regulations made by the National Commission under section 52;

(*z*) "State Commission" means the State Nursing and Midwifery Commission constituted under section 23;

(*za*) "State Register" means the State Register for Nursing Professionals and Midwifery Professionals or the State Register for Nurse Associates and Midwifery Associates, maintained by State Commission under section 25;

(*zb*) "University" shall have the same meaning as assigned to it in clause (*f*) of section 2 of the University Grants Commission Act, 1956 and includes an institution declared to be deemed University under section 3 of that Act. 3 of 1956.

CHAPTER II

National Nursing and Midwifery Commission

National Nursing and Midwifery Commission.

3. (*1*) The Central Government shall constitute a Commission, to be known as the National Nursing and Midwifery Commission, with effect from such date as it may, by notification, appoint, for exercising such powers and discharging such duties as are laid down under this Act.

(*2*) The National Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(*3*) The head office of the National Commission shall be at New Delhi.

Composition of National Commission.

4. The National Commission shall consist of a Chairperson, sixteen *ex officio* Members and twelve Members as follows, namely:—

(*a*) a person having outstanding ability, proven administrative capacity and integrity and possessing a postgraduate degree in nursing and midwifery profession from any University with experience of not less than twenty years in the field of nursing and midwifery, out of which at least ten years shall be as a nursing and midwifery leader, to be appointed by the Central Government—Chairperson;

(*b*) one representative of the Department of Health and Family Welfare, Ministry of Health and Family Welfare, not below the rank of Joint Secretary to the Government of India who is in-charge of nursing and midwifery—Member, *ex officio*;

(*c*) one representative of the Ministry of Defence not below the rank of Additional Director General, Military Nursing Services to the Government of India in the Directorate General of Armed Forces Medical Services—Member, *ex officio*;

(*d*) one representative of the Directorate General of Health Services not below the rank of Additional Director General—Member, *ex officio*;

(*e*) one person representing the National Medical Commission not below the rank of Deputy Secretary to the Government of India—Member, *ex officio*;

(*f*) President of each of the Autonomous Boards constituted under section 11—Members, *ex officio*;

(*g*) three persons, not below the rank of Chief Nursing Officer or Nursing Superintendent of any of the hospitals or Dean or Principal of College of Nursing, as the case may be, to be nominated by the Central Government from Central Government hospitals or Nursing and Midwifery Institutions of repute in such manner as may be prescribed—Members, *ex officio*;

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(*h*) one person from each of the six zones, as may be prescribed, not below the rank of Chairperson, who shall be a nursing and midwifery professional, representing the State Commissions, on biennial rotation in the alphabetical order as per the zonal distribution of States and Union territories, to be nominated in such manner as may be prescribed—Members, *ex officio*;

(*i*) six nursing members of eminence, one from each of the six zones, as may be prescribed, from nursing and midwifery profession of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in any discipline of nursing and midwifery from any University and having experience of not less than fifteen years in the field of nursing and midwifery, out of which at least seven years shall be as a nursing and midwifery leader, to be nominated by the State Governments in such manner as may be prescribed—Members:

Provided that the States and Union territories represented under clauses (*h*) and (*i*) shall be distinct;

(*j*) four nursing and midwifery members of eminence, of which at least two shall be midwifery professionals, of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in any discipline of nursing and midwifery from any University and having experience of not less than fifteen years in the field of nursing and midwifery, out of which at least seven years shall be as a nursing and midwifery leader, to be nominated by the Central Government in such manner as may be prescribed—Members;

(*k*) one person representing charitable institutions engaged in education or services in the field of nursing and midwifery and having such qualification and experience, to be appointed by the Central Government in such manner as may be prescribed—Member; and

(*l*) a person of eminence to be appointed by the Central Government, in such manner as may be prescribed, from amongst persons of ability, integrity and standing, who have special knowledge and professional experience in such areas including management, law, medical ethics, health research, consumer or patient rights advocacy, science and technology and economics—Member.

Search-cum-Selection Committee for appointment of Chairperson and Members of National Commission.

5. (*1*) The Central Government shall appoint—

(*i*) the Chairperson and Members referred to in clauses (*a*), (*j*), (*k*) and (*l*) of section 4;

(*ii*) the Secretary referred in sub-section (*2*) of section 8; and

(*iii*) the President and Members of Autonomous Boards referred in sub-sections (*3*), (*4*) and (*5*) of section 12,

on the recommendations of a Search-cum-Selection Committee consisting of—

(*a*) the Secretary, Ministry of Health and Family Welfare—Chairperson;

(*b*) four nursing and midwifery experts possessing outstanding qualifications and experience of not less than twenty-five years in the field of nursing and midwifery education, public health nursing education and nursing health research, to be nominated by the Central Government in such manner as may be prescribed—Members;

(*c*) one person, possessing outstanding qualifications and experience of not less than twenty-five years in the field of management or law or economics or science and technology, to be nominated by the Central Government in such manner as may be prescribed—Member; and

(*d*) an Additional Secretary or a Joint Secretary to the Government of India in-charge of nursing in the Ministry of Health and Family Welfare, to be the Convenor—Member.

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(*2*) The Central Government shall, within one month from the date of occurrence of any vacancy, including by reason of death, resignation or removal of the Chairperson or Secretary or a Member, or within three months before the end of tenure of the Chairperson or Secretary or Member, make a reference to the Search-cum-Selection Committee for filling up of the vacancy.

(*3*) The Search-cum-Selection Committee shall recommend a panel of at least three names for each vacancy.

(*4*) The Search-cum-Selection Committee shall, before recommending any person for appointment of the Chairperson or Secretary or Member, satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Secretary or Member.

(*5*) No appointment of the Chairperson or Secretary or Member of the National Commission or, as the case may be, the President or Member of the Autonomous Boards, shall be invalid merely by reason of any vacancy or absence of a Member in the Search-cum-Selection Committee.

(*6*) Subject to the provisions of sub-sections (*2*) to (*5*), the Search-cum-Selection Committee may regulate its own procedure.

Term of office and conditions of service of Chairperson and Members of National Commission.

6. (*1*) The Chairperson, Secretary and Members of the National Commission referred to in clauses (*i*), (*j*), (*k*) and (*l*) of section 4, shall hold office for a term not exceeding four years, as the Central Government may notify in this behalf, from the date on which they enter upon their office and shall not be eligible for any extension or reappointment.

(*2*) A person who has completed the age of sixty-five years on the date of application shall not be eligible for the post of Member of the National Commission.

(*3*) The term of office of an *ex officio* Member shall continue as long as such Member holds the office by virtue of which he is a Member.

(*4*) Where a Member appointed to the National Commission under clause (*i*) or clause (*j*) or clause (*k*) or clause (*l*) of section 4, is absent from three consecutive ordinary meetings of the National Commission and the cause of such absence is not attributable to any valid reason in the opinion of the National Commission, such Member shall be deemed to have vacated the seat.

(*5*) The Chairperson of the National Commission and the Members of the National Commission referred to in clauses (*i*), (*j*), (*k*) and (*l*) of section 4, shall receive such salaries or travelling and other allowances as may be prescribed.

(*6*) Notwithstanding anything contained in sub-section (*1*), the Chairperson or a Member of the National Commission referred to in clauses (*i*), (*j*), (*k*) and (*l*) of section 4, may—

(*a*) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or

(*b*) be removed from his office in accordance with the provisions of section 7:

Provided that, if the Central Government so decides, such person may be relieved from duties earlier than three months or be allowed to continue beyond three months until a successor is appointed.

(*7*) The Chairperson and every Member of the National Commission shall make declaration of his assets and liabilities at the time of entering upon his office and at the time of demitting office and also declare his professional and commercial engagement or involvement in such form and manner as may be prescribed, and the said declaration shall be published on the website of the National Commission.

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(*8*) The Chairperson or a Member of the National Commission referred to in clauses (*i*), (*j*), (*k*) and (*l*) of section 4, ceasing to hold office as such, shall not accept, for a period of two years from the date of demitting such office, any employment, in any capacity including as a consultant or an expert, in any private nursing and midwifery institution, whose matter has been dealt with by such Chairperson or Member, either directly or indirectly:

Provided that nothing contained herein shall be construed as preventing such person from accepting an employment in a body or institution, including nursing and midwifery institution, controlled or maintained by the Central Government or a State Government:

Provided further that nothing contained herein shall prevent the Central Government from permitting the Chairperson or a Member of the National Commission to accept any employment in any capacity, including as a consultant or expert in any private nursing and midwifery institution whose matter has been dealt with by such Chairperson or Member.

Removal of Chairperson or Member of National Commission.

7. (*1*) The Central Government may, by order, remove from office, the Chairperson or any other Member of the National Commission, who—

(*a*) has been adjudged an insolvent; or

(*b*) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(*c*) has become physically or mentally incapable of acting as a Member; or

(*d*) is of unsound mind and stands so declared by a competent court; or

(*e*) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(*f*) has so misused his position as to render his continuance in office prejudicial to the public interest.

(*2*) No Member shall be removed under clauses (*e*) and (*f*) of sub-section (*1*) unless he has been given a reasonable opportunity of being heard.

Secretary and other employees of National Commission.

8. (*1*) There shall be a secretariat for the National Commission to be headed by a Secretary, to be appointed by the Central Government in accordance with the provisions of section 5.

(*2*) The Secretary of the National Commission shall be a person of outstanding ability, proven administrative capacity and integrity, possessing such qualifications and experience, as may be prescribed.

(*3*) The Secretary shall hold the office for a term of four years and shall not be eligible for any extension or reappointment.

(*4*) The Secretary shall also be the Member Secretary of each of the Autonomous Boards constituted under section 11.

(*5*) The Secretary shall discharge such functions of the National Commission and that of each of the Autonomous Boards constituted under section 11, as may be specified by regulations.

(*6*) The National Commission may, for the optimum discharge of its functions under this Act, appoint such officers, and other employees of the National Commission other than the Secretary, as it considers necessary, against the posts created by the Central Government as recommended by the National Commission.

(*7*) The salaries and allowances payable to and other terms and conditions of service of the Secretary, officers and other employees of the National Commission shall be such, as may be prescribed.

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(*8*) The National Commission may engage, in accordance with the procedure, such number of experts, consultants and professionals of integrity and outstanding ability, as may be specified by regulations, who have special knowledge of, and experience in such fields, including nursing and midwifery education, public health nursing, management, health economics, quality assurance, patient advocacy, nursing research, science and technology, administration, finance, information technology, statistics, nursing informatics, accounts and law, as it deems necessary, to assist the National Commission in the discharge of its functions under this Act.

(*9*) The National Commission may also invite, in accordance with the procedure, such number of experts and domain specialists from foreign countries to the meetings of the National Commission, as may be specified by regulations, who have special knowledge of nursing and midwifery curriculum, practical training and pattern of examination including licentiate examination of the relevant foreign country, as it deems necessary, to facilitate global mobility and employability of registered professional.

Meetings of National Commission, administration, etc.

9. (*1*) The National Commission shall meet at least once in every quarter at such time and place as may be appointed by the Chairperson.

(*2*) The Chairperson shall preside over the meeting of the National Commission and if for any reason the Chairperson is unable to attend such meeting, any other Member being the President of an Autonomous Board, as may be nominated by the Chairperson, shall preside over that meeting.

(*3*) Unless the procedure to be followed at the meetings of the National Commission is otherwise provided by regulations, one-half of the total number of Members of the National Commission including the Chairperson shall constitute the quorum at the meeting of the National Commission and all the acts of the National Commission shall be decided by a majority of the Members, present and voting and in the event of equality of votes, the Chairperson, or in his absence, the President of the Autonomous Board nominated under sub-section (*2*), shall have the casting vote.

(*4*) The general superintendence, direction and control of the administration of the National Commission shall vest in the Chairperson.

(*5*) No act done by the National Commission shall be questioned on the ground of the existence of a vacancy in, or a defect in the constitution of, the National Commission.

Powers and functions of National Commission.

10. (*1*) The National Commission shall take all such steps as it may think fit for ensuring coordinated and integrated development of education and maintenance of the standards of delivery of services, with periodic revisions, as may be specified by regulations.

(*2*) The National Commission may make regulations for the purposes of performing the following functions, namely:—

(*a*) to frame policies and regulate standards for the governance of nursing and midwifery education and training;

(*b*) to regulate nursing and midwifery institutions, researches, professionals and associates;

(*c*) to identify and regulate any other category of nursing and midwifery profession;

(*d*) to provide basic standards of education, physical and instructional facilities, assessment, examination, training, research, continuing professional education and maximum tuition fee payable in respect of various categories;

(*e*) to provide standards for nursing and midwifery faculty and clinical facility in teaching institutions;

(*f*) to provide for a uniform mechanism for admission into the nursing and midwifery institutions at various levels.

Explanation.—For the purposes of this clause, it is clarified that the authority as may be designated by the Central Government shall make admissions into nursing

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and midwifery institutions in such uniform manner at all India level, and the authority as may be designated by the State Government shall make admissions in the same manner into nursing and midwifery institutions at State level;

(*g*) to provide for a mechanism, either through final year undergraduate exam or otherwise, to ensure adequate competence of the nursing and midwifery professionals for enrolment in the National Register or State Register, as the case may be, and for granting licence to practice as a nursing and midwifery professional;

(*h*) to collaborate with industry and other institutions for use of cutting-edge technology and hybrid education to drive innovation and research in the field of nursing and midwifery;

(*i*) to integrate soft skills and elective courses in the curriculum of nursing and midwifery qualifications and to take measures to enhance skills and competency of registered professional for facilitating global mobility;

(*j*) to assess the nursing and midwifery requirements in healthcare, including human resources for various healthcare settings, provide mechanisms for career development pathways for all nursing and midwifery related cadres including appropriate lateral entry as applicable and advise the Central Government on matters pertaining thereto;

(*k*) to ensure policies and codes to ensure observance of professional ethics in nursing and midwifery profession and to promote ethical conduct during the provision of care by nursing and midwifery professionals, including nursing associates and midwifery associates;

(*l*) to promote, co-ordinate and frame guidelines and lay down policies for the proper functioning of the National Commission, the Autonomous Boards, the Advisory Council and the State Commissions;

(*m*) to ensure coordination among the Autonomous Boards;

(*n*) to take such measures, as may be necessary, to ensure compliance of the guidelines framed and regulations made under this Act by the State Commissions for their effective functioning;

(*o*) to exercise appellate jurisdiction with respect to the decisions of Autonomous Boards; and

(*p*) to perform such other functions as may be prescribed.

(*3*) The National Commission may delegate such of its functions, except the power to make regulations, to the Autonomous Boards as it may deem necessary.

(*4*) The National Commission shall, at least once a year, hold a meeting with the National Medical Commission, Pharmacy Council of India, National Commission for Indian System of Medicine, National Commission for Homoeopathy and National Commission for Allied and Healthcare Professions, or the corresponding National Regulator for regulating the said professions, at such time and place as they mutually appoint, to enhance the interface between different workforce categories in modern system of medicine, develop consensus on issues and promote team based approach to healthcare delivery.

(*5*) Every order and decision of the National Commission shall be authenticated by the signature of its Secretary.

(*6*) The National Commission may delegate such of its powers of administrative and financial matters, as it deems fit, to its Secretary.

(*7*) The National Commission may constitute sub-committees and delegate such of its powers to such sub-committees as may be necessary to enable them to accomplish specific tasks.

CHAPTER III

AUTONOMOUS BOARDS

Autonomous Boards.

11. (*1*) The Central Government shall, by notification, constitute the following Autonomous Boards, under the overall supervision of the National Commission, to perform the functions assigned to such Boards under this Act, namely:—

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(*a*) the Nursing and Midwifery Undergraduate and Postgraduate Education Board;

(*b*) the Nursing and Midwifery Assessment and Rating Board; and

(*c*) the Nursing and Midwifery Ethics and Registration Board.

(*2*) Every Autonomous Board referred to in sub-section (*1*) shall be an autonomous body which shall carry out its functions under this Act in such manner as may be specified by regulations.

Composition of Autonomous Boards.

12. (*1*) The Nursing and Midwifery Undergraduate and Postgraduate Education Board shall have not more than two whole-time Members and not more than two part-time Members other than a President.

(*2*) The Nursing and Midwifery Assessment and Rating Board and the Nursing and Midwifery Ethics and Registration Board shall consist of a President, not more than two whole-time Members and not more than two part-time Members.

(*3*) The President of each Autonomous Board, two whole-time Members and one part-time Member of Nursing and Midwifery Undergraduate and Postgraduate Education Board, and one whole-time Member and one part-time Member of Nursing and Midwifery Assessment and Rating Board and Nursing and Midwifery Ethics and Registration Board, shall be persons of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in any discipline of nursing and midwifery from any University and having experience of not less than fifteen years, out of which at least seven years shall be as a nursing and midwifery leader to be appointed by the Central Government on the recommendations of the Search-cum-Selection Committee constituted under section 5.

(*4*) The second whole-time Member of the Nursing and Midwifery Assessment and Rating Board, to be appointed by the Central Government on the recommendations of the Search-cum-Selection Committee constituted under section 5, shall be a person of outstanding ability and integrity, possessing a postgraduate degree in any of the disciplines of management, quality assurance, law or science and technology from any University, having hands on clinical experience of not less than fifteen years in such field, out of which at least seven years shall be as the Head of a Department or the Head of an Institute or an organisation.

(*5*) The second whole-time Member of the Nursing and Midwifery Ethics and Registration Board, to be appointed by the Central Government on the recommendations of the Search-cum-Selection Committee constituted under section 5, shall be a person of outstanding ability who has demonstrated public record of work on nursing or medical ethics or a person of outstanding ability possessing a postgraduate degree in any of the disciplines of quality assurance, public health, law or patient advocacy from any University and having experience of not less than fifteen years in such field, out of which at least seven years shall be as the Head of a Department or the Head of an Institute or an organisation.

(*6*) The second part-time Member of the Nursing and Midwifery Assessment and Rating Board, the Nursing and Midwifery Ethics and Registration Board and the Nursing and Midwifery Undergraduate and Postgraduate Education Board, shall be chosen from amongst the nursing and midwifery Members representing the State Commissions under clause (*h*) of section 4, in such manner as may be prescribed.

Term of office and conditions of service of President and Members.

13. (*1*) The President and the whole-time Members of each Autonomous Board shall hold office for a term not exceeding four years and shall not be eligible for any extension or reappointment:

Provided that the part-time Members of each Autonomous Board shall hold the office for a term of two years:

Provided further that a Member should be less than sixty-five years of age on the date of application for the office of Member.

(*2*) The vacancies of each Autonomous Board shall be filled in such manner as may be prescribed.

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(*3*) The salaries and allowances payable to, and other terms and conditions of service of the President and the whole-time Members of an Autonomous Board shall be such as may be prescribed.

(*4*) Every part-time Member of an Autonomous Board shall be entitled for such allowances as may be prescribed.

(*5*) The provisions of sub-sections (*4*), (*5*), (*6*), (*7*) and (*8*) of section 6 relating to other terms and conditions of service, and section 7 relating to removal from the office, of the Chairperson and Members of the National Commission shall *mutatis mutandis* apply to the President and Members of the Autonomous Boards.

Advisory committees of experts.

14. (*1*) Each Autonomous Board, except the Nursing and Midwifery Ethics and Registration Board, shall be assisted by such advisory committees consisting of experts as may be constituted by the National Commission, for the efficient discharge of the functions of such Autonomous Board.

(*2*) The Nursing and Midwifery Ethics and Registration Board shall be assisted by such ethics committees of experts as may be constituted by the National Commission for the efficient discharge of the functions of such Autonomous Board.

Staff of Autonomous Boards.

15. (*1*) The experts, consultants, professionals, officers and other employees appointed under section 8 shall be made available to the Autonomous Boards in such number and manner, as may be specified by regulations.

(*2*) The foreign experts and domain specialists from foreign countries invited by the National Commission under section 8 shall also be made available to the Autonomous Boards in such number and manner, as may be specified by regulations.

Meetings, etc., of Autonomous Boards.

16. (*1*) Every Autonomous Board shall meet at least once in a month at such time and place as it may appoint.

(*2*) Every decision of the Autonomous Boards shall be made by majority of votes of its respective President and Members.

(*3*) Subject to the provisions of section 21, a person aggrieved by any decision of an Autonomous Board, may prefer an appeal to the National Commission against such decision within thirty days of the communication of that decision and the National Commission shall, after giving an opportunity of being heard, dispose of the appeal within a period of sixty days from the date of such appeal.

Powers of Autonomous Boards and delegation of powers.

17. (*1*) The President of each Autonomous Board shall have such administrative and financial powers as may be delegated to it by the National Commission to enable such Autonomous Board for optimum functioning.

(*2*) The President of an Autonomous Board may further delegate any of his powers to a Member or an officer of such Autonomous Board.

Powers and functions of Nursing and Midwifery Undergraduate and Postgraduate Education Board.

18. (*1*) The Nursing and Midwifery Undergraduate and Postgraduate Education Board shall perform the following functions, namely:—

(*a*) determine the minimum requirements and standards of nursing and midwifery education and examination at undergraduate level and postgraduate level, in such manner as may be specified by regulations, and oversee all aspects relating thereto;

(*b*) develop dynamic competency based curriculum at undergraduate level and postgraduate level, in such manner as may be specified by regulations, with a view to develop appropriate skill, knowledge, attitude, values and ethics to provide healthcare, impart nursing and midwifery education and conduct research:

Provided that the competencies shall be aligned with the needs of the national health programme, across continuum of care in varied healthcare settings in order to ensure optimum healthcare delivery system;

(*c*) prescribe qualifications at the undergraduate level and postgraduate level in nursing and midwifery and such other particulars, as may be specified by regulations;

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(*d*) prescribe standards for setting up of nursing and midwifery institutions for imparting undergraduate and postgraduate courses, having regard to the needs of the country and the global norms, in such manner as may be specified by regulations;

(*e*) determine the standards and norms for infrastructure, faculty and quality of education in nursing and midwifery institutions providing undergraduate and postgraduate nursing and midwifery education, in such manner as may be specified by regulations;

(*f*) facilitate development and training of faculty members for teaching, research as well as international student and faculty exchange programmes relating to undergraduate, nursing and midwifery education;

(*g*) specify norms for compulsory annual disclosures, clinical facilities, faculty, digitally or otherwise, by nursing and midwifery institutions, in respect of their functions that has a bearing on the interest of all stakeholders including students, faculty, State Commissions, the National Commission and the Central Government;

(*h*) regulate the standards and scope of practice of registered nursing and midwifery professionals, including nurse practitioners, nursing associates and midwifery associates who have obtained the nursing and midwifery qualification as provided by the Nursing and Midwifery Undergraduate and Postgraduate Education Board, in such manner as may be specified by regulations; and

(*i*) regulate, in consultation with the National Medical Commission, the limited prescribing authority for nurse practitioners in all specialities, who have obtained the requisite nursing and midwifery qualification and qualify such criteria as may be provided by the Nursing and Midwifery Undergraduate and Postgraduate Education Board, in such manner as may be specified by regulations.

(*2*) The Nursing and Midwifery Undergraduate and Postgraduate Education Board shall, in the discharge of its duties, make such recommendations to, and seek such directions from, the National Commission, as it may deem necessary.

Powers and functions of Nursing and Midwifery Assessment and Rating Board.

19. (*1*) The Nursing and Midwifery Assessment and Rating Board shall perform the following functions, namely:—

(*a*) the procedure for assessing and rating the nursing and midwifery institutions for their compliance with the standards laid down by the Nursing and Midwifery Undergraduate and Postgraduate Education Board, shall be such as may be specified by regulations;

(*b*) grant permission for establishment of a new nursing and midwifery institution, or to start any postgraduate level or higher qualification course, or to increase number of seats, in accordance with the provisions of section 21;

(*c*) conduct inspections of nursing and midwifery institution for assessing and rating such institutions in such manner as may be specified by regulations:

Provided that the Nursing and Midwifery Assessment and Rating Board may, if it deems necessary, hire and authorise any other inspection agency or accreditation body or persons for conducting inspections of nursing and midwifery institutions for assessing and rating such institutions:

Provided further that where inspection of nursing and midwifery institution is conducted by such inspection agency or accreditation body or persons authorised by the Nursing and Midwifery Assessment and Rating Board, it shall be obligatory on such institution to provide access to such agency or person:

Provided also that the Nursing and Midwifery Assessment and Rating Board may conduct evaluation and assessment of any nursing and midwifery institution at

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any time, either directly or through any other expert having integrity and experience of nursing and midwifery profession and without any prior notice and assess and evaluate the performance, standards and benchmarks of such nursing and midwifery institution;

(*d*) conduct, or where it deems necessary, empanel independent rating agencies to conduct, assess and rate all nursing and midwifery institutions, within such period of their opening, at such time, and in such manner as may be specified by regulations;

(*e*) make available on its website or in public domain the assessment and ratings of nursing and midwifery institutions at regular intervals in such manner as may be specified by regulations;

(*f*) take such measures, including issuing warning, imposition of monetary penalty, reducing intake or stoppage of admissions and recommending to the National Commission for withdrawal of recognition, against a nursing and midwifery institution for failure to maintain the minimum essential standards specified by the Nursing and Midwifery Undergraduate and Postgraduate Education Board, in such manner as may be specified by regulations:

Provided that the monetary penalty imposed shall not be less than one-tenth, and not more than five times, of the total amount charged, by whatever name called, by such institution for one full batch of students of undergraduate course or postgraduate course, as the case may be:

Provided further that the Nursing and Midwifery Assessment and Rating Board shall consult the Nursing and Midwifery Undergraduate and Postgraduate Education Board before recommending to the National Commission for withdrawal of recognition of a nursing and midwifery institution that fails to maintain the minimum essential standards specified by the Nursing and Midwifery Undergraduate and Postgraduate Education Board.

(*2*) The Nursing and Midwifery Assessment and Rating Board shall, in the discharge of its functions, make such recommendations to, and seek such directions from, the National Commission, as it may deem necessary.

Powers and functions of Nursing and Midwifery Ethics and Registration Board.

20. (*1*) The Nursing and Midwifery Ethics and Registration Board shall perform the following functions, namely:—

(*a*) maintain the National Register for all registered professionals in accordance with the provisions of section 25;

(*b*) approve or reject applications for registration of professionals governed under this Act;

(*c*) regulate professional conduct and promote nursing and midwifery ethics in such manner as may be specified by regulations:

Provided that the Nursing and Midwifery Ethics and Registration Board shall ensure compliance of the code of professional and ethical conduct through the State Commission in a case where such State Commission has been conferred power to take disciplinary action in respect of professional or ethical misconduct by nursing and midwifery professionals under this Act;

(*d*) develop mechanisms to have continuous interaction with State Commissions to effectively promote and regulate the conduct of nursing and midwifery professionals;

(*e*) exercise appellate jurisdiction with respect to the actions taken by a State Commission under section 24; and

(*f*) provide for mechanisms for receiving complaints and grievance redressal.

(*2*) The Nursing and Midwifery Ethics and Registration Board shall, in the discharge of its duties, make such recommendations to, and seek such directions from, the National Commission, as it may deem necessary.

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Permission for establishment of new nursing or midwifery institution.

21. (*1*) No person shall establish a new nursing and midwifery institution, or start any postgraduate course, or increase number of seats, without obtaining prior permission of the Nursing and Midwifery Assessment and Rating Board:

Provided that the Nursing and Midwifery Assessment and Rating Board shall consult the Nursing and Midwifery Undergraduate and Postgraduate Education Board before according or refusing to accord such permission.

(*2*) For the purposes of obtaining permission under sub-section (*1*), a person may submit a proposal to the Nursing and Midwifery Assessment and Rating Board in such form, containing such particulars, accompanied by such fee, and in such manner, as may be specified by regulations.

(*3*) The Nursing and Midwifery Assessment and Rating Board shall, having due regard to the criteria specified in section 22, consider the proposal received under sub-section (*2*) and either approve or disapprove such proposal within a period of six months from the date of such receipt:

Provided that before disapproving such proposal, an opportunity to rectify the defects, if any, shall be given to the person concerned.

(*4*) Where a proposal is approved under sub-section (*3*), such approval shall be deemed to be the permission under sub-section (*1*) to establish a new nursing and midwifery institution or start any postgraduate course or increase number of seats, as the case may be.

(*5*) Where a proposal is disapproved under sub-section (*3*), or where no decision is taken within six months of submitting a proposal under sub-section (*2*), the person concerned may prefer an appeal to the National Commission for approval of that proposal within fifteen days of such disapproval or, as the case may be, lapse of six months, in such manner as may be specified by regulations.

(*6*) The National Commission shall decide the appeal received under sub-section (*5*) within a period of forty-five days from the date of receipt of the appeal and in case the National Commission approves the proposal, such approval shall be the permission under sub-section (*1*) to establish a new nursing and midwifery institution or start any postgraduate course or increase number of seats, as the case may be, and in case the National Commission disapproves the proposal, or fails to give its decision within the specified period, the person concerned may prefer a second appeal to the Central Government within thirty days of communication of such disapproval or, as the case may be, after the lapse of specified period.

Explanation.—For the purposes of this section, the term "person" includes a University, trust or any other association of persons or body of individuals, but does not include the Central Government.

Criteria for approving or disapproving proposal.

22. The Nursing and Midwifery Assessment and Rating Board or, as the case may be, the National Commission, shall, while approving or disapproving a proposal under section 21, take into consideration the following criteria, namely:—

(*a*) adequacy of financial resources;

(*b*) whether adequate academic faculty and other necessary facilities have been provided to ensure proper functioning of nursing and midwifery institution or will be provided within the time-limit specified in the proposal;

(*c*) whether adequate hospital facilities have been provided or will be provided within the time-limit specified in the proposal; and

(*d*) such other factors as may be specified by regulations:

Provided that subject to the previous approval of the Central Government, the criteria may be relaxed for the nursing and midwifery institutions which are set up in such areas as may be specified by regulations.

CHAPTER IV

State Nursing and Midwifery Commissions

Constitution and composition of State Nursing and Midwifery Commission.

23. (*1*) Every State Government shall, within one year from the commencement of this Act, by notification, constitute a State Nursing and Midwifery Commission, where no such State Commission exists in that State by a State Law, for exercising such powers and discharging such duties as may be laid down under this Act.

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(*2*) The State Nursing and Midwifery Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the same name sue or be sued.

(*3*) The State Commission shall consist of the following Members, namely:—

(*a*) a person of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in nursing and midwifery from any University and having experience of not less than twenty years in the field of nursing and midwifery, out of which at least ten years shall be as a nursing and midwifery leader, to be nominated by the State Government—Chairperson;

(*b*) one Director or Additional Director or Joint Director representing nursing in the Health Department of the State Government—Member, *ex officio*:

Provided that if no such position exists in a State, the in-charge for nursing education and services may be appointed as such Member;

(*c*) two persons not below the rank of Dean or Head of the Department from any nursing or midwifery college or institute of the State Government—Members, *ex officio*;

(*d*) two persons of eminence, one from nursing and one from midwifery profession having such qualifications and experience as may be prescribed by the State Government, to be nominated by the State Government—Members;

(*e*) two persons of eminence, one from nursing and one from midwifery associates, to be nominated by the State Government having such qualifications and experience as may be prescribed by the State Government—Members;

(*f*) two persons, one from nursing and one from midwifery, representing charitable institutions engaged in education or services in connection with nursing and midwifery having such qualifications and experience as may be prescribed by the State Government, to be nominated by the State Government—Members.

(*4*) The Chairperson, and Members of the State Commission referred to in clauses (*a*), (*d*), (*e*) and (*f*) of sub-section (*3*), shall hold office for a term not exceeding four years, as the State Government may notify in this behalf, from the date on which they enter upon their office, and shall not be eligible for any extension or reappointment.

Functions of State Commission.

24. (*1*) The State Commission shall take all such steps as it may think fit for ensuring coordinated and integrated development of education and maintenance of the standards of delivery of services under this Act.

(*2*) The State Commission may, for the purposes of performing its functions,—

(*a*) enforce the professional conduct, code of ethics and etiquette to be observed by the nursing and midwifery professionals including associates in the State and take disciplinary action including the removal of name of a professional from the State Register;

(*b*) ensure standards of education, courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment, examination, training, research, continuing professional education as provided by the Autonomous Boards;

(*c*) maintain the State Registers for registered professionals;

(*d*) issue certification of specialisation or other forms of certification to those who practice the profession of nursing and midwifery;

(*e*) conduct common counselling for admission to nursing associate and midwifery associate courses regulated under this Act;

(*f*) provide for a skill based examination to ensure adequate competence of Nursing and Midwifery Associates before enrolment in the State Register;

(*g*) ensure compliance of all the directives issued by the National Commission;

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(*h*) meet with Principals of all colleges of nursing and schools of nursing in the State at least once in every quarter to identify and resolve issues; and

(*i*) perform such other functions as may be entrusted to it by the State Government or Union territory Administration or the National Commission or as may be necessary for implementation of the provisions of this Act.

(*3*) Where a State Act confers power upon the State Commission to take disciplinary action in respect of any professional or ethical misconduct by a registered professional, the State Commission shall act in such manner as may be specified by regulations and the guidelines framed under this Act:

Provided that till such time as a State Commission is constituted in a State, the Nursing and Midwifery Ethics and Registration Board shall receive the complaints and grievances relating to any professional or ethical misconduct against a registered professional in that State in accordance with such procedure as may be specified by regulations:

Provided further that the Nursing and Midwifery Ethics and Registration Board or the State Commission, as the case may be, shall give an opportunity of hearing to the registered professional concerned before taking any action, including imposition of any monetary penalty against such person.

(*4*) A registered professional or any person, who is aggrieved by any action taken by a State Commission under sub-section (*3*), may prefer an appeal to the Nursing and Midwifery Ethics and Registration Board within a period of sixty days against such action, and the Nursing and Midwifery Ethics and Registration Board shall decide on the appeal within a period of sixty days, and the decision of the Nursing and Midwifery Ethics and Registration Board thereupon shall be binding on the State Commission, unless a second appeal is preferred under sub-section (*5*).

(*5*) A registered professional or any person, who is aggrieved by the decision of the Nursing and Midwifery Ethics and Registration Board, may prefer a second appeal to the National Commission within a period of sixty days of receipt of communication of such decision and the National Commission shall dispose of such appeal within a period of ninety days from the date of that appeal.

Explanation.—For the purposes of this Act, the expressions—

(*a*) "professional or ethical misconduct" includes any act of commission or omission as may be specified by regulations; and

(*b*) "State" includes Union territory and the expressions "State Government" and "State Nursing and Midwifery Commission", in relation to a Union territory, shall respectively mean the "Central Government" and "Union Territory Nursing and Midwifery Commission".

CHAPTER V

REGISTRATION

National Register and State Register.

25. (*1*) The Nursing and Midwifery Ethics and Registration Board shall maintain an online and live Indian Nurses and Midwives' Register containing the name, address, all recognised qualifications possessed by a nursing professional, midwifery professional, nursing associate, midwifery associate and such other particulars as may be specified by regulations.

(*2*) The Nursing and Midwifery Ethics and Registration Board shall maintain the National Register in such form, including digital form, and in such manner, as may be specified by regulations.

(*3*) The manner in which a name or qualification may be added to, or removed from, the National Register and the grounds for adding thereto or removal thereof, shall be such as may be specified by regulations.

(*4*) The National Register shall be a public document within the meaning of section 74 of the Indian Evidence Act, 1872. 1 of 1872.

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(*5*) The Nursing and Midwifery Ethics and Registration Board shall make available the National Register to the public in the form of a digital portal accessible on the website of the Nursing and Midwifery Ethics and Registration Board in such manner and form as may be specified by regulations.

(*6*) Every State Commission shall maintain and regularly update, in digital form, the State Register for Nursing Professionals and Midwifery Professionals and the State Register for Nursing Associates and Midwifery Associates in the specified digital format and supply a physical copy of the same to the Nursing and Midwifery Ethics and Registration Board within three months of the commencement of this Act.

(*7*) The Nursing and Midwifery Ethics and Registration Board shall ensure dynamic and electronic synchronisation of the National Register and the State Registers in such a manner that any change in one register is automatically reflected in the other register.

Rights of persons to have licence to practice and to be enrolled in National Register or State Register for Nursing and Midwifery Professionals and their obligations thereto.

26. (*1*) Any person having a recognised nursing and midwifery qualification shall have his name and qualifications enrolled in the National Register or the State Register for Nursing and Midwifery Professionals, as the case may be, and shall be granted a licence to practice in such manner and following such procedures, as may be specified by regulations:

Provided that a person, who has been registered in the Nurses Register maintained under the Indian Nursing Council Act, 1947 prior to the coming into force of this Act, shall be deemed to have been registered under this Act and be enrolled in the National Register or the State Register for Nursing and Midwifery Professionals, as the case may be, maintained under this Act.

48 of 1947.

(*2*) A citizen of India, who has obtained a nursing and midwifery qualification recognised under section 29 or section 32 from a nursing and midwifery institution established in a country outside India, shall be entitled for registration under this Act in such manner as may be specified by regulations.

(*3*) When a person, whose name is entered in the National Register or any State Register, as the case may be, obtains any title, diploma or other qualification for proficiency in nursing sciences or public health nursing, which is a recognised nursing and midwifery qualification under section 28 or section 29, as the case may be, he shall be entitled to have such title, diploma or qualification entered against his name in the National Register or the same State Register, as the case may be, in such manner as may be specified by regulations.

(*4*) The registration and licence granted under this section shall be renewed in such manner as may be specified by regulations.

Bar to practice.

27. (*1*) No person, other than a person who is enrolled in the National Register or State Register, shall—

(*a*) be allowed to practice nursing or midwifery as a qualified nursing or midwifery professional or nursing or midwifery associate;

(*b*) be entitled to give evidence at any inquest or in any court of law as an expert under section 42 of the Indian Evidence Act, 1872 on any matter relating to nursing and midwifery:

1 of 1872.

Provided that a foreign citizen who is enrolled in his country as a nursing and midwifery professional in accordance with the law regulating the registration of nursing and midwifery professional in that country may be permitted temporary registration in India for such period and in such manner as may be specified by regulations.

(*2*) Any person who contravenes any of the provisions of this section shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both.

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CHAPTER VI

RECOGNITION OF NURSING AND MIDWIFERY QUALIFICATIONS

Recognition of nursing and Midwifery qualifications granted by Universities or nursing and midwifery institutions in India.

28. (*1*) Every nursing and midwifery qualification granted by any University or nursing and midwifery institution in India shall be listed and maintained by the Nursing and Midwifery Undergraduate and Postgraduate Education Board in such manner as may be specified by regulations, and such nursing and midwifery qualification shall be a recognised nursing and midwifery qualification for the purposes of this Act.

(*2*) Every University or nursing and midwifery institution in India which conducts any course for nursing or midwifery qualification, not included in the list maintained by the Nursing and Midwifery Undergraduate and Postgraduate Education Board may apply to that Board for granting recognition to such qualification.

(*3*) The Nursing and Midwifery Undergraduate and Postgraduate Education Board shall examine the application for grant of recognition to an undergraduate or postgraduate or speciality or clinical nurse speciality or nurse practitioner course in all specialities of nursing and midwifery qualification within a period of six months, in such manner as may be specified by regulations.

(*4*) Where the Nursing and Midwifery Undergraduate and Postgraduate Education Board decides to grant recognition to a nursing and midwifery qualification, it shall include such qualification in the list maintained by it and also specify the date of effect of such recognition.

(*5*) An institution or University aggrieved by the decision under sub-section (*3*) may, within sixty days from the communication of such decision, prefer an appeal to the National Commission and the National Commission shall, within a period of sixty days from the date of filing of such appeal, pass such orders as it thinks fit, after giving an opportunity of being heard.

(*6*) Where the National Commission decides not to grant recognition to the nursing and midwifery qualification or fails to take a decision within the specified period, the University or nursing and midwifery institution concerned may prefer a second appeal to the Central Government within a period of thirty days of the communication of such decision or after the lapse of specified period, as the case may be.

(*7*) All nursing and midwifery qualifications which have been recognised before the date of commencement of this Act and are included in the Part I and Part II of the Schedule to the Indian Nursing Council Act, 1947, shall also be recognised nursing and midwifery qualifications for the purposes of this Act, and shall be listed and maintained by the Nursing and Midwifery Undergraduate and Postgraduate Education Board in such manner as may be specified by regulations. 48 of 1947.

(*8*) If any authority within a State, being recognised by the State Government in consultation with the State Commission or any autonomous body, if any, for the purpose of granting any qualification, grants a qualification which is not recognised by the National Commission, then, such authority may apply to the National Commission to have such qualification recognised, and the National Commission may declare that such qualification, or such qualification only when granted after a specified date, shall be a recognised qualification for the purposes of this Act.

(*9*) Every State Government may, for the purposes of addressing or promoting public health nursing and midwifery practice in rural areas, take necessary measures to enhance the capacity of the nursing and midwifery professionals.

Recognition of nursing and midwifery qualifications granted by nursing and midwifery institutions outside India.

29. (*1*) Where an authority in any country outside India, which by the law of that country is entrusted with the recognition of nursing and midwifery qualifications in that country, makes an application to the National Commission for granting recognition to such nursing and midwifery qualification in India, the National Commission may, subject to such verification as it may deem necessary, either grant or refuse to grant recognition to that nursing and midwifery qualification:

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Provided that the National Commission shall give a reasonable opportunity of being heard to such authority before refusing to grant such recognition.

(*2*) The nursing and midwifery qualification, which is granted recognition by the National Commission under sub-section (*1*), shall be a recognised nursing and midwifery qualification for the purposes of this Act, and such qualification shall be listed and maintained by the National Commission in such manner as may be specified by regulations:

Provided that practice by a person possessing such qualification shall be permitted in such manner as may be specified by regulations.

(*3*) Where the National Commission refuses to grant recognition to the nursing and midwifery qualification under sub-section (*1*), the authority concerned may prefer an appeal to the Central Government against such decision within a period of thirty days of communication thereof and the Central Government shall dispose of the appeal within a period of ninety days from the date of such appeal.

(*4*) The mutual recognition of the qualifications for reciprocal registration of nursing and midwifery professionals between two countries shall be done in such manner as may be specified by regulations.

Recognition of nursing and midwifery qualifications granted by statutory or other body in India.

30. (*1*) The nursing and midwifery qualifications granted by any statutory or other recognised body in India before the commencement of this Act shall be recognised as nursing and midwifery qualifications in such manner as may be specified by the National Commission for the purposes of this Act.

(*2*) The Central Government may, on the recommendation of the National Commission, and having regard to the objects of this Act, by notification, add to, or, as the case may be, omit any category of nursing and midwifery qualifications granted by a statutory or other body in India and on such addition, or as the case may be, omission, the nursing and midwifery qualifications granted by such statutory or other body in India shall be, or shall cease to be, recognised nursing and midwifery qualifications for the purposes of this Act.

Withdrawal of recognition granted to nursing and midwifery qualification granted by nursing and midwifery institutions in India.

31. (*1*) Where, upon receiving the recommendations or report from the Nursing and Midwifery Assessment and Rating Board under section 19, or from a State Commission or a State Government or otherwise, if the National Commission is of the opinion that—

(*a*) the courses of study and examination to be undergone in, or the proficiency required from candidates at any examination held by, a University or nursing and midwifery institution do not conform to the standards specified by the Nursing and Midwifery Undergraduate and Postgraduate Education Board; or

(*b*) the standards and norms for infrastructure, faculty and quality of education in the nursing and midwifery institution, as determined by the Nursing and Midwifery Undergraduate and Postgraduate Education Board are not adhered to by any University or nursing and midwifery institution, and such University or nursing and midwifery institution has failed to take necessary corrective action to maintain specified minimum standards,

the National Commission may initiate action in accordance with the provisions of sub-section (*2*).

(*2*) The National Commission shall, after making such further inquiry as it deems fit, and after holding consultations with the concerned State Government and the authority of the concerned University or nursing and midwifery institution, comes to the conclusion that the recognition granted to a nursing and midwifery qualification ought to be withdrawn, it may, by order, withdraw recognition granted to such qualification and direct the Nursing and Midwifery Undergraduate and Postgraduate Education Board to amend the entries against the University or nursing and midwifery institution concerned in the list maintained by that Board to the effect that the recognition granted to such nursing and midwifery qualification is withdrawn with effect from the date specified in that order.

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Special provision in certain cases for recognition of nursing and midwifery qualifications.

32. Where the National Commission deems it necessary, it may, by an order published in the Official Gazette, direct that any nursing and midwifery qualification granted by a nursing and midwifery institution in a country outside India, after such date as may be specified in that order, shall be a recognised nursing and midwifery qualification for the purposes of this Act:

Provided that before providing the recognition, the equivalence in terms of curriculum, practical training and number of years of course may be examined in such manner as may be specified by regulations:

Provided further that practice by a person possessing such qualification shall be permitted in such manner as may be specified by regulations.

Derecognition of nursing and midwifery qualifications granted by nursing and midwifery institutions outside India.

33. Where, after verification with the authority in any country outside India, the National Commission is of the opinion that a recognised nursing and midwifery qualification which is included in the list maintained by it is to be derecognised, it may, by order, derecognise such nursing and midwifery qualification and remove it from the list maintained by the National Commission with effect from the date of such order.

CHAPTER VII

Nursing and Midwifery Advisory Council

Nursing and Midwifery Advisory Council.

34. (*1*) The Central Government shall constitute an advisory body to be known as the Nursing and Midwifery Advisory Council.

(*2*) The Nursing and Midwifery Advisory Council (hereafter in this Chapter referred to as the Advisory Council) shall consist of a Chairperson and the following Members, namely:—

(*a*) the Chairperson of the National Commission shall be the *ex officio* Chairperson of the Advisory Council;

(*b*) one officer not below the rank of Joint Secretary representing Ministry of Ayush—Member, *ex officio*;

(*c*) Presidents of the three Autonomous Boards—Members, *ex officio*;

(*d*) Secretary of the National Commission—Member, *ex officio*;

(*e*) one person to represent each State and each Union territory who shall be a Dean (Nursing) or Principal of a nursing and midwifery institution in that State or Union territory, as the case may be, or the representative of the State Nursing and Midwifery Commission, to be nominated by that State Government or by the Ministry of Home Affairs, Government of India in the case of Union territory—Member;

(*f*) the Chairman, University Grants Commission—Member, *ex officio*;

(*g*) the Director, National Assessment and Accreditation Council—Member, *ex officio*;

(*h*) one representative from Indian Council of Medical Research not below the rank of Additional Director General—Member, *ex officio*;

(*i*) three Directors, one each to represent the Indian Institute of Technology, the Indian Institute of Management and the Indian Institute of Science, to be nominated by the Central Government—Members, *ex officio*;

(*j*) Head of any three national level professional nursing and midwifery association, to be nominated by the Chairperson of the Advisory Council, so that there shall be adequate representation of major stakeholders—Members.

(*3*) The Members nominated under clauses (*e*) and (*j*) of sub-section (*2*) shall hold office for a term not exceeding four years, as the Central Government may notify in this behalf, from the date on which they enter upon their office.

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Functions of Nursing and Midwifery Advisory Council.

35. (*1*) The Advisory Council shall be the primary platform through which the States and Union territories may put forth their views and concerns before the National Commission and help in shaping the overall agenda, policy and action relating to nursing and midwifery education, services, training and research.

(*2*) The Advisory Council shall advise the National Commission on measures to determine and maintain, and to co-ordinate maintenance of, the minimum standards in all matters relating to nursing and midwifery education, services, training and research.

(*3*) The Advisory Council shall advise the National Commission on measures to enhance equitable access to nursing and midwifery education, services, training and research.

Meetings of Nursing and Midwifery Advisory Council.

36. (*1*) The Advisory Council shall meet at least once a year at such time and place as may be decided by its Chairperson.

(*2*) The Chairperson of the Advisory Council shall preside over the meeting of the Advisory Council and if for any reason the Chairperson is unable to attend a meeting of the Advisory Council, such other Member as may be nominated by the Chairperson shall preside over such meeting.

(*3*) Unless the procedure is otherwise provided by regulations, two-thirds of the Members of the Advisory Council including the Chairperson shall form the quorum and all acts of the Advisory Council shall be decided by a majority of the Members present and voting.

(*4*) The Members nominated under clauses (*e*) and (*j*) of sub-section (*2*) of section 34 shall hold office for a term not exceeding four years, as may be notified by the Central Government in this behalf.

CHAPTER VIII

GRANTS, AUDIT AND ACCOUNTS

Grants by Central Government.

37. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the National Commission grants of such sums of money as the Central Government may think fit.

National Nursing and Midwifery Commission Fund.

38. (*1*) There shall be constituted a fund to be called the National Nursing and Midwifery Commission Fund, which shall form part of the public account of India and there shall be credited thereto—

(*a*) all fees, penalties and charges received by the National Commission and the Autonomous Boards;

(*b*) all sums received by the National Commission from such other sources as may be decided by it.

(*2*) The Fund shall be applied for making payment towards—

(*a*) the salaries and allowances payable to the Chairperson, Secretary and Members of the National Commission, the Presidents and Members of the Autonomous Boards and the administrative expenses including the salaries and allowances payable to the officers and other employees of the National Commission and Autonomous Boards;

(*b*) the expenses incurred in carrying out the provisions of this Act, including in connection with the discharge of the functions of the National Commission and the Autonomous Boards.

Audit and accounts.

39. (*1*) The National Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed, in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the National Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure

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incurred in connection with such audit shall be payable by the National Commission to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Commission shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and in particular, shall have the right to demand the production of, and complete access to, records, books, accounts, connected vouchers and other documents and papers and to inspect the office of the National Commission.

(*4*) The accounts of the National Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually by the National Commission to the Central Government which shall cause the same to be laid, as soon as may be after it is received, before each House of Parliament.

Furnishing of returns and reports to Central Government.

40. (*1*) The National Commission shall furnish to the Central Government, at such time, in such form and in such manner, as may be prescribed or as the Central Government may direct, such reports and statements, containing such particulars in regard to any matter under the jurisdiction of the National Commission, as the Central Government may, from time to time, require.

(*2*) The National Commission shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government.

(*3*) A copy of the report received under sub-section (*2*) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER IX

MISCELLANEOUS

Power of Central Government to give directions to National Commission, Autonomous Boards and Nursing and Midwifery Advisory Council.

41. (*1*) Without prejudice to the provisions of this Act, the National Commission, the Autonomous Boards and the Nursing and Midwifery Advisory Council shall, in exercise of their powers and discharge of their functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to them from time to time:

Provided that the National Commission, the Autonomous Boards and the Advisory Council shall, as far as practicable, be given an opportunity to express their views before any direction is given under this sub-section.

(*2*) The decision of the Central Government whether a question is one of policy or not, shall be final.

Power of Central Government to give directions to State Governments.

42. The Central Government may give such directions, as it may deem necessary, to a State Government for carrying out all or any of the provisions of this Act and the State Government shall comply with such directions.

Power of National Commission to give directions to State Commissions.

43. The National Commission may give such directions, as it may deem necessary, to a State Commission for carrying out all or any of the provisions of this Act and the State Commission shall comply with such directions.

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Information to be furnished by National Commission and publication thereof.

44. (*1*) The National Commission shall furnish such reports, copies of its minutes, abstracts of its accounts, and other information to the Central Government as that Government may require.

(*2*) The Central Government may publish, in such manner as it may think fit, the reports, minutes, abstracts of accounts and other information furnished to it under sub-section (*1*).

Obligation of Universities and nursing and midwifery institutions.

45. Every University and nursing and midwifery institution governed under this Act shall maintain a website at all times and display on its website all such information as may be required by the National Commission or an Autonomous Board, as the case may be.

Completion of courses of studies in nursing and midwifery institutions.

46. (*1*) Notwithstanding anything contained in this Act, any student who was studying for a degree, diploma or certificate in any nursing and midwifery institution, immediately before the commencement of this Act, shall continue to so study and complete his course for such degree, diploma or certificate, and such institution shall continue to provide instructions and examination for such student in accordance with the syllabus and studies as existed before such commencement, and that student shall be deemed to have completed his course of study under this Act and shall be awarded degree, diploma or certificate under this Act.

(*2*) Notwithstanding anything contained in this Act, where recognition granted to a nursing institution has lapsed, whether by efflux of time or by its voluntary surrender or for any other reason, such nursing institution shall continue to maintain and provide the minimum standards required to be provided under this Act till such time as all candidates who are admitted in that nursing institution complete their study.

Chairperson, Members, officers of National Commission and of Autonomous Boards, to be public servants.

47. The Chairperson, Members, officers and other employees of the National Commission and State Commissions, and the President, Members and officers and other employees of the Autonomous Boards, shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

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Protection of action taken in good faith.

48. No suit, prosecution or other legal proceeding shall lie against the Government, the National Commission or any Autonomous Board or a State Commission or any committee thereof, or any officer or other employee of the Government or of the National Commission acting under this Act for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Cognizance of offences.

49. No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made in this behalf by an officer authorised by the National Commission or the Nursing and Midwifery Ethics and Registration Board or a State Commission, as the case may be.

Power of Central Government to supersede National Commission.

50. (*1*) If, at any time, the Central Government is of the opinion that—

(*a*) the National Commission is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(*b*) the National Commission has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act,

the Central Government may, by notification, supersede the National Commission for such period, not exceeding six months, as may be specified in such notification:

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable opportunity to the National Commission to show cause

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as to why it should not be superseded and shall consider the explanations and objections, if any, of the National Commission.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding the National Commission—

(*a*) all its Members shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the National Commission, shall, until the National Commission is re-constituted under sub-section (*3*), be exercised and discharged by such nursing and midwifery professionals as the Central Government may direct; and

(*c*) all property owned or controlled by the National Commission shall, until the National Commission is re-constituted under sub-section (*3*), vest in the Central Government.

(*3*) On the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government may—

(*a*) extend the period of supersession for such further term not exceeding six months, as it may consider necessary; or

(*b*) re-constitute the National Commission by fresh appointments and in such case the Members who vacated their offices under clause (*a*) of sub-section (*2*) shall not be deemed to be disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (*1*) or as extended under this sub-section, take action under clause (*b*) of this sub-section.

(*4*) The Central Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament at the earliest opportunity.

Power of Central Government to make rules.

51. (*1*) The Central Government may, subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the qualifications and experience required for a nursing and midwifery leader under clause (*q*) of section 2;

(*b*) the six zones referred to in clauses (*h*) and (*i*) and the manner of appointing Members of the National Commission under clauses (*g*), (*h*), (*i*), (*j*), (*k*) and (*l*), of section 4;

(*c*) the manner of nominating experts by the Central Government under clauses (*b*) and (*c*) of sub-section (*1*) of section 5;

(*d*) the salary and allowances payable to, and other terms and conditions of service of the Chairperson and Members under sub-section (*5*) of section 6;

(*e*) the form and manner of making declaration under sub-section (*7*) of section 6;

(*f*) the qualifications and experience to be possessed by the Secretary of the National Commission under sub-section (*2*) of section 8;

(*g*) the salaries and allowances payable to and other terms and conditions of service of the Secretary, officers and other employees of the National Commission under sub-section (*7*) of section 8;

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(*h*) the other functions of the National Commission under clause (*o*) of sub-section (*2*) of section 10;

(*i*) the manner of choosing Members under sub-section (*6*) of section 12;

(*j*) the manner of filling up of vacancies of each Autonomous Board under sub-section (*2*) of section 13;

(*k*) the salary and allowances payable to, and other terms and conditions of service of the President and Members of an Autonomous Board under sub-sections (*3*) and (*4*) of section 13;

(*l*) the form for preparing annual statement of accounts under sub-section (*1*) of section 39;

(*m*) the time within which, and the form and the manner in which, the reports and statements shall be furnished by the National Commission and the particulars with regard to any matter as may be required by the Central Government under sub-section (*1*) of section 40;

(*n*) the form and the time for preparing annual report under sub-section (*2*) of section 40;

(*o*) the amount of compensation for which the employees of the erstwhile Indian Nursing Council shall be entitled under the proviso to sub-section (*5*) of section 56; and

(*p*) any other matter in respect of which provision is to be made by rules for carrying out the purposes of this Act.

Power to make regulations.

52. (*1*) The National Commission may, subject to the condition of previous publication, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the functions to be discharged by the Secretary of the National Commission under sub-section (*5*) of section 8;

(*b*) the procedure in accordance with which experts, consultants and professionals may be engaged and the number of such experts, consultants and professionals under sub-section (*8*) of section 8;

(*c*) the procedure in accordance with which and the number of experts and domain specialists are to be invited from foreign countries for meetings of the Commission under sub-section (*9*) of section 8;

(*d*) the procedure to be followed at the meetings of National Commission, including the quorum at its meetings under sub-section (*3*) of section 9;

(*e*) steps to be taken for the coordinated and integrated development of education and maintenance of the standards of delivery of services, with periodic revision under sub-section (*1*) of section 10;

(*f*) the purposes of performing its functions by the National Commission under sub-section (*2*) of section 10;

(*g*) the manner of making available and the number of experts, consultants, professionals, officers and other employees appointed including the experts and domain specialists invited from foreign countries under section 8, to the Autonomous Boards under section 15;

(*h*) the manner of determining the minimum requirements and standards of nursing and midwifery education and examination at undergraduate level and postgraduate level under clause (*a*) of sub-section (*1*) of section 18;

(*i*) the manner of developing dynamic competency based curriculum at undergraduate level and postgraduate level under clause (*b*) of sub-section (*1*) of section 18;

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(*j*) prescribing qualifications at the undergraduate level and postgraduate level in nursing and midwifery and such other particulars under clause (*c*) of sub-section (*1*) of section 18;

(*k*) the standards for setting up of nursing and midwifery institutions for imparting undergraduate and postgraduate courses, having regard to the needs of the country and the global norms under clause (*d*) of sub-section (*1*) of section 18;

(*l*) the manner of determining the standards and norms for infrastructure, faculty and quality of education in nursing and midwifery institutions providing undergraduate and postgraduate nursing and midwifery education under clause (*e*) of sub-section (*1*) of section 18;

(*m*) the manner of regulating the standards and scope of practice of registered nursing and midwifery professionals, including nurse practitioners, nursing associates and midwifery associates who have obtained the nursing and midwifery qualification as provided by Nursing and Midwifery Undergraduate and Postgraduate Education Board under clause (*h*), and the manner of regulating the limited prescribing authority in consultation with the National Commission under clause (*i*), of sub-section (*1*) of section 18;

(*n*) the manner of determining the procedure for assessing and rating the nursing and midwifery institutions for their compliance with the standards laid down by the Nursing and Midwifery Undergraduate and Postgraduate Education Board under clause (*a*) of sub-section (*1*) of section 19;

(*o*) the manner of carrying out inspections of nursing and midwifery institution for assessing and rating such institutions under clause (*c*) of sub-section (*1*) of section 19;

(*p*) the time and manner of conducting, or where it deems necessary, empanelling independent rating agencies to conduct, assess and rate all nursing and midwifery institutions, within such period of their opening under clause (*d*) of sub-section (*1*) of section 19;

(*q*) the manner of making available on the website or in public domain the assessment and ratings of nursing and midwifery institutions at regular intervals, under clause (*e*) of sub-section (*1*) of section 19;

(*r*) the measures to be taken including the manner of issuing warning, imposition of monetary penalty, reducing intake or stoppage of admissions and recommending to the National Commission for withdrawal of recognition, against a nursing and midwifery institution for failure to maintain the minimum essential standards specified by the Nursing and Midwifery Undergraduate and Postgraduate Education Board under clause (*f*) of sub-section (*1*) of section 19;

(*s*) the manner of regulating professional conduct and promoting nursing and midwifery ethics under clause (*c*) of sub-section (*1*) of section 20;

(*t*) the form, particulars and fee for submitting a proposal to the Nursing and Midwifery Assessment and Rating Board for the purposes of obtaining permission under sub-section (*1*) of section 21, under sub-section (*2*) of the said section;

(*u*) the manner of preferring appeal to the National Commission under sub-section (*5*) of section 21;

(*v*) other factors to be taken into consideration by the Nursing and Midwifery Assessment and Rating Board or, as the case may be, the National Commission while approving or disapproving a proposal under section 22, and the nursing and midwifery institutions set up in such areas which are eligible for relaxation of the criteria under the said section;

(*w*) the manner of taking disciplinary actions by the State Commission in respect of any professional or ethical misconduct by a registered professional under sub-section (*3*) of section 24;

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(*x*) the manner of receiving the complaints and grievances relating to any professional or ethical misconduct against a registered professional in a State by the Nursing and Midwifery Ethics and Registration Board under the first proviso to sub-section (*3*) of section 24;

(*y*) the acts of commission or omission which would amount to professional or ethical misconduct under the *Explanation* to section 24;

(*z*) such other particulars to be specified in the online and live National Register maintained by the Nursing and Midwifery Ethics and Registration Board under sub-section (*1*) of section 25;

(*za*) the form and manner in which the National Register is to be maintained under sub-section (*2*) of section 25;

(*zb*) the manner in which a name or qualification may be added to, or removed from, the National Register and the grounds for adding thereto or removal thereof under sub-section (*3*) of section 25;

(*zc*) the form and manner in which the National Register shall be made available to the public by placing it on the website of the Nursing and Midwifery Ethics and Registration Board under sub-section (*5*) of section 25;

(*zd*) the manner of granting a registration as nursing and midwifery professional to a person who has obtained a recognised nursing and midwifery qualification and getting his name and qualifications enrolled in the National Register or the State Register for Nursing and Midwifery Professionals under sub-section (*1*) of section 26;

(*ze*) the manner of getting entered the title, diploma or qualification against his name in the National Register or the State Register under sub-section (*3*) of section 26;

(*zf*) the manner of renewal of registration under sub-section (*4*) of section 26;

(*zg*) the period and manner in which a foreign citizen may be permitted temporary registration in India under the proviso to sub-section (*1*) of section 27;

(*zh*) the manner of listing and maintaining nursing and midwifery qualification granted by any University or nursing and midwifery institution in India by the Nursing and Midwifery Undergraduate and Postgraduate Education Board under sub-section (*1*) of section 28;

(*zi*) the manner of listing and maintaining nursing and midwifery qualification granted by any University or nursing and midwifery institution in India by the Nursing and Midwifery Undergraduate and Postgraduate Education Board under sub-section (*2*) of section 28;

(*zj*) the manner of examining the application for grant of recognition to an undergraduate or postgraduate or speciality or clinical nurse speciality or nurse practitioner course in all specialities of nursing and midwifery qualification under sub-section (*3*) of section 28;

(*zk*) the manner of listing and maintaining all nursing and midwifery qualifications which have been recognised before the date of commencement of this Act and are included in the Part I and Part II of the Schedule to the Indian Nursing Council Act, 1947 under sub-section (*7*) of section 28;

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(*zl*) the manner of listing and maintaining the nursing and midwifery qualification, which is granted recognition by the National Commission and the manner of practice by a person possessing such qualification under sub-section (*2*) of section 29;

(*zm*) the manner of mutual recognition of the qualifications for reciprocal registration of nursing and midwifery professionals between two countries under sub-section (*4*) of section 29;

(*zn*) the manner of examining the equivalence in terms of curriculum, practical

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training and number of years of course under the first proviso to section 32;

(*zo*) the manner in which a person possessing necessary qualification shall be permitted to practice under the second proviso to section 32;

(*zp*) the procedure to be followed at the meetings of Nursing and Midwifery Advisory Council under sub-section (*3*) of section 36; and

(*zq*) any other matter in respect of which provision is to be made by regulations for carrying out the purposes of this Act.

Power of State Government to make rules.

53. (*1*) The State Government may, by notification, make rules for carrying out the provisions of section 23 and sub-section (*9*) of section 28.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the qualifications and experience to be possessed by members to be nominated in the State Nursing and Midwifery Commission under clauses (*d*), (*e*) and (*f*) of sub-section (*3*) of section 23.

(*3*) Every rule made under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

Laying of rules, regulations and notifications before Parliament.

54. Every rule and regulation made and every notification issued under this Act shall be laid, as soon as may be after it is made or issued, 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 expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or notification; both Houses agree that the rule or regulation or notification should not be made or issued, the rule or regulation or notification 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 be without prejudice to the validity of anything previously done under that rule or regulation or notification.

Power to remove difficulties.

55. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary, for removing the difficulty:

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.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

56. (*1*) With effect from such date as the Central Government may appoint in this behalf, the Indian Nursing Council Act, 1947 shall stand repealed and the Indian Nursing Council constituted under sub-section (*1*) of section 3 of the said Act shall stand dissolved. 48 of 1947.

(*2*) Notwithstanding the repeal of the Act referred to in sub-section (*1*), it shall not affect,—

(*a*) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(*c*) any penalty incurred in respect of any contravention under the Act so repealed; or

(*d*) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty may be imposed as if that Act had not been repealed.

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(*3*) On the dissolution of the Indian Nursing Council, the person appointed as the President and every other person appointed as the Member of the Indian Nursing Council shall vacate their respective offices and such President and other Members shall be entitled to claim compensation, fees and allowances for the premature termination of term of their office for a period not exceeding ninety days.

(*4*) Every officer who has been appointed on deputation basis in the Indian Nursing Council shall, on its dissolution, stand reverted to his parent cadre, Ministry or Department, as the case may be.

(*5*) The services of other employees who have been, before the dissolution of the Indian Nursing Council, employed on regular basis by the Indian Nursing Council, shall continue for no longer than one year after the enactment of this Act, as an interim arrangement and thereafter, further continuity or otherwise of their services shall be determined by the National Commission on the basis of their performance appraisal or evaluation:

Provided that such employees of the erstwhile Indian Nursing Council shall be entitled to compensation which shall not be less than three months' pay and allowances, as may be prescribed.

48 of 1947.

(*6*) Notwithstanding the repeal of the Indian Nursing Council Act, 1947, any order made, any licence to practice issued, any registration made, any permission to start a new nursing college or institution, or to start higher course of studies, or for increase in the admission capacity granted, or any recognition of nursing qualifications granted, under the said Act, which are in force as on the date of commencement of this Act, shall continue to be in force till the date of their expiry for all purposes, as if they had been issued or granted under the provisions of this Act or the rules or regulations made thereunder.

Transitory provisions.

57. (*1*) The National Commission shall be the successor in interest to the Indian Nursing Council including its subsidiaries or owned trusts and all the assets and liabilities of the Indian Nursing Council shall be deemed to have been transferred to the National Commission.

48 of 1947.

(*2*) Notwithstanding the repeal of the Indian Nursing Council Act, 1947, the educational standards, requirements and other provisions of the said Act and the rules and regulations made thereunder shall continue to be in force and operate till new standards or requirements are specified under this Act or the rules and regulations made thereunder:

Provided that anything done, or any action taken, as regards the educational standards and requirements under the enactment under repeal and the rules and regulations made thereunder, shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or by any action taken under this Act.

LOK SABHA

A

BILL

to provide for regulation and maintenance of standards of education and services by nursing and midwifery professionals, assessment of institutions, maintenance of a National Register and State Registers and creation of a system to improve access, research and development and adoption of latest scientific advancement and for matters connected therewith or incidental thereto.

(*As passed by Lok Sabha*)

MGIPMRND—184LS—28.07.2023.

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AS INTRODUCED IN LOK SABHA

Bill No. 102 of 2023

THE OFFSHORE AREAS MINERAL (DEVELOPMENT AND REGULATION) AMENDMENT BILL, 2023

A

BILL

to amend the Offshore Areas Mineral (*Development and Regulation*) *Act,* 2002.

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

Short title and commencement.

1. (*1*) This Act may be called the Offshore Areas Mineral (Development and Regulation) Amendment Act, 2023.

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

Amendment of section 4.

17 of 2003.

2. In the Offshore Areas Mineral (Development and Regulation) Act, 2002 (hereinafter referred to as the principal Act), in section 4,—

67 of 1957.

(*i*) in clause (*b*), after the words, brackets and figures "Mines and Minerals (Development and Regulation) Act, 1957", the words "and the rules made thereunder" shall be inserted;

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(*ii*) after clause (*c*), the following clauses shall be inserted, namely:—

'(*ca*) "composite licence" means the exploration licence-cum-production lease, which is a two stage operating right granted for the purpose of undertaking exploration operation followed by production operation;

(*cb*) "dispatch" means removal of minerals or mineral products from the area covered under the production lease and includes the consumption of minerals and mineral products within such area;';

(*iii*) in clause (*d*), for the words and figures "under section 12", the words "for the purpose of undertaking exploration operation" shall be substituted;

(iv) after clause (*e*), the following clause shall be inserted, namely:—

'(*ea*) "Government company" shall have the meaning assigned to it in clause (*45*) of section 2 of the Companies Act, 2013;'; 18 of 2013.

(*v*) in clause (*i*), for the words "the production lease", the words "a production lease" shall be substituted;

(*vi*) in clause (*j*), for the words "the exploration licence is granted", the words "a composite licence, or an exploration licence, is granted" shall be substituted;

(*vii*) in clause (*k*), for the words "an exploration licence or production lease", the words "a composite licence, or an exploration licence, or a production lease" shall be substituted;

(*viii*) in clause (*o*), for the words "an exploration licence, or a production lease", the words "a composite licence, or an exploration licence, or a production lease" shall be substituted;

(*ix*) after clause (*r*), the following clause shall be inserted, namely:—

'(*ra*) "production", with its grammatical variation and cognate expressions, means the winning of mineral within the area covered under a production lease for the purpose of processing or dispatch;';

(*x*) in clause (*t*), for the words and figures "under section 13", the words and figures "under section 8 or section 12 or section 13" shall be substituted;

(*xi*) in clause (*v*), the words and figures "under section 11" shall be omitted;

(*xii*) after clause (*v*), the following clause shall be inserted, namely:—

'(*va*) "standard block" means a block of the offshore area of one minute latitude by one minute longitude and includes the seabed and its subsoil and waters superjacent to the seabed within such block;';

(*xiii*) in clause (*w*), for the words "boat, sailing vessel or any other vessel of any description", the words "barge, boat, container, sailing vessel or stationary vessel or any other vessel of any description, submersible or otherwise and remotely operated or otherwise, used in any operation or any activity pursuant thereto" shall be substituted.

Amendment of section 5.

3. In section 5 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "exploration licence or production lease granted", the words "a composite licence, or an exploration licence, or a production lease, granted" shall be substituted;

(*ii*) in the proviso,—

(*A*) for the words "Atomic Minerals Directorate of Exploration and Research", the words "Atomic Minerals Directorate for Exploration and Research" shall be substituted;

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(*B*) for the words "Naval Hydrographic Office of the Indian Navy", the words "the National Hydrographic Office" shall be substituted;

(*C*) for the words "any other agency duly authorised in this behalf by the Central Government", the words "any other agency including a private entity, duly authorised in this behalf by the Central Government by notification in the Official Gazette, subject to such conditions as may be specified therein" shall be substituted;

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) Every permittee, licensee and lessee referred to in sub-section (*1*), and the Government organisation, agency or private entity referred to in the proviso thereof, shall—

(*a*) furnish to the administering authority and such other authority as may be prescribed, all exploration and operational data, reports, samples and other information in respect of or collected pursuant to an operation, in such manner and within such period, as may be prescribed; and

(*b*) all exploration and operational data, reports, samples and other information in respect of or collected pursuant to an operation, shall be held by such permittee, licensee, lessee, Government organisation, agency or private entity, as the case may be, in strict confidence and any dissemination, pursuant to a sale or otherwise, of such data, reports or other information, or sharing of its samples, shall be subject to such terms and conditions, as may be prescribed.";

(*c*) in sub-section (*4*),—

(*i*) for the words "granted or renewed", the words "granted, extended or acquired" shall be substituted;

(*ii*) for the words "exploration licence or production lease granted, renewed or acquired", the words "composite licence, exploration licence or production lease, granted, extended or acquired" shall be substituted.

Amendment of section 6.

4. In section 6 of the principal Act,—

1 of 1956. 18 of 2013.

(*i*) in clause (*a*), for the words and figures "section 3 of the Companies Act, 1956", the words, brackets and figures "clause (*20*) of section 2 of the Companies Act, 2013" shall be substituted;

(*ii*) for the proviso, the following provisos shall be substituted, namely:—

"Provided that no exploration licence, or composite licence, or production lease shall be granted for an area to any person other than the Government, a Government company or a corporation, in respect of any minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957, subject to such conditions and manner as may be prescribed, where the grade of such mineral in such area is equal to or greater than such threshold value as the Central Government may, by notification in the Official Gazette, specify:

67 of 1957.

Provided further that no production lease shall be granted in respect of any part of the offshore area, unless the existence of mineral resources in such offshore area has been adequately established in accordance with such parameters as may be prescribed.".

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Amendment of section 7.

5. In section 7 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "that it is expedient in the interest of", the words "that it is expedient in public interest, strategic interest of the country, in the interest of" shall be substituted;

(*ii*) after the words "conservation of mineral resources", the words "or for any other reason" shall be inserted;

(*b*) in sub-section (*2*), for the words "opportunity of being heard", the words "opportunity of being heard, except in cases where premature termination is being done on the grounds of strategic interest of the country" shall be substituted;

(*c*) in sub-section (*3*),—

(*i*) in the proviso, for the words "condone such non-commencement or discontinuation.", the words and figures "extend the period specified in section 14 by a further period not exceeding one year and such extension shall not be granted for more than once during the entire period of operating right:" shall be substituted;

(*ii*) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where the holder of operating right—

(*a*) fails to undertake operation; or

(*b*) having commenced the operation, discontinues such operation,

before the end of the extended period, such operating right shall also lapse from the date of execution of the lease or, as the case may be, discontinuance of the operation.";

(*d*) after sub-section (*3*), the following shall be inserted, namely:—

"(*4*) Where the holder of a production lease fails to undertake production and dispatch for a period of four years after the date of execution of the lease, or having commenced production and dispatch, discontinues the same for a period of two years, then such lease shall lapse on the expiry of the period of four years from the date of its execution or, as the case may be, two years from date of discontinuance of the production and dispatch:

Provided that the administering authority may, on an application made by the lessee, and after being satisfied that such non-commencement of production, or dispatch, or discontinuation thereof, was due to the reasons beyond the control of the lessee, may extend such period by a further period not exceeding one year, but such extension shall not be granted for more than once during the entire period of lease:

Provided further that where the lessee,—

(*a*) fails to undertake production or dispatch; or

(*b*) having commenced the production and dispatch, discontinues the same,

before the end of the extended period, such lease shall lapse from the date of its execution or, as the case may be, discontinuance of production or dispatch.".

Amendment of section 8.

6. In section 8 of the principal Act, after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*3*) Where the Central Government reserves any offshore area under sub-section (*1*), the administering authority may, subject to such terms and conditions as may be prescribed, grant a composite licence, or a production lease, in such area or any part thereof to the Government, or a Government company, or a corporation.

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(*4*) A composite licence or a production lease granted to the Government, or a Government company, or a corporation under sub-section (*3*) shall be subject to the same terms and conditions applicable to a licensee or a lessee, as the case may be, except the procedure specified for grant of a composite licence under section 12 or a production lease under section 13.

(*5*) Where a Government company, or corporation is desirous of carrying out the exploration operation or production operation in a joint venture with other persons, the joint venture partner shall be selected through a competitive process, and such Government company or corporation shall hold more than seventy-four per cent. of the paid up share capital in such joint venture.".

Amendment of section 9.

7. In section 9 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) after the words "any operating right, for", the words "such period as may be specified in the order, for" shall be inserted;

(*ii*) for the words "offshore mineral, or for national security", the words "offshore mineral, or for regulation of offshore areas, or for national security" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) after the words "purposes of the operating right", the words "for such period as may be specified in the order" shall be inserted;

(*ii*) for the words "from the date specified therein", the words "during the period of closure specified therein" shall be substituted.

Amendment of section 10.

8. In section 10 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for the brackets, figure and words "(*1*) Within six months", the words "Within six months" shall be substituted;

(*ii*) for the words "reconnaissance permit, exploration licence or production lease", the words "reconnaissance permit, or exploration licence, or composite licence, or production lease" shall be substituted;

(*b*) sub-sections (*2*) and (*3*) shall be omitted.

Omission of section 11.

9. Section 11 of the principal Act shall be omitted.

Substitution of new sections for sections 12 and 13.

10. For sections 12 and 13 of the principal Act, the following sections shall be substituted, namely:—

Grant of composite licence.

"12. (*1*) The administering authority may, in respect of an offshore area where the existence of mineral resources has not been adequately established for grant of a production lease as required by the second proviso to section 6, after inviting applications in this behalf, select any person for grant of a composite licence, who—

(*a*) fulfils the eligibility conditions as specified in this Act and such conditions as may be prescribed; and

(*b*) is selected through auction by method of competitive bidding, including e-auction, conducted on the basis of such terms and conditions, manner and bidding parameters, as may be prescribed.

(*2*) The Central Government shall grant the composite licence to the person selected in accordance with the procedure laid down in sub-section (*1*).

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(*3*) The licensee shall complete the exploration operations satisfactorily, as specified in the notice inviting applications, within a period of three years from the date of grant of the composite licence:

Provided that the administering authority may, on an application made by the licensee three months before the lapse of the said period, for reasons to be recorded in writing and subject to such conditions as may be prescribed, grant an extension for a period of two years to the licensee for satisfactory completion of the exploration operations:

Provided further that no further extension shall be granted upon expiry of the extended period, if any, granted under the first proviso.

(*4*) The area granted under a composite licence shall comprise of contiguous standard blocks, which in aggregate do not exceed an area of thirty minutes latitude by thirty minutes longitude.

(*5*) Every licensee shall, on being granted a composite licence, commence and carry out exploration operation subject to such terms, milestones and relinquishment requirements, as may be prescribed.

(*6*) A licensee, who has adequately established the existence of mineral resources in an offshore area held under the composite licence, or part thereof, as required by the second proviso to section 6, shall, within the period specified or extended under sub-section (*3*), subject to such terms and conditions, and on making an application to the administering authority in such form, as may be prescribed, be granted one or more production leases:

Provided that such licensee—

(*a*) is not in breach of the terms and conditions of his composite licence;

(*b*) continues to be eligible for grant of a production lease in accordance with section 6; and

(*c*) has applied for grant of production lease within six months of completion of his exploration operations:

Provided further that the total area of such production lease or production leases, granted in pursuance of a single composite licence, shall not exceed fifteen minutes latitude by fifteen minutes longitude.

(*7*) The administering authority shall, on receipt of an application under sub-section (*6*), and on being satisfied that the licensee meets the requirements under the provisions of this Act and the rules made thereunder, recommend to the Central Government for grant of production lease to such licensee.

(*8*) The Central Government shall, on receipt of a recommendation under sub-section (*7*) from the administering authority, grant production lease to the licensee in accordance with such procedure as may be prescribed.

(*9*) Every production lease granted in pursuance of a composite licence shall be for a period of fifty years.

(*10*) All rights and interests held under a composite licence in the parts of an offshore area, in respect of which no production lease is granted, shall cease to exist upon expiry of the composite licence.

(*11*) The provisions of this section shall not apply to—

(*a*) the areas covered under section 8; and

(*b*) the minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957, where the grade of atomic 67 of 1957.

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mineral is equal to or greater than such threshold value, as the Central Government may, by notification in the Official Gazette, specify.

Grant of production lease.

13. (*1*) The administering authority may, in respect of an offshore area where the existence of mineral resources has been adequately established for grant of production lease as required by the second proviso to section 6, after inviting applications in this behalf, select any person for grant of a production lease, who—

(*a*) fulfils the eligibility conditions as specified in this Act and such conditions as may be prescribed; and

(*b*) is selected through auction by method of competitive bidding, including e-auction, conducted on the basis of such terms and conditions, manner and bidding parameters, as may be prescribed.

(*2*) The Central Government shall grant the production lease to the applicant selected in accordance with the procedure laid down under sub-section (*1*).

(*3*) Every production lease under this section shall be granted for a period of fifty years.

(*4*) The area under a production lease shall comprise of contiguous standard blocks and shall not exceed an area of fifteen minutes latitude by fifteen minutes longitude.

(*5*) Upon grant of a production lease, the lessee shall commence and carry out production operation in such manner and subject to such terms and conditions, as may be prescribed.

(*6*) The provisions of this section shall not apply to—

(*a*) the areas covered under section 8; and

(*b*) the minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957, where the grade of atomic mineral is equal to or greater than such threshold value, as the Central Government may, by notification in the Official Gazette, specify.".

67 of 1957.

Insertion of new sections 13A, 13B and 13C.

11. After section 13 of the principal Act, the following sections shall be inserted, namely:—

Maximum area for which operating rights may be granted.

"13A. (*1*) Notwithstanding anything contained in section 12 or section 13, no person shall acquire in respect of any mineral or a group of associated minerals, as may be prescribed, one or more exploration licence, composite licence and production lease, all taken together and covering a total area of more than forty-five minutes latitude by forty-five minutes longitude:

Provided that if the Central Government is of the opinion that in the interest of the development of any mineral or industry, it is necessary so to do, it may, for the reasons to be recorded in writing, increase or decrease the said area limit in respect of any mineral or any specified category of deposits of such mineral or such group of associated minerals.

(*2*) For the purposes of this section, a person acquiring by, or in the name of, another person an operating right which is intended for himself, shall be deemed to be acquiring it himself.

(*3*) For the purposes of determining the total area referred to in sub-section (*1*), the area held under an operating right by a person as a member of a co-operative society, or a company, or a corporation, or a Hindu undivided family, or a partner of a firm, shall be deducted from the area referred to in sub-section (*1*) so that the sum total of the area held by such person, under an operating right, whether as such member or

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partner, or individually, may not, in any case, exceed the total area specified in sub-section (*1*).

Transfer of composite licence or production lease.

13B. (*1*) A composite licence or a production lease granted under section 8, or through competitive bidding under section 12 or section 13, may be transferred by the relevant licensee or lessee, as the case may be, in such manner and subject to such conditions, as may be prescribed, to any person eligible for grant of such licence or lease, under the provisions of this Act:

Provided that no such transfer of a composite licence or a production lease shall be made in contravention of any conditions, subject to which such licence or lease was granted.

Explanation.—For the purposes of this sub-section, it is clarified that transfer may include one or more production leases, granted pursuant to one composite licence.

(*2*) The provisions of this Act, the rules made thereunder and the terms and conditions of a composite licence or a production lease, shall be binding upon the person to whom such licence or lease, as the case may be, is transferred under sub-section (*1*).

Certain applications and exploration licence to become ineligible.

13C. (*1*) On and from the date of commencement of the Offshore Areas Mineral (Development and Regulation) Amendment Act, 2023, auction being the sole method of selection for grant of composite licence or production lease under sections 12 and 13,—

(*a*) all applications received prior to the said date of commencement for grant of composite licence or production lease shall become ineligible;

(*b*) any exploration licence granted prior to the said date of commencement shall become ineligible for grant of production lease over the offshore area covered by such exploration licence.

(*2*) The provisions of sub-section (*1*) shall be applicable notwithstanding anything contained in this Act, or any order or direction to the contrary, passed by any court or authority, prior to the commencement of the Offshore Areas Mineral (Development and Regulation) Amendment Act, 2023.".

Amendment of section 14.

12. In section 14 of the principal Act, after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) composite licence — one year;".

Amendment of section 16.

13. In section 16 of the principal Act, in sub-section (*1*), for the words "consumed by him from the area covered under the production", the words "consumed from the area covered under his production" shall be substituted.

Insertion of new section 16A.

14. After section 16 of the principal Act, the following section shall be inserted, namely:—

Establishment of Offshore Areas Mineral Trust.

"16A. (*1*) The Central Government shall, by notification in the Official Gazette, establish a Trust, as a non-profit autonomous body, to be called the Offshore Areas Mineral Trust.

(*2*) The object of the Offshore Areas Mineral Trust shall be to use the funds accrued to it for the following purposes, namely:—

(*a*) research, administration, studies and related expenditure with respect to offshore areas and mitigation of any adverse impact that may be caused to the ecology in the offshore area, due to operations undertaken; or

(*b*) providing relief upon the occurrence of any disaster in the offshore area; or

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(*c*) the purposes of exploration in the offshore area; or

(*d*) for the interest and benefit of persons affected by exploration or production operations undertaken; or

(*e*) such other purposes, as may be prescribed.

(*3*) The composition and functions of the Offshore Areas Mineral Trust shall be such as may be prescribed.

(*4*) The funds accrued to the Offshore Areas Mineral Trust shall be non-lapsable under the public account of India and be administered in such manner as may be prescribed.

(*5*) A lessee shall pay, in addition to the royalty, to the Offshore Areas Mineral Trust, an amount which is equivalent to such percentage of the royalty paid in terms of the First Schedule, not exceeding one-third of such royalty, in such manner as may be prescribed.

(*6*) The entities specified and notified under sub-section (*1*) of section 5 shall be eligible for funding under the Offshore Areas Mineral Trust, subject to such conditions as may be specified by the Central Government.".

Amendment of section 17.

15. In section 17 of the principal Act, for the words "consumed by him from the area", the words "consumed from the area" shall be substituted.

Substitution of new section for section 18.

16. For section 18 of the principal Act, the following section shall be substituted, namely:—

Contribution towards International Seabed Authority.

"18. Every lessee shall, in addition to other payments required under this Act, pay to the Central Government in advance, the amount to be paid to the International Seabed Authority in respect of the offshore area granted under his production lease falling in such part of the continental shelf extending beyond two hundred nautical miles, from the baseline from which the breadth of the territorial sea is measured, towards fulfilment of the obligation of the Government of India under Article 82 of the United Nations Convention on the Law of the Sea, 1982.".

Insertion of new section 19A.

17. After section 19 of the principal Act, the following section shall be inserted, namely:—

Duty of Central Government on mineral conservation and development.

"19A. The Central Government shall take necessary steps, as may be prescribed, for the conservation and systematic development of minerals in the offshore areas and for the protection of environment by preventing or controlling any pollution which may be caused by exploration or production operations.".

Amendment of section 23.

18. In section 23 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*a*) Whoever undertakes any reconnaissance operation, or exploration operation, or production operation in an offshore area without a reconnaissance permit, or a composite licence, or an exploration licence, or a production lease, as the case may be, shall be punishable with imprisonment for a term which may extend to five years, or with fine of five lakh rupees, which may extend to ten lakh rupees, or with both.

(*b*) Any permittee or licensee or lessee, who fails to furnish the required data, or information, or document under sub-section (*2*) of

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section 5 in the manner provided therein, shall be punishable with imprisonment which may extend to three years, or with fine of five lakh rupees, which may extend to ten lakh rupees, or with both.

Explanation.—For the purposes of clauses (*a*) and (*b*), the amount of fine provided shall be in respect of each standard block of such part of the offshore area where such reconnaissance operation, or exploration operation, or production operation is undertaken.";

(*ii*) in clause (*d*),—

(*A*) for the word "punished", the word "punishable" shall be substituted;

(*B*) for the words "with fine which may extend to fifty lakh rupees", the words "with fine of twenty-five lakh rupees, which may extend to fifty lakh rupees" shall be substituted;

(*b*) in sub-section (*2*), in the long line, for the words "punished with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees", the words "punishable with imprisonment which may extend to five years, or with fine of two lakh rupees, which may extend to five lakh rupees" shall be substituted;

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

"(*2A*) Whoever, having been convicted of an offence under sub-section (*1*) or sub-section (*2*), is again convicted of an offence under that sub-section, shall, in addition to the punishment provided therefor, be punishable with additional fine which may extend to one lakh rupees for each day during which he continues to commit that offence.";

(*d*) in sub-section (*3*),—

(*i*) the words "or the rules made thereunder" shall be omitted;

(*ii*) for the word "punished", the word "punishable" shall be substituted;

(*iii*) for the words "with fine which may extend to one crore rupees", the words "with fine of fifty lakh rupees, which may extend to one crore rupees" shall be substituted;

(*e*) after sub-section (*3*), the following shall be inserted, namely:—

"(*4*) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to five years or with fine of fifty lakh rupees, which may extend to one crore rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to five lakh rupees for every day during which such contravention continues after conviction for the first such contravention.".

Amendment of section 28.

19. In section 28 of the principal Act, in sub-section (*1*), in clause (*b*), for the words "one lakh rupees and which may extend to ten lakh rupees", the words "five lakh rupees and which may extend to fifty lakh rupees" shall be substituted.

Insertion of new sections 34A, 34B and 34C.

20. After section 34 of the principal Act, the following shall be inserted, namely:—

Power of revision by Central Government.

"34A. The Central Government may, of its own motion and for reasons to be recorded in writing, and in accordance with such terms as may be prescribed, revise any order made by the administering authority or any officer under this Act or the rules made thereunder.

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Power of Central Government to issue directions.

34B. Notwithstanding anything contained in this Act, the Central Government may give such directions to the administering authority, as it may deem necessary, in public interest, strategic interest of the country, conservation and development of mineral, or to carry out the provisions of this Act or the rules made thereunder.

Power of Central Government to call for information.

34C. The Central Government may, for the purposes of this Act, require —

(*a*) the administering authority; or

(*b*) a permittee or a licensee or a lessee; or

(*c*) any person whom it has reason to believe to be connected with any activity in respect of minerals in the offshore area,

to furnish such information as it may deem necessary for, or relevant to, any enquiry or proceeding, under this Act.".

Amendment of section 35.

21. In section 35 of the principal Act, in sub-section (*2*),—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) such other authority to whom, all exploration and operational data, reports, samples and other information in respect of or collected pursuant to an operation, is to be furnished by the lessee, licensee or permittee the manner and the period within which, they are to be furnished, under clause (*a*) of sub-section (*2*) of section 5;

(*ab*) the terms and conditions subject to which the data, reports, samples or information is to be disseminated pursuant to a sale or otherwise under clause (*b*) of sub-section (*2*) of section 5;";

(*ii*) for clause (*c*), the following clauses shall be substituted, namely:—

"(*c*) the conditions and manner for regulating the grant of mineral concessions in respect of minerals specified in Part B of the First Schedule to the 67 of 1957. Mines and Minerals (Development and Regulation) Act, 1957 under the first proviso to section 6;

(*ca*) the parameters for adequately establishing existence of mineral resources under the second proviso to section 6;";

(*iii*) clauses (*d*) to (*j*) shall be omitted;

(*iv*) after clause (*j*), the following clauses shall be inserted, namely:—

"(*ja*) the terms and conditions for grant of a composite licence or a production lease to a Government company or corporation under section 8;

(*jb*) the eligibility conditions to be fulfilled, the terms and conditions for conducting competitive bidding, the manner and bidding parameters for grant of a composite licence under sub-section (*1*) of section 12;

(*jc*) the conditions subject to which extension is to be granted to the licensee for completion of the exploration operations under the first proviso to sub-section (*3*) of section 12;

(*jd*) terms, milestone and relinquishment requirements for commencing and carrying out exploration operation under sub-section (*5*) of section 12;

(*je*) the form of application to be made to the administering authority for grant of production lease under sub-section (*6*) and the procedure therefor under sub-section (*8*) of section 12;

(*jf*) eligibility conditions to be fulfilled, the terms and conditions for conducting competitive bidding, the manner and bidding parameters for grant of a production lease under sub-section (*1*) of section 13;

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(*jg*) the terms and conditions subject to which the production operations shall be commenced and carried out under sub-section (*5*) of section 13;

(*jh*) the group of associated minerals to be specified under sub-section (*1*) of section 13A;

(*ji*) the manner and the conditions for transfer of a composite licence or a production lease under section 13B;

(*jj*) such other purposes for which the funds accrued to the Offshore Area Mineral Trust shall be used under sub-section (*2*) of section 16A;

(*jk*) the composition and functions of the Offshore Area Mineral Trust under sub-section (*3*) of section 16A;

(*jl*) the manner of administration of funds accrued to the Offshore Area Mineral Trust under sub-section (*4*) of section 16A;

(*jm*) the manner of payment of amounts to the Offshore Area Mineral Trust under sub-section (*5*) of section 16A;";

(*v*) after clause (*k*), the following clause shall be inserted, namely:—

"(*ka*) the steps necessary to be taken for conservation and systematic development of minerals in the offshore areas and for the protection of environment by preventing or controlling any pollution which may be caused by exploration or production operations under section 19A;";

(*vi*) after clause (*p*), the following clause shall be inserted, namely:—

"(*pa*) the measures to be taken for preventing illegal mining, transportation, and storage of minerals and for the purposes connected therewith;".

Omission of section 36.

22. Section 36 of the principal Act shall be omitted.

Amendment of Second Schedule.

23. In the Second Schedule to the principal Act, in the Table, for the entries in column (1) relating to size, the following shall be substituted, namely:—

Size

"Standard block of 1 minute longitude by 1 minute latitude.".

Removal of difficulties.

24. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the principal Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this sub-section after the expiry of a period of two years from the commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

The Offshore Areas Mineral (Development and Regulation) Act, 2002 (the Act) was enacted to provide for development and regulation of mineral resources in the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India and to provide for matters connected therewith or incidental thereto. The provisions of the Act came into force with effect from the 15th day of January, 2010.

2. India, despite having a unique maritime position with long coastline touching nine coastal States and four Union territories and two million square kilometres of exclusive economic zone, has not been able to tap its vast offshore mineral resources for its developmental needs. Previous efforts of allocation of offshore blocks did not bear desired results due to lack of legal framework for a fair and transparent mechanism to allocate the operating rights in the Act and stalemate caused due to pending litigations over the allocation of blocks.

3. In case of onshore mineral resources, auction was introduced as the method of allocation of mineral concession by amending the Mines and Minerals (Development and Regulation) Act, 1957, in 2015. Pursuant to the same, since 2015, hundreds of mineral blocks have been auctioned for grant of mining lease or composite licence under the Mines and Minerals (Development and Regulation) Act, 1957. The auction process has also generated additional source of revenue to the State Governments in terms of auction premium.

4. Similarly, there is an urgent need to introduce auction as the method of allocation of operating rights in the offshore areas to enable early allocation of operating rights through a transparent and non-discretionary process. Also, there is a need to adopt other features of the Mines and Minerals (Development and Regulation) Act, 1957, such as, establishment of trusts for mining affected persons and encouraging exploration, removing process of discretionary renewals and providing uniform lease period of fifty years, introduction of composite licence, providing for area limits, easy transfer of composite licence or production lease, etc.

5. Accordingly, it is proposed to introduce the Offshore Areas Mineral (Development and Regulation) Amendment Bill, 2023, in Parliament. The salient features of the said Bill, *inter alia*, are—

(*i*) to provide for grant of production lease to private sector only through auction by competitive bidding;

(*ii*) to provide for grant of operating rights without competitive bidding to a Government or a Government company or a corporation in the mineral bearing areas reserved by the Central Government;

(*iii*) to introduce composite licence, which is a two stage operating right granted for the purpose of undertaking exploration followed by production operation. Composite licence shall also be granted only through auction by competitive bidding to private sector;

(*iv*) to provide that in case of atomic minerals, grant of exploration licence or production lease shall be made only to a Government or a Government company or a corporation;

(*v*) to remove the provision for renewal of production lease and provide a fixed period of fifty years for production lease similar to the provisions of the Mines and Minerals (Development and Regulation) Act, 1957;

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(*vi*) to limit the area a person can acquire in respect of any mineral or a group of associated minerals, as may be specified by rules, under one or more operating rights all taken together;

(*vii*) to establish an Offshore Areas Mineral Trust to maintain a non-lapsable fund under the public account of India to ensure availability of funds for exploration, mitigation of adverse impact of offshore mining, disaster relief, research, work for interest and benefit of the persons affected by exploration or production operations, etc.;

(*viii*) to remove the impasse in the sector, auction has been introduced as the only method of selection for grant of composite licence or production lease under sections 12 and 13 of the Act, and all applications received prior to the date of commencement of the proposed legislation shall become ineligible. Similarly, any holder of exploration licence granted pursuant to application received prior to the coming into the force of the proposed legislation shall also become ineligible for grant of production lease;

(*ix*) to introduce timeline of four years (extendable by one year) for commencement of production and dispatch after the execution of production lease and timeline of two years (extendable by one year) for re-commencement of production and dispatch after discontinuation;

(*x*) to enable the Central Government to frame rules for the conservation and systematic development of minerals in offshore areas and for the protection of environment by preventing or controlling any pollution which may be caused by exploration or production operations;

(*xi*) to provide for transfer of composite licence or production lease to promote ease of doing business; and

(*xii*) to increase amount of fine for illegal mining and other offences.

6. The Bill seeks to achieve the above objectives.

NEW DELHI; PRALHAD JOSHI.

The 19*th July*, 2023.

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FINANCIAL MEMORANDUM

The Bill seeks to amend the Offshore Areas Mineral (Development and Regulation) Act, 2002 to enable exploration and mining of mineral resources in the offshore areas for the progress and development of the country. The Bill, if enacted, is not likely to involve any recurring or non-recurring expenditure. On the other hand, production of minerals from the blocks allocated in the offshore areas would result in accrual of revenue to the Central Government in terms of royalty, fixed rent and auction premium. Funds would also be generated from payments by the production lease holders to the Offshore Areas Mineral Trust for the purposes such as exploration, research and mitigation of adverse impact on ecology.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to establish, by notification in the Official Gazette, a Trust, as a non-profit autonomous body, to be called the Offshore Areas Mineral Trust.

2. Clause 21 of the Bill seeks to amend sub-section (*2*) of section 35 of the Offshore Areas Mineral (Development and Regulation) Act, 2002 to make rules to provide for—

(*i*) such other authority to whom, all exploration and operational data, reports, samples and other information in respect of or collected pursuant to an operation, is to be furnished by the lessee, licensee or permittee the manner and the period within which, they are to be furnished, under clause (*a*) of sub-section (*2*) of section 5; (*ii*) the terms and conditions subject to which the data, reports, samples or information is to be disseminated pursuant to a sale or otherwise under clause (*b*) of sub-section (*2*) of section 5; (*iii*) the conditions and manner for regulating the grant of mineral concessions in respect of minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957 under the first proviso to section 6; (*iv*) the parameters for adequately establishing existence of mineral resources under the second proviso to section 6; (*v*) the terms and conditions for grant of a composite licence or a production lease to a Government company or corporation under section 8; (*vi*) the eligibility conditions to be fulfilled, the terms and conditions for conducting competitive bidding, the manner and bidding parameters for grant of a composite licence under sub-section (*1*) of section 12; (*vii*) the conditions subject to which extension is to be granted to the licensee for completion of the exploration operations under the first proviso to sub-section (*3*) of section 12; (*viii*) terms, milestone and relinquishment requirements for commencing and carrying out exploration operation under sub-section (*5*) of section 12; (*ix*) the form of application to be made to the administering authority for grant of production lease under sub-section (*6*) and the procedure therefor under sub-section (*8*), of section 12; (*x*) eligibility conditions to be fulfilled, the terms and conditions for conducting competitive bidding, the manner and bidding parameters for grant of a production lease under sub-section (*1*) of section 13; (*xi*) the terms and conditions subject to which the production operations shall be commenced and carried out under sub-section (*5*) of section 13; (*xii*) the group of associated minerals to be specified under sub-section (*1*) of section 13A; (*xiii*) the manner and the conditions for transfer of a composite licence or a production lease under section 13B; (*xiv*) such other purposes for which the funds accrued to the Offshore Area Mineral Trust shall be used under sub-section (*2*) of section 16A; (*xv*) the composition and functions of the Offshore Area Mineral Trust under sub-section (*3*) of section 16A; (*xvi*) the manner of administration of funds accrued to the Offshore Area Mineral Trust under sub-section (*4*) of section 16A; (*xvii*) the manner of payment of amounts to the Offshore Area Mineral Trust under sub-section (*5*) of section 16A; (*xviii*) the steps necessary to be taken for conservation and systematic development of minerals in the offshore areas and for the protection of environment by preventing or controlling any pollution which may be caused by exploration or production operations under section 19A; and (*xix*) the measures to be taken for preventing illegal mining, transportation, and storage of minerals and for the purposes connected therewith.

3. The matters in respect of which rules may be made and notifications issued are matters of procedure and administrative detail and it is not practicable to provide for them in the proposed legislation itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE OFFSHORE AREAS MINERAL (DEVELOPMENT AND REGULATION) ACT 2002

(17 OF 2003)

* * * * *

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

* * * * *

(*b*) "atomic minerals" means the minerals included in atomic minerals specified in Part B of the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957; 67 of 1957.

* * * * *

(*d*) "exploration licence" means a licence granted under section 12;

* * * * *

(*i*) "lessee" means the person in whose name the production lease is granted;

(*j*) "licensee" means the person in whose name the exploration licence is granted;

(*k*) "mine" means any place in the offshore area wherein any exploration or production operation is carried on, together with any vessel, erection, appliance, artificial island or platform and premises in the offshore area used for the purposes of exploration, winning, treating or preparing minerals, obtaining or extracting any mineral or metal by any mode or method, and includes any area covered by an exploration licence or production lease where exploration or production operation has been, or is being, or may be, carried on under the provisions of this Act;

* * * * *

(*o*) "operating right" means the right of holder of a reconnaissance permit, or an exploration licence, or a production lease;

* * * * *

(*t*) "production lease" means a lease granted under section 13 which confers an exclusive right for the purpose of undertaking production operation;

* * * * *

(*v*) "reconnaissance permit" means a permit granted under section 11 for the purpose of undertaking reconnaissance operation;

(*w*) "vessel" includes any ship, boat, sailing vessel or any other vessel of any description.

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CHAPTER II

General provisions for acquisition of operating rights in the offshore areas

Reconnaissance, exploration or production to be under permit, licence or lease.

5. (*1*) No person shall undertake any reconnaissance operation, exploration operation or production operation in the offshore areas, except under and in accordance with the prescribed terms and conditions of a reconnaissance permit, exploration licence or production lease granted under this Act and the rules made thereunder:

Provided that nothing in this sub-section shall apply to any reconnaissance operation or exploration operation undertaken by the Geological Survey of India, Atomic Minerals Directorate of Exploration and Research, the Chief Hydrographer to the Government of India of Naval Hydrographic Office of the Indian Navy, the National Institute of Oceanography, the National Institute of Ocean Technology of Department of Ocean Development of the Government of India, or any other agency duly authorised in this behalf by the Central Government.

(*2*) A permittee or licensee or lessee shall furnish—

(*a*) all data, as the case may be, relating to reconnaissance operation or mineral exploration or mining such as bathymetry, geomorphology, mineral distribution, anomaly maps, sections, core logs, location maps, plans, structures, contour maps, chemical analysis, data on current tides, waves, wind, other geophysical and geotechnical data and any other data collected during exploration operation or mining operation, to the Director-General, Geological Survey of India, Kolkata and the Controller General, Indian Bureau of Mines, Nagpur;

(*b*) all information pertaining to atomic minerals collected, as the case may be, during reconnaissance operation or exploration operation or mining operation, to the Secretary to the Government of India dealing with the Atomic Energy, Director-General, Geological Survey of India, Kolkata and the Controller General, Indian Bureau of Mines, Nagpur;

* * * * *

(*4*) No operating right shall be granted or renewed otherwise than in accordance with the provisions of this Act and the rules made thereunder and any reconnaissance permit, exploration licence or production lease granted, renewed or acquired in contravention of the provisions of this Act or any rules made thereunder, shall be void.

Grant of operating right.

6. The Central Government shall not grant an operating right to any person unless such person—

(*a*) is an Indian national, or a company as defined in section 3 of the Companies Act, 1956; and 1 of 1956.

(*b*) satisfies such conditions as may be prescribed:

Provided that no production lease for atomic minerals or prescribed substances may be granted without consultation with the Department of the Government of India dealing with the Atomic Energy.

Termination of operating right.

7. (*1*) Where the Central Government, after consultation with the administering authority, is of the opinion that it is expedient in the interest of development and regulation of offshore mineral resources, preservation of natural environment and prevention of pollution, avoidance of danger to public health or communication, ensuring safety of any offshore structure or conservation of mineral resources, the Central Government may prematurely terminate any operating right in respect of any mineral in any offshore area or part thereof.

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(*2*) No order for premature termination of operating right under sub-section (*1*) shall be made except after giving the holder of operating right a reasonable opportunity of being heard.

(*3*) Where the holder of any operating right fails to commence operation within the period specified in section 14 or discontinues the operation for a period of two years, the operating right shall lapse from the date of execution of the lease or, as the case may be, discontinuance of the operation:

Provided that the administering authority, on an application made by the holder of operating right and after being satisfied that such non-commencement of operation or discontinuation thereof, is due to the reasons beyond the control of the holder of operating right, may condone such non-commencement or discontinuation.

* * * * *

8. (*1*) * * * * * Reservation of areas.

(*2*) The Central Government may, from time to time, by notification in the Official Gazette, dereserve, any area reserved under sub-section (*1*), in the interest of development and regulation of the offshore mineral.

9. (*1*) The Central Government may, in the public interest, by order in writing and communicated to the permittee, licensee or lessee, as the case may be, close any area either in part or whole, covered under any operating right, for the preservation of natural environment and prevention of pollution, or to avoid danger to public health, or communication, or to ensure safety of any offshore structure or platform, or for the conservation of offshore mineral, or for national security or for any other strategic consideration. Power to close areas.

(*2*) Any area, either in part or whole closed under sub-section (*1*) and included in any operating right, shall, from the date of such order, be deemed to be excluded for the purposes of the operating right and the holder of the operating right shall not undertake any operation in the area covered under such order from the date specified therein.

10. (*1*) Within six months from the date of commencement of this Act, and subsequently at such times as may be considered necessary in this behalf by the administering authority, it shall, by notification in the Official Gazette, declare the parts of the offshore areas which shall be available for grant of reconnaissance permit, exploration licence or production lease. Availability of areas for grant of permit, licence or lease.

(*2*) Any application for the grant of reconnaissance permit, exploration licence or production lease in respect of any area not covered by a notification issued under sub-section (*1*) shall be deemed to be premature and no application shall be entertained therefor.

(*3*) Operating rights shall be granted in standard block of five minutes longitude by five minutes latitude and such grant may cover more than one standard block which shall be contiguous.

11. (*1*) The administering authority may grant a non-exclusive reconnaissance permit to any person eligible under section 6 for grant of operating right. Grant of reconnaissance permit.

(*2*) The period for which a reconnaissance permit may be granted under sub-section (*1*) shall be for a period specified in such permit which shall not exceed two years.

(*3*) A reconnaissance permit granted under sub-section (*1*) may be renewed for a period not exceeding two years if, after a review of the progress made during the period of such grant, the administering authority is satisfied that a further period is necessary to complete the reconnaissance operation.

(*4*) The area that may be granted under one reconnaissance permit shall not exceed a block of two degree latitude by two degree longitude.

(*5*) The administering authority may grant reconnaissance permits to more than one person in respect of the same area for the same mineral deposits in the interest of offshore mineral development.

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Grant of exploration licence.

12. (*1*) The administering authority may grant an exploration licence to any person who—

(*a*) is eligible under section 6 for grant of operating right;

(*b*) produces, to the satisfaction of the administering authority, evidence that such person possesses the requisite technical ability and financial resources to undertake exploration operation based on such scientific parameters, as may be prescribed;

(*c*) submits a work programme for the area applied for, prepared in such manner and supported by such data as may be prescribed, setting forth the activities proposed to be carried out during the period of the exploration licence including the intended exploration schedule and methods to be used, an estimated schedule of expenditure, measures to prevent pollution and protect the environment and to monitor the effectiveness of environmental safeguards subject to the modifications which the administering authority may make in such work programme;

(*d*) undertakes not to deviate from the work programme for exploration licence approved by the administering authority; and

(*e*) has fulfilled, to the satisfaction of administering authority, all his statutory obligations under any operating right previously—

(*i*) granted; or

(*ii*) transferred in the prescribed manner,

to him.

(*2*) The administering authority may, if there is any reasonable cause to believe that any person, to whom an exploration licence has been granted, has violated any undertaking given under clause (*d*) of sub-section (*1*), terminate the exploration licence.

(*3*) All applications for the grant of exploration licence received within the prescribed time and which satisfy the conditions specified in sub-section (*1*) shall be considered together and while making a selection for the grant of exploration licence, the administering authority shall follow the procedure given below, namely:—

(*a*) where only one application is received in respect of an area, the administering authority may grant the exploration licence to the applicant;

(*b*) where two or more applications are received in respect of the same area or substantially the same area, the order of preference shall be as follows, namely:—

(*I*) preference shall be given to an applicant who requires the mineral for use in an industry either already owned by the applicant or who has taken sufficient steps to set-up such industry:

Provided that where there are more than one application of such category, the administering authority may grant licence based on a comparative evaluation of the—

(*i*) nature, quality and experience of the technical personnel employed by the applicant;

(*ii*) financial resources of the applicant;

(*iii*) nature and quantum of the exploration work proposed by the applicant; and

(*iv*) nature, quality and quantum of data submitted along with the programme of exploration;

(*II*) in case of other applicants, not covered under sub-clause (*I*), the administering authority may grant licence based on a comparative evaluation of matters stated in items (*i*) to (*iv*) of the proviso to sub-clause (*I*).

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(*4*) The period for which an exploration licence may be granted shall not exceed three years.

(*5*) An exploration licence granted under sub-section (*1*) may be renewed for a period not exceeding two years if, after a review, the administering authority is satisfied that the licensee has been conducting the exploration operation in accordance with the work programme approved by the administering authority regarding such licence and longer period of renewal of the licence is considered necessary to enable the licensee to complete exploration.

(*6*) The area that may be granted under exploration licence shall not exceed a block of thirty minutes latitude by thirty minutes longitude:

Provided that if the administering authority is of the opinion that in the interest of the development of any mineral, it is necessary so to do, it may, for reasons to be recorded in writing, permit any person to acquire an area in excess of the area specified in this sub-section.

Grant of production lease.

13. (*1*) The administering authority shall grant a production lease to any person who—

(*a*) is eligible under section 6 for grant of operating right;

(*b*) produces, to the satisfaction of the administering authority, evidence that such person possesses the requisite technical ability and financial resources to undertake production operation based on such scientific parameters as may be prescribed;

(*c*) submits a work programme for the systematic development of the mineral deposits of the area applied for, prepared in such manner and supported by such data as may be prescribed and obtained through exploration operation, setting forth the activities proposed to be carried out during the period of the lease including the resources assessment of the area, the intended schedule of commercial production, methods and technologies to be used for commercial production and processing, measures to be taken to protect the environment and to monitor the effectiveness of environmental safeguards;

(*d*) undertakes not to deviate from work programme for production lease approved by the administering authority; and

(*e*) has fulfilled, to the satisfaction of the administering authority, all the statutory obligations under any operating right previously—

(*I*) granted; or

(*II*) transferred in the prescribed manner,

to him:

Provided that a licensee shall have the exclusive right to a production lease over such part of the offshore area covered by his exploration licence as he may desire subject to the condition that the administering authority is satisfied that the licensee—

(*i*) has undertaken exploration operation to establish mineral resources in such offshore area;

(*ii*) has not committed any breach of the terms and conditions of the exploration licence; and

(*iii*) has not become ineligible under the provisions of this Act.

(*2*) The administering authority may, if there is any reasonable cause to believe that any person, to whom a production lease has been granted, has violated any undertaking given under clause (*d*) of sub-section (*1*), terminate the production lease.

(*3*) The period for which a production lease may be granted shall not exceed thirty years.

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(*4*) A production lease granted under sub-section (*1*) may be renewed for a period not exceeding twenty years, if, after a review, the administering authority is satisfied that the lessee has been conducting the production operation in accordance with the work programme approved by the administering authority regarding such lease.

(*5*) The area under a production lease shall not exceed a block of fifteen minutes latitude by fifteen minutes longitude:

Provided that if the administering authority is of the opinion that in the interest of the development of any mineral, it is necessary so to do, it may, for reasons to be recorded in writing, permit any person to acquire an area in excess of the area specified in this sub-section.

* * * * *

Period of commencement of operating rights.

14. A holder of operating right shall commence operation within the period specified below after the grant of the operating right and shall thereafter conduct such operation in proper, skilful and workman-like manner, as follows:—

(*a*) reconnaissance permit-six months;

* * * * *

Royalty.

16. (*1*) A lessee shall pay royalty to the Central Government in respect of any mineral removed or consumed by him from the area covered under the production lease, at the rate for the time being specified in the First Schedule in respect of that mineral.

* * * * *

Fixed rent.

17. (*1*) A lessee shall pay to the Central Government, every year, fixed rent in respect of the area covered under the production lease, at the rate for the time being specified in the Second Schedule:

Provided that where the lessee becomes liable under section 16 to pay royalty for any mineral removed or consumed by him from the area covered under such lease, he shall be liable to pay either such royalty or the fixed rent in respect of that area, whichever is greater.

* * * * *

Contribution towards International Seabed Authority.

18. Every lessee, whose production operation extends beyond two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured, shall pay in advance, in addition to other payments required under this Act, to the Central Government, the amount to be paid to the International Seabed Authority towards fulfilment of obligation of the Central Government under Article 82 of the United Nations Convention on Law of the Sea, 1982.

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CHAPTER IV

OFFENCES

Offences.

23. (*1*) (*a*) Whoever undertakes any reconnaissance operation, exploration operation or production operation in offshore area without any permit, licence or lease, as the case may be, granted under this Act shall be punished with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both.

(*b*) A permittee, licensee or lessee who does not furnish any data, information or document under sub-section (*2*) of section 5, in the manner provided therein, shall be punished with imprisonment which may extend to three years, or with fine which may extend to twenty-five thousand rupees, or with both.

* * * * *

(*d*) Whoever ships, transports, offers for sale, sells, purchases, imports, exports, or has custody, control or possession of, any mineral recovered, processed or retained in violation of this Act or any rule made thereunder shall be punished with imprisonment which may extend to three years, or with fine which may extend to three years, or with fine which may extend to fifty lakh rupees, or with both.

* * * * *

(*2*) Whoever—

(*a*) intentionally obstructs any authorised officer referred to in section 22 in the exercise of any powers conferred under this Act; or

(*b*) fails to afford reasonable facilities to the authorised officer referred to in section 22 or his assistant to board the vessel or enter the mine or to provide for adequate security to such officer or assistant at the time of entry into the vessel or mine or when they are on board such vessel or mine; or

(*c*) fails to stop the vessel or mine or to produce the licence, permit, log book or any other document, as the case may be, on board such vessel, or mine, when required to do so by the authorised officer referred to in section 22; or

(*d*) interferes with, delays, or prevents, by any means, the lawful apprehension of any person under this Act, shall be punished with imprisonment for a term which may extend to five years, or with fine which may extend to fifty thousand rupees, or with both.

(*3*) Whoever contravenes any other provision of this Act or rules made thereunder, other than those specified in sub-sections (*1*) and (*2*) shall be punished with imprisonment for a term which may extend to five years, or with fine which may extend to one crore rupees, or with both, and in the case of continuing contravention, with an additional fine which may extend to five lakh rupees for every day during which such contravention continues.

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CHAPTER V

CIVIL LIABILITY AND ADJUDICATION

Civil liability and adjudication.

28. (*1*) A person to whom a permit, licence or lease is granted under this Act,—

* * * * *

(*b*) contravenes any particular terms and conditions applicable only in case of such permittee, licensee or lessee as the case may be, shall also be liable, apart from the liability under clause (*a*), to pay additional amount to the Central Government which shall not be less than one lakh rupees and which may extend to ten lakh rupees.

* * * * *

Power to make rules.

35. (*1*) * * * * *

(*2*) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the terms and conditions of a reconnaissance permit, exploration licence or production lease under sub-section (*1*) of section 5;

* * * * *

(*c*) substances to be prescribed under proviso to section 6;

(*d*) the requisite technical ability and financial resources to undertake exploration operation on scientific parameters under clause (*b*) of sub-section (*1*) of section 12;

(*e*) the manner in which a work programme shall be prepared and the data by which the work programme shall be supported under clause (*c*) of sub-section (*1*) of section 12;

(*f*) the manner of transfer referred to in sub-clause (*ii*) of clause (*e*) of sub-section (*1*) of section 12;

(*g*) the time within which the applications under sub-section (*3*) of section 12 are to be received;

(*h*) the requisite technical ability and financial resources to undertake production operation on scientific parameters under clause (*b*) of sub-section (*1*) of section 13;

(*i*) the manner in which a work programme shall be prepared and the data by which the work programme shall be supported under clause (*c*) of sub-section (*1*) of section 13;

(*j*) the manner of transfer referred to in sub-clause (*II*) of clause (*e*) of sub-section (*1*) of section 13;

(*k*) norms for regulating the safety and health of persons and safety of property engaged in operations authorised under this Act, the implementation thereof and matters connected therewith under sub-section (*2*) of section 19;

* * * * *

(*p*) the period within which appeal shall be preferred under, and the further period which may be permitted under the proviso to, sub-section (*2*) of section 34;

* * * * *

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

Relaxation in specific cases.

36. Notwithstanding anything to the contrary contained in this Act or any rule made thereunder, the Central Government may, if it is of the opinion that in the interests of the offshore mineral development, it is necessary so to do, by order and for reasons to be recorded in writing, authorise in any specific case the grant, renewal or transfer of any operating right to any person on such terms and conditions as it may specify in this behalf in such order.

* * * * *

THE SECOND SCHEDULE

[*See* section 17(*1*)]

RATES OF FIXED RENT

Rates of fixed rent in rupees per standard block per annum

Size	1st Year of the lease	2nd to 5th year of the lease	6th to 10th year of the lease	11th year of the lease and onwards
Standard block of 5 minutes longitude by 5 minutes latitude.	Nil	Rupees 50,000	Rupees 1,00,000	Rupees 2,00,000

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LOK SABHA

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A

BILL

to amend the Offshore Areas Mineral (Development and Regulation) Act, 2002.

———

(*Shri Pralhad Joshi, Minister of Coal and Mines*)

MGIPMRND—159LS(S3)—21-07-2023.

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AS INTRODUCED IN LOK SABHA

Bill No. 114 of 2023

THE PHARMACY (AMENDMENT) BILL, 2023

A

BILL

further to amend the Pharmacy Act, 1948.

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

Short title.

1. This Act may be called the Pharmacy (Amendment) Act, 2023.

Insertion of new section 32C.

8 of 1948.

2. After section 32B of the Pharmacy Act, 1948, the following section shall be inserted, namely:—

Special provision relating to persons registered or qualified under Jammu and Kashmir Pharmacy Act, 2011.

"32C. Notwithstanding anything contained in section 32, any person whose name has been entered in the register of pharmacists maintained under the Jammu and Kashmir Pharmacy Act, 2011or possesses qualification (medical assistant/pharmacists) prescribed under the said Act shall be deemed to have been entered in the register of pharmacists prepared and maintained under Chapter IV of this Act, subject to condition that an application to be made in this behalf within a period of one year from the commencement of the Pharmacy (Amendment) Act, 2023 and on payment of such fee, and in such manner, as may be prescribed by the Government of Union territory of Jammu and Kashmir and Administration of Union territory of Ladakh.".

Jammu and Kashmir Act No. LIII of 2011 (1955 A.D.).

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STATEMENT OF OBJECTS AND REASONS

The implementation of the Jammu and Kashmir Reorganisation Act, 2019 led to repealing of various Acts applicable in the erstwhile State of Jammu and Kashmir including the Jammu and Kashmir Pharmacy Act, Samvat, 2011 (1955 A.D.) which regulated the profession of Pharmacy in the State. Consequently, the Jammu and Kashmir Pharmacy Council was re-constituted and the Pharmacy Act, 1948 was adopted in the Union territory of Jammu and Kashmir *vide* Statutory Order dated 5-10-2020 of MHA introducing section 32C in the Pharmacy Act, 1948. It is pertinent to mention that it was never actually amended in the Pharmacy Act, 1948 but remained a part of the Statutory Order dated 5-10-2020. The section reads as follows:—

> "32C. Special provisions regarding persons registered under the Jammu and Kashmir Pharmacy Act, (Samvat, 2011) (1955 A.D.)—Notwithstanding anything contained in section 32, any person whose name has been entered in the register of pharmacists maintained under the Jammu and Kashmir Pharmacy Act, 2011 (1955 A.D.) and possesses qualification prescribed under the said Act shall be deemed to have been entered in the register of pharmacists prepared and maintained under Chapter IV of this Act, subject to an application to be made in this behalf within a period of one year commencing from 31.10.2020 and payment of such fee as may be prescribed by the Government of Union territory of Jammu and Kashmir.".

2. Similarly, the Pharmacy Act, 1948 was adopted in the Union Territory of Ladakh *vide* Statutory Order dated 23-10-2020 of MHA introducing a section 32C in the Pharmacy Act, 1948. It is pertinent to mention that it was never actually amended in the Pharmacy Act, 1948 but remained a part of the Statutory Order dated 23-10- 2020. The section reads as follows:—

> "32C. Special provisions regarding persons registered under the Jammu and Kashmir Pharmacy Act, (Samvat, 2011) (1955 A.D.)—Notwithstanding anything contained in section 32, any person whose name has been entered in the register of pharmacists maintained under the Jammu and Kashmir Pharmacy Act, 2011 (1955 A.D.) and possesses qualification prescribed under the said Act shall be deemed to have been entered in the register of pharmacists prepared and maintained under Chapter IV of this Act, subject to an application to be made in this behalf within a period of one year commencing from 1st day of the January, 2020 and payment of such fee as may be prescribed by the Administration of the Union territory of Ladakh.".

3. This notification created an ambiguity as it did not mention that whether the person possessing an approved qualification (medical assistant/pharmacists) under the Jammu and Kashmir Pharmacy Act, Samvat, 2011 (1955 A.D.) but could not be registered/ did not apply earlier due to some reason has an opportunity to be registered and whether the students who were undergoing an approved course leading to an approved qualification (medical assistant/pharmacists) for registration under the Jammu and Kashmir Pharmacy Act, Samvat, 2011 (1955 A.D.) at the time of enactment of the Jammu and Kashmir Re-organisation Act, 2019 and have acquired the said approved qualification (medical assistant/pharmacist) can be considered for registration. Hence, arose the need for amendment of section 32C of

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the Pharmacy Act, 1948. In view of the above, the following insertion is proposed in section 32C of the Pharmacy Act, 1948:—

"32C. Notwithstanding anything contained in section 32, any person whose name has been entered in the register of pharmacists maintained under the Jammu and Kashmir Pharmacy Act, 2011 or possesses qualification (medical assistant/ pharmacists) prescribed under the said Act shall be deemed to have been entered in the register of pharmacists prepared and maintained under Chapter IV of this Act, subject to condition that an application to be made in this behalf within a period of one year from the commencement of the Pharmacy (Amendment) Act, 2023 and on payment of such fee, and in such manner, as may be prescribed by the Government of Union territory of Jammu and Kashmir and the Administration of Union territory of Ladakh.".

The above insertion resolves the ambiguity mentioned in the above paras.

4. The proposed changes have been discussed with the Ministry of Home Affairs which had in turn held further consultations with the Department of Health and Medical Education of Government of Union territory of Jammu and Kashmir and of administration of Union territory of Ladakh. The Governments of both the Union territories submitted the draft amendment Bill duly vetted by their respective Department of Law, Justice, and Parliamentary Affairs.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 27*th July*, 2023.

DR. MANSUKH MANDAVIYA.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

LOK SABHA

A

BILL

further to amend the Pharmacy Act, 1948.

(*Dr. Mansukh Mandaviya, Minister of Health and Family Welfare*)

MGIPMRND—196LS—31.07.2023.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

AS INTROUDCED IN THE RAJYA SABHA
ON THE 10TH AUGUST, 2023

Bill No. LVIII of 2023

THE POST OFFICE BILL, 2023

A

BILL

to consolidate and amend the law relating to Post Office in India and to provide for matters connected therewith or incidental thereto.

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

Short title and commencement.

1. (*1*) This Act may be called the Post Office Act, 2023.

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

Definitions.

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

(*a*) "Director General" means the Director General of Postal Services appointed by the Central Government and includes any officer authorised by the Central Government to perform the duties of the Director General;

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(*b*) "item" means an indivisible article which the Post Office accepts for providing a service;

(*c*) "notification" means a notification published in the Official Gazette;

(*d*) "Post Office" means the Department of Posts and includes every house, building, room, place or any other asset used by the Post Office for providing any service;

(*e*) "prescribe" means prescribe by rules made under this Act and the expression "prescribed" shall be construed accordingly;

(*f*) "regulations" means the regulations made under this Act.

Services to be provided by Post Office.

3. (*1*) The Post Office shall provide such services as the Central Government may prescribe.

(*2*) The Director General may make regulations—

(*a*) in respect of activities necessary to provide services referred to in sub-section (*1*); and

(*b*) to fix charges for, and the terms and conditions in respect of, services referred to in sub-section (*1*).

(*3*) Any service provided by the Post Office shall be subject to any other law for the time being in force.

Exclusive privilege in respect of postage stamps.

4. (*1*) The Post Office shall have the exclusive privilege of issuing postage stamps.

(*2*)The Director General may make regulations relating to the supply and sale of postage stamps and postal stationery.

(*3*) In this section, the expressions—

(*a*) "postage stamp" means any stamp provided by the Central Government, in any form, physical or digital, for denoting sums payable in respect of such service provided by the Post Office, as may be prescribed and includes stamps affixed, printed, embossed, embedded, impressed, or otherwise indicated on an item;

(*b*) "postal stationery" means stationery, issued by the Post Office such as envelopes, letter cards, postcards, bearing imprinted stamps or inscriptions indicating that sum payable in respect of a service provided by the Post Office has been prepaid.

Addresses and postcodes.

5. (*1*) The Central Government may prescribe standards for addressing on the items, address identifiers and usage of postcodes.

(*2*) In this section, "postcode" means a series of digits, letters or digital code or a combination of digits, letters or digital code used to identify a geographic area or location, and ease the process of sorting and delivery of items and for other purposes.

Power to give effect to arrangements with other countries.

6. The Central Government may make rules to give effect to arrangements made with any foreign country or territory for services provided by the Post Office between India and the said foreign country or territory.

Recovery of sums due in respect of services provided by Post Office.

7. (*1*) Every person who avails a service provided by the Post Office shall be liable to pay the charges in respect of such service.

(*2*) If any person refuses or neglects to pay the charges referred to in sub-section (*1*), such amount shall be recoverable as if it were an arrear of land revenue due from him.

Official mark to be evidence of certain facts denoted.

8. The Central Government may prescribe the conditions for denoting the official marks on items to be used as *prima facie* evidence of the facts so denoted.

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Power to intercept, open or detain any item or deliver item to customs authority.

9. (*1*) The Central Government may, by notification, empower any officer to cause any item in course of transmission by the Post Office to be intercepted, opened or detained in the interest of the security of the State, friendly relations with foreign states, public order, emergency, or public safety or upon the occurrence of any contravention of any of the provisions of this Act or any other law for the time being in force.

(*2*) The Central Government may cause any item referred to in sub-section (*1*) to be disposed of in such manner as it deems appropriate.

(*3*) The Central Government may, by notification, empower any officer of the Post Office to deliver an item, received from within or beyond the limits of India and reckoned to contain anything liable to duty or which is suspected to contain any prohibited item to such customs authority or any other authority as may be specified in the said notification, and such customs authority or any other authority shall deal with such item in accordance with the provisions of any law for the time being in force.

Exemption from liability.

10. (*1*) Notwithstanding anything in any other law for the time being in force, the Post Office shall not incur any liability except such liability as may be prescribed with regard to a service provided by the Post Office.

(*2*) No officer of the Post Office shall incur any liability with regard to a service provided by the Post Office, unless the officer has acted fraudulently or wilfully caused loss, delay or mis-delivery of service.

Delegation of power, other than rule-making powers to Director General.

11. The Central Government may, by notification, authorise, either absolutely or subject to conditions, the Director General to exercise any of the powers conferred upon the Central Government by this Act, other than the power to make rules.

Power to make rules.

12. The Central Government may, by notification, make rules for carrying out the purposes of this Act.

Power to make regulations.

13. The Director General may, with the prior approval of the Central Government, by notification, make regulations for carrying out the provisions of this Act.

Laying of rules and regulations in Parliament.

14. Every rule or regulation 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 expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation 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 be without prejudice to the validity of anything previously done under that rule or regulation.

Power to remove difficulties.

15. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and savings.

6 of 1898.

16. (*1*) The Indian Post Office Act, 1898 is hereby repealed.

(*2*) Notwithstanding the repeal of the Act by sub-section (*1*), all rules, notifications and orders, made or purported to have been made under the Indian Post Office Act, 1898, shall, in so far as they relate to matters for which provision is made in this Act and are not inconsistent therewith, be deemed to have been made under this Act and shall continue in force unless and until they are superseded by any rules or notification or order made under this Act.

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STATEMENT OF OBJECTS AND REASONS

The Indian Post Office Act, 1898 was enacted in 1898 with a view to govern the functioning of the Post Office in India. This Act primarily addresses mail services provided through the Post Office. Over the years, services available through the Post Office have diversified beyond mails and the Post Office network has become a vehicle for delivery of a variety of citizen centric services which necessitated the repeal of the said Act and enactment of new law in its place. Accordingly, it is proposed to bring the Post Office Bill, 2023 which addresses these changes and provides for a simple legislative framework to facilitate evolution of the post office into a network for delivery of citizen centric services.

2. The Post Office Bill, 2023 seeks to repeal the Indian Post Office Act, 1898 and to consolidate and amend the law relating to the Post Office in India and to provide for matters connected therewith or incidental thereto.

3. The Bill, *inter alia,* seeks to provide that—

(*a*) the Post Office shall provide such services as the Central Government may by rules prescribe;

(*b*) the Director General of Postal Services shall make regulations in respect of activities necessary to provide those services and fix the charges for such services;

(*c*) the Post Office shall have the exclusive privilege of issuing postage stamps;

(*d*) the Central Government shall have power to give effect to the arrangements made with any foreign country or territory;

(*e*) every person shall be liable to pay charges for availing any service provided by the Post Office and if such person refuses or neglects to pay any charge due to him it shall be recoverable as land revenue;

(*f*) the Central Government may prescribe the conditions for denoting the official mark on postal item to be used as *prima facie* evidence of the fact so denoted;

(*g*) the Central Government may, by notification, empower any officer to intercept, open or detain any item in the interest of the security of the State, friendly relations with foreign states, public order, emergency, or public safety or upon the occurrence of any contravention of any of the provisions of any law for the time being in force;

(*h*) the Post Office and officers of the Post Office shall be exempted from any liability by reason of any loss, mis-delivery, delay, or damage in course of any service provided by the Post Office except such liability as may be prescribed.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;

The 8th August, 2023. ASHWINI VAISHNAW.

FINANCIAL MEMORANDUM

The Bill, if enacted would not involve any financial expenditure either recurring or non-recurring from the Consolidated Fund of India.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill confers power upon the Central Government to make rules. The matter on which rules may be made, *inter alia,* relate to—(*a*) the services to be provided by the Post Office under sub-clause (*1*) of clause 3; (*b*) standards for addressing on the items, address identifiers and usage of postcodes under sub-clause (*1*) of clause 5; (*c*) rules to give effect to arrangements made with any foreign country or territory for services provided by the Post Office between India and the said foreign country or territory under clause 6; (*d*) the conditions for denoting the official marks on items to be used as *prima facie* evidence of the facts so denoted under clause 8; (*e*) the liability of the Post Office with regard to a service provided by the Post Office under sub-clause (*1*) of clause 10.

2. Clause 13 of the Bill confers powers upon the Director General to make regulations providing for—(*a*) the activities necessary to provide services of the Post Office, terms and conditions, and to fix charges for these services under sub-clause (*2*) of clause 3; (*b*) matter relating to the supply and sale of postage stamps and postal stationery under sub-clause (*2*) of clause 4.

3. Clause 14 of the Bill provides that the rules and regulations made under the Bill shall be laid, as soon as they are made, before each House of Parliament.

4. The matters in respect of which rules or regulations may be made are matters of administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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RAJYA SABHA

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BILL

to consolidate and amend the law relating to Post Office in India and to provide for matters connected therewith or incidental thereto.

(*Shri Ashwini Vaishnaw, Minister of Railways, Communications & Electronics and Information Technology)*

MGIPMRND—272RS—09.08.2023.

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AS INTRODUCED IN THE RAJYA SABHA

01 AUG 2023

Bill No. LIII of 2023

THE PRESS AND REGISTRATION OF PERIODICALS BILL, 2023

A

BILL

to provide for press, registration of periodicals and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Press and Registration of Periodicals Act, 2023. Short title, extent and commencement.

(*2*) It extends to the whole of India.

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

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Definitions.

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

(*a*) "facsimile edition" of a publication means an exact reproduction of the original edition of a foreign publication in English or an Indian language included in the Eighth Schedule to the Constitution;

(*b*) "journal" means a periodical publication, other than a magazine, which primarily carries academic, scientific or technical content related to a particular discipline or profession;

(*c*) "keeper" means a person who manages the day-to-day operations of a printing press, the owner of which is a non-individual entity;

(*d*) "newspaper" means a periodical of loose-folded sheets usually printed on newsprint and brought out daily or at least once in a week, containing information on current events, public news or comments on public news;

(*e*) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variation and cognate expressions shall be construed accordingly;

(*f*) "owner" means an individual, firm or any such legal entity owning a periodical;

(*g*) "periodical" means any publication, including a newspaper, which is published and printed at regular intervals containing public news or comments on public news, but does not include a book, or a journal including a book or journal of scientific, technical and academic nature;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "Press Registrar General" means the Press Registrar General of India, appointed by the Central Government under sub-section (*1*) of section 5;

(*j*) "printer" means the owner or keeper of a printing press;

(*k*) "printing" means reproduction of a periodical through any technology involving mass production of copies, but does not include photocopying;

(*l*) "publication" means newspapers, magazines, journals or newsletters printed periodically and published in India, and shall include its reproduction in electronic form or any syndication, facsimile edition, for public distribution or access;

(*m*) "publish" means the process of making a work available to the public by issuing or causing to be issued the copies thereof or in any other manner, whether for a price or free of charge, and the word "publishing" shall be construed accordingly;

(*n*) "publisher" means a person responsible to publish any periodical;

(*o*) "register" means the register of periodicals maintained under clause (*b*) of sub-section (*3*) of section 5;

(*p*) "specified authority" means a District Magistrate or Collector or such other officer as the State Government or, as the case may be, Union territory Administration may, by notification, specify;

(*q*) "title", in relation to a periodical, means the name of such periodical as may be verified by the Press Registrar General, printed prominently and legibly as the masthead on the front page of that periodical by which it shall be known or be identified.

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CHAPTER II

PRINTING PRESS AND PERIODICAL

Printer to furnish intimation.

3. Every printer of a periodical shall furnish an intimation in the online portal to the Press Registrar General and the specified authority within whose local jurisdiction his printing press is situated with such particulars and in such manner, as may be prescribed.

Publication of periodical.

4. (*1*) Every citizen of India or a person, being an entity incorporated and registered in India under any law for the time being in force, may bring out a periodical:

Provided that no person who has been convicted by any court for an offence—

(*a*) involving terrorist act or unlawful activity; or

(*b*) for having done anything against the security of the State,

shall bring out a periodical.

Explanation.—For the purposes of this section, the expressions "terrorist act" and "unlawful activity" shall have the meanings respectively assigned to them in clauses (*k*) and (*o*) of sub-section (*1*) of section 2 of the Unlawful Activities (Prevention) Act, 1967. 37 of 1967.

(*2*) Every periodical printed in India shall have printed on it legibly the name of the printer, place of printing, name of editor, publisher and place of publication.

Explanation.—For the purposes of this sub-section, "editor" means a person who decides the matter that is to be published in a periodical.

(*3*) A facsimile edition of a foreign periodical may be printed in India only with the previous approval of the Central Government in accordance with the guidelines made in this regard, and the registration of such facsimile edition shall be made with the Press Registrar General in such manner as may be prescribed.

Explanation.—For the purposes of this sub-section, "foreign periodical" means any periodical printed and published in a country outside India.

CHAPTER III

AUTHORITIES

Press Registrar General and other officers.

5. (*1*) The Central Government may, by order, appoint a Press Registrar General of India for carrying out the purposes of this Act.

(*2*) The Central Government may, by general or special order, appoint such other officers under the general superintendence and control of the Press Registrar General, as may be necessary, for the purpose of performing the functions assigned to the Press Registrar General by or under this Act and may, by such order provide for the distribution or allocation of functions to be performed by them under this Act.

(*3*) In particular, and without prejudice to the generality of the foregoing provisions, the Press Registrar General shall perform the following functions, namely:—

(*a*) issue a certificate of registration to a periodical;

(*b*) maintain a register of registered periodicals;

(*c*) make guidelines for admissibility and availability of title of a periodical;

(*d*) collect fees, as may be applicable, with regard to applications received by him under this Act;

(*e*) receive funds from the Central Government and disburse the same for implementation of the provisions of this Act;

(*f*) prepare and publish an annual report containing information in respect of the periodicals in India;

(*g*) any function incidental to, or connected with, clauses (*a*) to (*f*); and

(*h*) any other function as may be assigned to it by the Central Government for the effective implementation of the provisions of this Act.

Powers of Press Registrar General.

6. The Press Registrar General shall—

(*a*) obtain annual statements of a periodical;

(*b*) verify the circulation figure of such class of periodicals in such manner and for such purpose, as may be prescribed, and shall have access to any relevant record or

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document relating to a periodical in the possession of the owner of such periodical or printer thereof, and enter any premises where the business of such periodical is carried on at any reasonable time to inspect or take copies of the relevant records or documents or ask any question necessary for obtaining any information required to be furnished;

(*c*) revise, suspend or cancel registration of a periodical;

(*d*) requisition the services of an authorised person and such other person as may be specified by him for undertaking verification of circulation figure of a periodical.

Explanation.—For the removal of doubts, it is clarified that an "authorised person" means a Gazetted Officer of the Central Government, subordinate to the Press Registrar General, and authorised by the Press Registrar General in writing to function as his representative for discharging such functions as he may assign to such representative;

(*e*) call for records, documents and such other information in respect of a printing press or a periodical as may be required in discharge of his duties;

(*f*) call for information from a State Government or Union territory Administration or a specified authority regarding a periodical; and

(*g*) impose penalty.

CHAPTER IV

REGISTRATION OF PERIODICAL

Registration of periodical.

7. (*1*) A periodical shall be printed or published in India only in accordance with the provisions of this Act.

(*2*) Every publisher of a periodical shall, with the authorisation of the owner of such periodical, obtain a certificate of registration from the Press Registrar General by making an online application to the Press Registrar General and the specified authority within whose local jurisdiction such periodical is proposed to be published, in such manner and on payment of such fee, with such documents and particulars, as may be prescribed.

(*3*) The application referred to in sub-section (*2*) shall contain the title, which the publisher intends to assign to the periodical, and for that purpose the publisher may suggest one or more names for the title, in an order of preference, which is not the same or similar to a title already held by any other owner of a periodical either in the same language anywhere in India or in any other language in the same State, and which conforms to the guidelines made by the Press Registrar General for this purpose.

(*4*) The specified authority referred to in sub-section (*2*) shall, either furnish its no-objection or comments on the application to the Press Registrar General within a period of sixty days:

Provided that no-objection of the specified authority shall not be required, where the application referred to in sub-section (*2*) is for registration of a periodical proposed to be published by the Central Government or a State Government or any authority under such Government.

(*5*) On receipt of an application referred to in sub-section (*2*), if the Press Registrar General is satisfied with its correctness and completeness and after taking into account the comments, if any, received from the specified authority within the period referred to in sub-section (*4*) and the guidelines relating to admissibility of titles, he shall issue a certificate of registration containing particulars of its periodicity, language, place of publication, details of the owner and the title of the periodical, in such form as may be prescribed:

Provided that the Press Registrar General may, after giving an opportunity of being heard and for reasons to be recorded in writing, refuse to issue the certificate of registration.

(*6*) The publisher of the periodical shall, on receipt of the certificate of registration, commence publication of the periodical:

Provided that if the publisher of the periodical fails to publish the periodical within twelve months from the end of the month in which the certificate of registration was issued, the Press Registrar General may cancel the certificate of registration and withdraw the title.

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Revision of certificate of registration or title.

8. (*1*) A publisher of a periodical may make an application to the Press Registrar General for revision of particulars of the certificate of registration, or for revision of title, in such manner and with such particulars as may be prescribed.

(*2*) The Press Registrar General may, on being satisfied with the particulars of the revision applied for under sub-section (*1*), issue a revised certificate of registration or a revised title, to the publisher and intimate the same to the specified authority.

Transfer of ownership of a periodical.

9. (*1*) The transfer of ownership of every periodical registered under section 7 shall be made in accordance with the provisions of this section.

(*2*) The owner of a periodical referred to in sub-section (*1*) shall apply for transfer of its ownership to the Press Registrar General by furnishing such documents, setting forth such particulars and on payment of such fee, as may be prescribed.

(*3*) On receipt of an application from the owner of a periodical for transfer of ownership of such periodical, if the Press Registrar General is satisfied with its correctness and completeness, and after taking into account the comments, if any, received from the specified authority, he shall permit the transfer of ownership of that periodical:

Provided that the Press Registrar General may, after giving an opportunity of being heard and for reasons to be recorded in writing, refuse to permit such transfer of ownership of a periodical.

(*4*) The owner of the periodical shall, on receipt of the permission from the Press Registrar General under sub-section (*3*), forward a copy of the same to the publisher, and the publisher shall apply and obtain a revised certificate of registration in accordance with the provisions of section 7.

(*5*) The owner of a periodical shall intimate any change in the shareholding pattern of his company within fifteen days of such change being informed by him to the Registrar of Companies.

Discontinuation of a periodical.

10. (*1*) The owner of a periodical may discontinue a periodical registered under this Act and shall, within six months of such discontinuation, intimate to the Press Registrar General and the specified authority, within whose local jurisdiction such periodical is published, about such discontinuation.

(*2*) The Press Registrar General shall, on receipt of intimation from the publisher under sub-section (*1*), cancel the certificate of registration of the discontinued periodical and remove the periodical along with its title from the register maintained under clause (*b*) of sub-section (*3*) of section 5.

Suspension or cancellation of registration.

11. (*1*) The Press Registrar General may, by order, for a period not less than thirty days but not exceeding one hundred and eighty days, suspend the certificate of registration of a periodical, if—

(*a*) the registration was obtained on false representation or on concealment of any material fact; or

(*b*) the publisher has failed to publish the periodical continuously.

Explanation.—For the removal of doubts, it is hereby clarified that if a periodical publishes less than half of its issues, as are required to be published in a calendar year in accordance with the application made under sub-section (*2*) of section 7, such periodical shall be deemed to have failed to publish continuously; or

(*c*) the publisher has given false particulars in the annual statement; or

(*d*) the publisher has failed to furnish the annual statement within two years from the end of the financial year for which the annual statement was to be furnished.

(*2*) The Press Registrar General may cancel the certificate of registration of a periodical, where the publisher fails to remove the defects of the grounds on which the said certificate was suspended under sub-section (*1*) before the expiry of the period of such suspension.

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(*3*) The Press Registrar General may, by order, cancel the certificate of registration of a periodical which—

(*a*) bears the same or similar title already held by any other owner of a periodical, either in the same language anywhere in India or in any other language in the same State or Union territory; or

(*b*) violates the guidelines made under sub-section (*3*) of section 7.

(*4*) The Press Registrar General may, by order, cancel the certificate of Registration of a periodical where the owner or publisher of such periodical has been convicted by any court for an offence—

(*a*) involving terrorist act or unlawful activity; or

(*b*) for having done anything against the security of the State.

Explanation.—For the purposes of this section, the expressions "terrorist act" and "unlawful activity" shall have the meanings respectively assigned to them in clauses (*k*) and (*o*) of sub-section (*1*) of section 2 of the Unlawful Activities (Prevention) Act, 1967. 37 of 1967.

(*5*) No order for suspension or cancellation of certificate of registration shall be passed under this section, without giving an opportunity of being heard to the publisher or owner of the periodical, as the case may be.

(*6*) A copy of order of suspension or cancellation passed under this section shall be made available to the Central Government or State Government or Union territory Administration, as the case may be, and to the specified authority.

(*7*) The Press Registrar General may, after the cancellation of certificate of registration of a periodical under this section, issue a new certificate of registration to such periodical bearing another title, if the publisher of that periodical makes an application to that effect in conformity with the guidelines made under sub-section (*3*) of section 7.

(*8*) The Press Registrar General may, in such circumstances and manner, as may be prescribed, authorise the specified authority to suspend or cancel the certificate of registration granted under section 7.

Annual statement to be furnished by periodical.

12. (*1*) The publisher of a periodical shall furnish to the Press Registrar General an annual statement in respect of the periodical, at such time, in such form and giving such particulars, as may be prescribed.

(*2*) The publisher of every newspaper in India shall, subject to any rules made under this Act, deliver free of cost to the Press Registrar General and to the State Government one copy of each issue of such newspaper within forty-eight hours.

Annual report.

13. The Press Registrar General shall prepare and publish an annual report containing information in respect of the periodicals in India.

CHAPTER V

Penalties

Power of Press Registrar General to impose penalty.

14. (*1*) The Press Registrar General may impose penalty, if—

(*a*) a periodical is published without obtaining a certificate of registration under section 7;

(*b*) the publisher fails to furnish the annual statement as required under section 12 within one year from the end of the financial year in respect of which the annual statement was required to be furnished:

Provided that no order of imposition of penalty shall be passed without giving an opportunity of being heard to the publisher.

(*2*) Where a periodical is published without obtaining a certificate of registration under section 7, the Press Registrar General may impose a penalty of an amount not exceeding five lakh rupees with a direction to the publisher to cease the publication of such periodical.

(*3*) The quantum of penalty imposable under clause (*b*) of sub-section (*1*) shall be not less than ten thousand rupees but not exceeding twenty thousand rupees for the first default:

Provided that for every subsequent default, an enhanced penalty of twice such quantum may be imposed but shall not exceed two lakh rupees.

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(*4*) Whoever fails to cease publication of periodical even after six months of issue of a direction under sub-section (*2*), or publishes any other periodical without obtaining a certificate of registration under section 7, shall be punishable with imprisonment for a term which may extend to six months.

CHAPTER VI

APPEAL

Press and Registration Appellate Board.

15. (*1*) There shall be an Appellate Board to be called the Press and Registration Appellate Board consisting of Chairperson, Press Council of India and two members to be nominated by the Press Council of India, from among its members:

Provided that at least one of the two members shall be a person referred to in clause (*d*) or clause (*e*) of sub-section (*3*) of section 5 of the Press Council Act, 1978. 37 of 1978.

(*2*) Any person aggrieved by an order of refusal to issue the certificate of registration under sub-section (*5*) of section 7, or cancellation or suspension of registration under section 11, or order of imposition of penalty under section 14, may, within sixty days from the date on which such order is communicated to him, prefer an appeal before the Press and Registration Appellate Board:

Provided that the Press and Registration Appellate Board may admit an appeal after the expiry of the said period, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal on time.

(*3*) On receipt of an appeal under this section, the Press and Registration Appellate Board may, after calling for the records and after making such further inquiries as it deems fit, confirm, modify or set aside the order appealed against.

(*4*) The manner and procedure to be followed for preferring appeals, calling for records and making inquires under this section shall be such as may be laid down by the Chairperson, Press Council of India.

CHAPTER VII

MISCELLANEOUS

Power of Central Government to issue directions.

16. (*1*) Without prejudice to the foregoing provisions of this Act, the Central Government may give directions on matters of policy to the Press Registrar General, in writing, from time to time and the Press Registrar General shall, in the discharge of his powers and functions under this Act, be bound by such directions.

(*2*) The decision of the Central Government as to whether a question is one of policy or not shall be final.

Press Registrar General and other officers to be public servants.

17. The Press Registrar General and all officers appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

18. No suit or other legal proceedings shall lie against the Central Government or State Government or Union territory Administration or the Press Registrar General or any officer or employee authorised by the Press Registrar General, for anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

Power of Central Government to make rules.

19. (*1*) The Central Government may, by notification in the Official Gazette, after previous publication, make rules to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner and particulars for furnishing an intimation before the specified authority by the printing press under section 3;

(*b*) the manner of registration of a facsimile edition of a foreign periodical under sub-section (*3*) of section 4;

(*c*) the manner of verification of circulation figure of class of periodicals under clause (*b*) of section 6;

(*d*) the form, fees and manner of making an online application, documents to be furnished and particulars to be set forth under sub-section (*2*) of section 7;

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(*e*) the form in which and the particulars along with which a certificate of registration shall be issued under sub-section (*5*) of section 7;

(*f*) the manner of making an application and particulars to be set forth therein under sub-section (*1*) of section 8;

(*g*) the form, fees and manner of making an application, documents to be furnished and particulars to be set forth under sub-section (*2*) of section 9;

(*h*) the circumstances and manner for authorising the specified authority to suspend or cancel the certificate of registration under sub-section (*7*) of section 11;

(*i*) the form, time and particulars for furnishing an annual statement under section 12;

(*j*) any other matter which is required to be, or may be, prescribed under the provisions of this Act.

(*3*) The State Government may, by notification in the Official Gazette of the State, make such rules not inconsistent with the rules made by the Central Government, as may be necessary or desirable for carrying out the objects of this Act.

(*4*) Every rule made by the State Government under sub-section (*3*) shall be laid, as soon as may be after it is made, before the State Legislature.

Power to remove difficulties.

20. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Laying of rules and notification.

21. Every rule made or notification issued by the Central Government under this Act shall be laid as soon as may be after it is made or issued, 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 expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification 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 be without prejudice to the validity of anything previously done under that rule or notification.

Repeal and savings.

22. (*1*) The Press and Registration of Books Act, 1867 is hereby repealed. 25 of 1867.

(*2*) Notwithstanding such repeal,—

(*a*) anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or declaration made or any document or instrument executed or any direction given or any proceedings taken or any penalty or fine imposed under the Act hereby repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(*b*) any declaration, including title thereof, so made and authenticated under the provisions of the Act hereby repealed, shall be deemed to have been made and authenticated under the corresponding provisions of this Act;

(*c*) any proceeding pending in any court at the commencement of this Act may be continued in that court as if this Act has not been passed;

(*d*) the Press Registrar General and other officers appointed under the Act hereby repealed and holding office as such immediately before the commencement of this Act, shall, on the commencement of this Act, continue to hold their respective offices under the corresponding provisions of this Act, unless and until they are removed or superannuated;

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(*e*) the Press and Registration Appellate Board established under the Act hereby repealed shall continue to function under the corresponding provisions of this Act, unless and until the Press and Registration Appellate Board is constituted under this Act;

(*f*) any appeal preferred to the Press and Registration Appellate Board hereby repealed and not disposed of before the commencement of this Act, may be disposed of by the Press and Registration Appellate Board constituted under this Act;

(*g*) any penalty payable under the Act hereby repealed may be recovered in the manner provided by or under this Act, but without prejudice to any action already taken for the recovery of such penalty under the Act so repealed;

(*h*) any certificate of registration issued or granted under the Act hereby repealed shall continue to have effect after the commencement of this Act under the same conditions as if this Act had not been passed.

(*3*) The matters referred to in clauses (*a*) to (*h*) of sub-section (*2*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of such repeal.

10 of 1897.

STATEMENT OF OBJECTS AND REASONS

The Press and Registration of Books Act, 1867 (the Act) was enacted for the regulation of printing presses and newspapers, for preservation of copies of books and newspapers printed in India, and for the registration of such books and newspapers. The Act was a legacy of the British Raj and was enacted with the intent to exercise complete control over the press, printers and publishers of books and newspapers by imposing heavy fines and penalties, including imprisonment for various violations.

2. Though the Act was amended many times between 1870 and 1983, it remained procedurally cumbersome and complex making it extremely burdensome and time consuming, especially for small and medium publishers, in matters of verification of title and obtaining of certificate of registration for publishing a periodical. The process of furnishing a declaration before the local authority, its authentication by that authority and subsequent furnishing of application to the Press Registrar General, first for title verification and thereafter for obtaining certificate of registration, which was in vogue under the Act of 1867, is both time consuming and onerous. Further, the punitive fines and penalties which included imprisonment, even for small contraventions, was anachronistic to the constitutional values. In the present age of free press and the commitment of the Government to uphold media freedom, this pre-independence archaic law is not in sync with the current media landscape. Hence, it was considered necessary to repeal and reenact the Act to be more contemporaneous, to provide for—

(*i*) ease of doing business;

(*ii*) removing unnecessary procedural obstacles for publishers; and

(*iii*) unburdening the owners of printing presses and publishers from the onerous task of furnishing declaration before the District Magistrate and filing of revised declaration every time there were any changes in its particulars.

3. The proposed legislation is based on the spirit of upholding media freedom and ease of doing business by making the entire process of allotment of title and registration of periodicals simple and simultaneous, through an online system without the requirement of any physical interface, which would be fast tracked by the Press Registrar General, thereby ensuring that publishers, especially small and medium publishers, face little difficulty in starting a periodical. Importantly, the publishers would no longer be required to file a declaration with the District Magistrate, or the local authorities, or get such declaration authenticated by such authorities. Furthermore, printing presses would also not be required to furnish any such declaration; instead an intimation by the printer would be sufficient. It is also proposed to substantially decriminalise the colonial era statute by providing financial penalties for certain violations, and a credible appellate mechanism, headed by the Chairman, Press Council of India is also proposed.

4. Accordingly, it is proposed to introduce the Press and Registration of Periodicals Bill, 2023 in Parliament, which, *inter alia,* provides for—

(*a*) simple online process of title verification and registration of periodicals by the Press Registrar General;

(*b*) furnishing of intimation in online portal by the printer to the Press Registrar General and specified authority;

(*c*) specific provision relating to circulation and verification of newspapers;

(*d*) prior approval of the Central Government for publication of facsimile edition of foreign periodicals in India;

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(*e*) suspension or cancellation of the certificate of registration of periodicals by the Press Registrar General under specified circumstances;

(*f*) substantive decriminalisation of the provisions relating to violation of various provisions and imposition of financial penalties by the Press Registrar General.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 24*th July*, 2023.

ANURAG SINGH THAKUR.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (*1*) of clause 19 empowers the Central Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of the said clause specifies the matters in respect of which such rules may be made. These matters, *inter alia,* include (*a*) the manner and particulars for furnishing an intimation before the specified authority by the printing press under clause 3; (*b*) the manner of registration of a facsimile edition of a foreign periodical under sub- clause (*3*) of clause 4; (*c*) the manner of verification of circulation figure of class of periodicals under clause (*b*) of clause 6; (*d*) the form, fees and manner of making an online application, documents to be furnished and particulars to be set forth under sub-clause (*2*) of clause 7; (*e*) the form in which and the particulars along with which a certificate of registration shall be issued under sub- clause (*5*) of clause 7; (*f*) the manner of making application and the particulars to be set forth therein under sub- clause (*1*) of clause 8; (*g*) the form, fees and manner of making an application, documents to be furnished and particulars to be set forth, under sub-clause (*2*) of clause 9; (*h*) the circumstances and manner for authorising the specified authority to suspend or cancel the certificate of registration under sub-clause (*7*) of clause 11; (*i*) the form, time, manner and particulars for furnishing an annual statement under clause 12; and (*j*) any other matter which is required to be, or may be, prescribed under the provisions of the proposed legislation.

2. Every rule made or notification issued by the Central Government 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.

3. Sub-clause (*3*) of clause 19 empowers the State Government to make, by notification in the Official Gazette, rules not inconsistent with the rules made by the Central Government. The rules made by the State Government shall be laid, as soon as may be after it is made, before the respective State Legislature.

4. The matters in respect of which rules may be made are matters of procedure and administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers is, therefore, of normal character.

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RAJYA SABHA

A

BILL

to provide for press, registration of periodicals and for matters connected therewith or incidental thereto.

(*Shri Anurag Singh Thakur, Minister of Information & Broadcasting and Youth Affairs & Sports*)

MGIPMRND—171RS—27-07-2023.

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AS INTRODUCED IN LOK SABHA

Bill No. 93 of 2023

THE REGISTRATION OF BIRTHS AND DEATHS (AMENDMENT) BILL, 2023

A

BILL

further to amend the Registration of Births and Deaths Act, 1969.

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

Short title and commencement.

1. (*1*) This Act may be called the Registration of Births and Deaths (Amendment) Act, 2023.

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

Construction of references of certain expressions by certain other expressions.

18 of 1969.

2. Throughout the Registration of Births and Deaths Act, 1969 (hereinafter referred to as the principal Act), for the word "Registrar-General", wherever it occurs, the words "Registrar General of India" shall be substituted.

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Amendment of section 2.

3. In section 2 of the principal Act, in sub-section (*1*),—

(*i*) clause (*a*) shall be re-numbered as clause (*ab*) thereof, and before clause (*ab*) as so re-numbered, the following clauses shall be inserted, namely:—

'(*a*) "Aadhaar number" shall have the same meaning as assigned to it in clause (*a*) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016; 18 of 2016.

(*aa*) "adoption" shall have the same meaning as assigned to it in clause (*2*) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015;'; 2 of 2016.

(*ii*) clause (*b*) shall be re-numbered as clause (*ba*) thereof, and before clause (*ba*) as so re-numbered, the following clause shall be inserted, namely:—

'(*b*) "database" means the organised collection of data, generally stored and accessed in electronic form from a computer network;'.

Amendment of section 3.

4. In section 3 of the principal Act,—

(*i*) in the marginal heading, for the words "Registrar-General, India", the words "Registrar General of India" shall be substituted;

(*ii*) in sub-section (*1*), for the words "Registrar-General, India", the words "Registrar General of India" shall be substituted;

(*iii*) in sub-section (*3*), for the words "and submit", the words "and the database of registered births and deaths and submit" shall be substituted;

(*iv*) after sub-section (*3*), the following sub-sections shall be inserted, namely:—

"(*4*) The Registrar General of India shall maintain the database of registered births and deaths at the National level and it shall be obligatory upon the Chief Registrar and the Registrars to share the data of registered births and deaths to such database.

(*5*) Subject to the proviso to sub-section (*1*) of section 17 and with the prior approval of the Central Government, the database of registered births and deaths maintained under sub-section (*4*) may, on request, be made available to the authorities dealing with the preparation or maintenance of database relating to—

(*a*) population register;

(*b*) electoral rolls;

(*c*) Aadhaar number;

(*d*) ration card;

(*e*) passport;

(*f*) driving licence;

(*g*) property registration; and

(*h*) such other databases at the National level as may be notified,

and the authority shall inform the action taken, within such period as may be notified from time to time, to the Central Government:

Provided that the preparation or maintenance of database relating to electoral rolls in clause (*b*) shall be without prejudice to the provisions of the Representation of the People Act, 1950.". 43 of 1950.

Amendment of section 4.

5. In section 4 of the principal Act, after sub-section (*4*), the following sub-sections shall be inserted, namely:—

"(*5*) The Chief Registrar shall take steps to register births or deaths and maintain a unified database of registered births and deaths at the State level by using the portal as approved by the Registrar General of India and it shall be obligatory upon the Registrars to share the data of registered births and deaths to such database.

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(*6*) Subject to the proviso to sub-section (*1*) of section 17 and with the prior approval of the State Government, the database of registered births and deaths maintained under sub-section (*5*) at the State level may, on request, be made available to the authority dealing with other databases at the State level and the authority shall inform action taken, within such period as may be notified from time to time, to the State Government:

Provided that the preparation or maintenance of database relating to electoral rolls shall be without prejudice to the provisions of the Representation of the People Act, 1950.".

43 of 1950.

Amendment of section 7.

6. In section 7 of the principal Act,—

(*i*) in sub-section (*2*),—

(*a*) after the words "enter in the register maintained", the words ", electronically or otherwise," shall be inserted;

(*b*) after the word and figure "section 9", the words "in respect of births and deaths which has taken place in his jurisdiction" shall be inserted;

(*ii*) in sub-section (*5*),—

(*a*) for the words "appoint Sub-Registrars and", the words "appoint Sub-Registrars and, in the event of any disaster or epidemic, appoint Special Sub-Registrars" shall be substituted;

(*b*) the following *Explanation* shall be inserted, namely:—

'Explanation.—For the purposes of this sub-section, the expressions,—

(*i*) "disaster" shall have the same meaning as assigned to it in clause (*d*) of section 2 of the Disaster Management Act, 2005;

53 of 2005.

(*ii*) "epidemic" means the epidemic referred to in the Epidemic Diseases Act, 1897.'.

3 of 1897.

Amendment of section 8.

7. In section 8 of the principal Act, in sub-section (*1*),—

(*i*) in the opening portion,—

(*a*) for the words "orally or in writing", the words "orally or in writing with signature" shall be substituted;

(*b*) after the words "several particulars", the words "including the Aadhaar number of parents and the informant, if available, in case of birth," shall be inserted;

(*ii*) in clause (*a*), the word "male" shall be omitted;

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

"(*aa*) in respect of non-institutional adoption, the adoptive parents;

(*ab*) in respect of birth of a child to a single parent or unwed mother from her womb, the parent;

(*ac*) in respect of birth of a child through surrogacy, the biological parent;";

(*iv*) after clause (*d*), the following clauses shall be inserted, namely:—

'(*da*) in respect of a child who is taken on adoption from the Specialised Adoption Agency, the person in-charge of the Specialised Adoption Agency.

Explanation.—For the purposes of this clause, the expression "Specialised Adoption Agency" shall have the same meaning as assigned to it in clause (*57*) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015;

2 of 2016.

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(*db*) in respect of an orphan or abandoned child or surrendered child in any child care institution, the person in-charge or caretaker of the child care institution.

Explanation.—For the purposes of this clause, the expressions "abandoned child" or "child care institution" or "orphan" or "surrendered child" shall have the same meanings as respectively assigned to them in clauses (*1*), (*21*), (*42*) and (*60*) of section 2 of the Juvenile Justice (Care and Protection of Children) Act, 2015; 2 of 2016.

(*dc*) in respect of birth of a child through surrogacy in a surrogacy clinic, the person in-charge of the surrogacy clinic.

Explanation.—For the purposes of this clause, the expressions "surrogacy" and "surrogacy clinic" shall have the same meanings as respectively assigned to them in clauses (*zd*) and (*ze*) of sub-section (*1*) of section 2 of the Surrogacy (Regulation) Act, 2021;'. 47 of 2021.

Amendment of section 10.

8. In section 10 of the principal Act, for sub-sections (*2*) and (*3*), the following sub-sections shall be substituted, namely:—

"(*2*) Where death occurs in any medical institution providing specialised treatment or general treatment, every such institution, irrespective of ownership, shall, free of charge, provide a certificate of the cause of death, including the history of illness, if any, signed by the medical practitioner who attended that person during his recent illness to the Registrar in such form as may be prescribed and provide a copy of such certificate to the nearest relative.

(*3*) In the event of death of any person occurring in any place other than medical institution, and such person was, during his recent illness, attended to by a medical practitioner, such medical practitioner shall, after the death of that person, free of charge, forthwith issue, a certificate of the cause of death, including the history of illness, if any, to the person required under this Act to give information concerning the death in such form as may be prescribed, and the person, on receipt of the certificate, shall deliver the same to the Registrar at the time of giving information of the death as required under this Act.".

Amendment of section 11.

9. In section 11 of the principal Act, for the words "place of abode, and, if he cannot write", the words "place of abode and put his signature thereto, and, if he cannot write" shall be substituted.

Substitution of new section for section 12.

10. For section 12 of the principal Act, the following section shall be substituted, namely:—

Certificate of registration of births or deaths.

"12. The Registrar shall, as soon as the registration of a birth or death has been completed, but not later than seven days, give, free of charge, electronically or otherwise under his signature, to the person who gives information under section 8 or section 9, a certificate extracted from the register relating to such birth or death in such form and manner as may be prescribed.".

Amendment of section 13.

11. In section 13 of the principal Act, for sub-sections (*2*) and (*3*), the following sub-sections shall be substituted, namely:—

'(*2*) Any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence, shall be registered only with the written permission of the District Registrar or such other authority, on payment of such fee and on production of self-attested document in such form and manner as may be prescribed.

(*3*) Any birth or death of which delayed information is given to the Registrar after one year of its occurrence, shall be registered only on an order made by a District

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Magistrate or Sub-Divisional Magistrate or by an Executive Magistrate authorised by the District Magistrate, having jurisdiction over the area where the birth or death has taken place, after verifying the correctness of the birth or death and on payment of such fee as may be prescribed.

Explanation.—For the purposes of this sub-section, the expression "Executive Magistrate" means the Executive Magistrate appointed under sub-section (*1*) of section 20 of the Code of Criminal Procedure, 1973.'.

2 of 1974.

12. In section 16 of the principal Act, in sub-section (*1*), after the words "register of births and deaths", the words ", electronically or otherwise," shall be inserted. Amendment of section 16.

13. In section 17 of the principal Act,— Amendment of section 17.

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

"(*b*) obtain, electronically or otherwise, a certificate of birth or death from such register and issued in such form and manner as may be prescribed:

Provided that no certificate relating to any death, issued to any person, shall disclose the particulars regarding the cause of death as entered in the register.";

(*ii*) in sub-section (*2*), for the word "extracts" occurring at both the places, the word "certificates" shall be substituted;

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

"(*3*) Notwithstanding anything contained in any other law for the time being in force, the certificate referred to in sub-section (*2*) or section 12, shall be used to prove the date and place of birth of a person who is born on or after the date of commencement of the Registration of Births and Deaths (Amendment) Act, 2023, for the purposes of—

(*a*) admission to an educational institution;

(*b*) issuance of a driving licence;

(*c*) preparation of a voter list;

(*d*) registration of a marriage;

(*e*) appointment to a post in the Central Government or State Government or a local body or public sector undertaking or in any statutory or autonomous body under the Central Government or State Government;

(*f*) issuance of a passport;

(*g*) issuance of an Aadhaar number; and

(*h*) any other purpose as may be determined by the Central Government.".

14. In section 18 of the principal Act, for the words "by the District Registrar", the words "in general or special order by the Chief Registrar" shall be substituted. Amendment of section 18.

15. In section 23 of the principal Act,— Amendment of section 23.

(*a*) in sub-section (*1*),—

(*i*) in the opening portion, for the words "Any person", the words, brackets, figure and letter "Any person, except the person specified in sub-section (*1A*)," shall be substituted;

(*ii*) in clause (*c*), after the words "thumb mark", the words "or signature, as the case may be," shall be inserted;

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(*iii*) in the long line, for the words "fifty rupees", the words "two hundred and fifty rupees" shall be substituted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Whoever, being a person specified in clauses (*b*), (*c*), (*d*), (*da*), (*db*), (*dc*) and (*e*) of sub-section (*1*) of section 8,—

(*a*) fails without reasonable cause to give any information which it is his duty to give; or

(*b*) gives or causes to be given, for the purpose of being inserted in any register of births and deaths, any information which he knows or believes to be false regarding any of the particulars required to be known and registered; or

(*c*) refuses to write his name, description and place of abode or to put his thumb mark or signature in the register as required under section 11,

shall be punishable with fine which may extend to one thousand rupees in respect of each birth or death.";

(*c*) in sub-section (*2*),—

(*i*) after the words "in his jurisdiction", the words and figures "or to give a certificate to the informant under section 12" shall be inserted;

(*ii*) for the words "fifty rupees", the words "two hundred and fifty rupees" shall be substituted;

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

"(*3*) Any person who neglects or refuses to provide or issue a certificate as required under sub-section (*2*) or sub-section (*3*) of section 10 or any person neglects or refuses to deliver such certificate to the Registrar, shall be punishable with fine which may extend to fifty rupees.";

(*e*) in sub-section (*4*),—

(*i*) for the words "Any Person", the words, brackets, figure and letter "Any person except the person specified in sub-section (*1A*)" shall be substituted;

(*ii*) for the words "ten rupees", the words "two hundred and fifty rupees" shall be substituted;

(*f*) after sub-section (*4*), the following sub-section shall be inserted, namely:—

"(*4A*) Any person specified in sub-section (*1A*), who, without reasonable cause, contravenes any provision of this Act for the contravention of which no penalty is provided for in this section, shall be punishable with fine which may extend to one thousand rupees in respect of each birth or death.";

(*g*) in sub-section (*5*), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted. 5 of 1898. 2 of 1974.

Amendment of section 24.

16. In section 24 of the principal Act, in sub-section (*1*), for the words beginning with "proceedings under this Act" and ending with the words "fifty rupees", the following shall be substituted, namely:—

"proceedings under this Act,—

(*a*) accept from the person, except the person specified in sub-section (*1A*) of section 23, who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence a sum of money not exceeding two hundred and fifty rupees;

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

(*b*) accept from the person specified in sub-section (*1A*) of section 23, who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence a sum of money not exceeding one thousand rupees in respect of each birth or death.".

Insertion of new section 25A.

17. After section 25 of the principal Act, the following section shall be inserted, namely:—

Appeal.

"25A. (*1*) Any person aggrieved by any action or order of,—

(*i*) the Registrar, may prefer an appeal to the District Registrar; or

(*ii*) the District Registrar, may prefer an appeal to the Chief Registrar,

within a period of thirty days from the date of such action or receipt of such order, as the case may be, in such form and manner as may be prescribed.

(*2*) The District Registrar or the Chief Registrar, as the case may be, shall decide the appeal referred to in sub-section (*1*) within a period of ninety days from the date of preferring of such appeal.".

Amendment of section 30.

18. In section 30 of the principal Act, in sub-section (*2*),—

(*i*) for clauses (*d*), (*e*) and (*f*), the following clauses shall be substituted, namely:—

"(*d*) the form of certificate of the cause of death under sub-sections (*2*) and (*3*) of section 10;

(*e*) the form and manner in which the certificate of birth or death may be given under section 12;

(*f*) the authority which may grant permission for registration of a birth or death and the form and manner of production of self-attested document under sub-section (*2*) of section 13;";

(*ii*) after clause (*g*), the following clauses shall be inserted, namely:—

"(*ga*) the form and manner in which the certificate of birth or death may be obtained under clause (*b*) of sub-section (*1*) of section 17;

(*gb*) the form and manner of preferring an appeal under sub-section (*1*) of section 25A;";

(*iii*) in clause (*i*), for the word "extracts", the word "certificates" shall be substituted.

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STATEMENT OF OBJECTS AND REASONS

The Registration of Births and Deaths Act, 1969 (18 of 1969) (the Act) was enacted to provide for the regulation of registration of births and deaths and for matters connected therewith.

2. The Act has not been amended so far since its inception. In order to keep pace with the societal change and technological advancements during the period of its operation and to make it more citizen friendly, there is a need to amend the Act. Based on the consultations held with the State Governments, general public and other stake holders, it is proposed to amend certain provisions of the Act in form of a Bill, namely the Registration of Births and Deaths (Amendment) Bill, 2023.

3. The Registration of Births and Deaths (Amendment) Bill, 2023, *inter alia*, provides for the following, namely:—

(*i*) to insert provisions for digital registration and electronic delivery of certificate of births and deaths for the benefit of public at large;

(*ii*) to create a National and State level database of registered births and deaths which would help in updating other databases resulting in efficient and transparent delivery of public services and social benefits;

(*iii*) to provide for use of the Birth Certificate as a single document to prove the date and place of birth of a person born on or after the date of commencement of the Registration of Births and Deaths (Amendment) Act, 2023, for admission to an educational institution, issuance of a driving licence, preparation of a voter list, registration of a marriage, appointment to a post in Central Government or State Government or a local body or public sector undertaking or in any statutory or autonomous body under the Central Government or State Government, issuance of a passport, issuance of an Aadhaar number and any other purpose as may be determined by the Central Government in order to enhance the public convenience and to avoid multiplicity of documents to prove date and place of birth in the country;

(*iv*) to change the ordering authority from Magistrate of the first class or Presidency Magistrate to District Magistrate or Sub-Divisional Magistrate or an Executive Magistrate authorised by the District Magistrate in the case of delayed information of any birth or death to the Registrar after one year of its occurrence and submission of self-attested document instead of an affidavit made before a Notary Public in the case of delayed information of any birth or death to the Registrar after thirty days but within one year of its occurrence;

(*v*) to facilitate registration process of adopted, orphan, abandoned, surrendered, surrogate child and child to a single parent or unwed mother;

(*vi*) to make it mandatory for all medical institutions to provide a certificate as to the cause of death to the Registrar and a copy of the same to the nearest relative;

(*vii*) to appoint Special "Sub-Registrars" in the event of disaster or epidemic for speedy registration of deaths and issue of certificates;

(*viii*) to collect Aadhaar numbers of parents and informant, if available, in case of birth registration;

(*ix*) to address the grievances of general public aggrieved by any action or order of the Registrar or District Registrar; and

(*x*) to enhance the penalties provided in the Act.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 27*th June,* 2023.

AMIT SHAH.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Registration of Births and Deaths (Amendment) Bill, 2023 relates to amendment of section 30. The said section empowers the State Governments to make rules in respect of certain matters mentioned in the Act. It is proposed to amend the said section empowering the State Governments to make rules in respect of the following matters also, namely:—

(*i*) the form of certificate of the cause of death under sub-sections (*2*) and (*3*) of section 10;

(*ii*) the form and manner in which the certificate of birth or death may be given under section 12;

(*iii*) the authority which may grant permission for registration of a birth or death and the form and manner of production of self-attested document under sub-section (*2*) of section 13;

(*iv*) the form and manner in which the certificate of birth or death may be obtained under clause (*b*) of sub-section (*1*) of section 17; and

(*v*) the form and manner of filing an appeal under sub-section (*1*) of section 25A.

2. The matters in respect of which rules may be made under the aforesaid provisions are matters of detail and it is not practicable to provide them in the Bill itself. The delegation of legislative powers is, therefore, of a normal character.

FINANCIAL MEMORANDUM

The Registration of Births and Deaths (Amendment) Bill, 2023, if enacted would not involve any expenditure either recurring or non-recurring from and out of the Consolidated fund of India.

ANNEXURE

EXTRACTS FROM THE REGISTRATION OF BIRTHS AND DEATHS ACT, 1969

(18 OF 1969)

* * * * *

Definitions and interpretation.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "birth" means live-birth or still-birth;

(*b*) "death" means the permanent disappearance of all evidence of life at any time after live-birth has taken place;

* * * * *

CHAPTER II

REGISTRATION ESTABLISHMENT

Registrar-General, India.

3. (*1*) The Central Government may, by notification in the Official Gazette, appoint a person to be known as the Registrar-General, India.

* * * * *

(*3*) The Registrar-General may issue general directions regarding registration of births and deaths in the territories to which this Act extends, and shall take steps to co-ordinate and unify the activities of Chief Registrars in the matter of registration of births and deaths and submit to the Central Government an annual report on the working of this Act in the said territories.

* * * * *

Registrars.

7. (*1*)* * * * *

(*2*) Every Registrar shall, without fee or reward, enter in the register maintained for the purpose all information given to him under section 8 or section 9 and shall also take steps to inform himself carefully of every birth and of every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered.

* * * * *

(*5*) The Registrar may, with the prior approval of the Chief Registrar, appoint Sub-Registrars and assign to them any or all of his powers and duties in relation to specified areas within his jurisdiction.

CHAPTER III

REGISTRATION OF BIRTHS AND DEATHS

Persons required to register births and deaths.

8. (*1*) It shall be the duty of the persons specified below to give or cause to be given, either orally or in writing, according to the best of their knowledge and belief, within such time as may be prescribed, information to the Registrar of the several particulars required to be entered in the forms prescribed by the State Government under sub-section (*1*) of section 16,—

(*a*) in respect of births and deaths in a house, whether residential or non-residential, not being any place referred to in clauses (*b*) to (*e*) the head of the house or, in case more than one household live in the house, the head of the household, the head being the person, who is so recognised by the house or the household, and if he is not present in the house at any time during the period within which the birth or death has to be reported, the nearest relative of the head present in the house, and in the absence of any such person, the oldest adult male person present therein during the said period;

* * * * *

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10. (*1*)* * * * * Duty of certain persons to notify births and deaths and to certify cause of death.

(*2*) In any area, the State Government, having regard to the facilities available therein in this behalf, may require that a certificate as to the cause of death shall be obtained by the Registrar from such person and in such form as may be prescribed.

(*3*) Where the State Government has required under sub-section (*2*) that a certificate as to the cause of death shall be obtained, in the event of the death of any person who, during his last illness, was attended by a medical practitioner, the medical practitioner shall, after the death of that person, forthwith, issue without charging any fee, to the person required under this Act to give information concerning the death, a certificate in the prescribed form stating to the best of his knowledge and belief the cause of death; and the certificate shall be received and delivered by such person to the Registrar at the time of giving information concerning the death as required by this Act.

11. Every person who has orally given to the Registrar any information required under this Act shall write in the register maintained in this behalf, his name, description and place of abode, and, if he cannot write, shall put his thumb mark in the register against his name, description and place of abode, the particulars being in such a case entered by the Registrar. Informant to sign the register.

12. The Registrar shall, as soon as the registration of a birth or death has been completed, give, free of charge, to the person who gives information under section 8 or section 9 and extract of the prescribed particulars under his hand from the register relating to such birth or death. Extracts of registration entries to be given to informant.

13. (*1*)* * * * * Delayed registration of births and deaths.

(*2*) Any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence shall be registered only with the written permission of the prescribed authority and on payment of the prescribed fee and the production of an affidavit made before a notary public or any other officer authorised in this behalf by the State Government.

(*3*) Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a magistrate of the first class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.

* * * * *

CHAPTER IV

MAINTENANCE OF RECORDS AND STATISTICS

16. (*1*) Every Registrar shall keep in the prescribed form a register of births and deaths for the registration area or any part thereof in relation to which he exercises jurisdiction. Registrars to keep registers in the prescribed form.

* * * * *

17. (*1*) Subject to any rules made in this behalf by the State Government, including rules relating to the payment of fees and postal charges, any person may— Search of births and deaths register.

* * * * *

(*b*) obtain an extract from such register relating to any birth or death:

Provided that no extract relating to any death, issued to any person, shall disclose the particulars regarding the cause of death as entered in the register.

(*2*) All extracts given under this section shall be certified by the Registrar or any other officer authorised by the State Government to give such extracts as provided in section 76 of the Indian Evidence Act, 1872, and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates.

1 of 1872.

* * * * *

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Inspection of registration offices.

18. The registration offices shall be inspected and the registers kept therein shall be examined in such manner and by such authority as may be specified by the District Registrar.

* * * * *

Penalties.

23. (*1*) Any person who—

* * * * *

(*c*) refuses to write his name, description and place of abode or to put his thumb mark in the register as required by section 11,

shall be punishable with fine which may extend to fifty rupees.

(*2*) Any Registrar or Sub-Registrar who neglects or refuses, without reasonable cause, to register any birth or death occurring in his jurisdiction or to submit any returns as required by sub-section (*1*) of section 19 shall be punishable with fine which may extend to fifty rupees.

(*3*) Any medical practitioner who neglects or refuses to issue a certificate under sub-section (*3*) of section 10 and any person who neglects or refuses to deliver such certificate shall be punishable with fine which may extend to fifty rupees.

(*4*) Any person who, without reasonable cause, contravenes any provision of this Act for the contravention of which no penalty is provided for in this section shall be punishable with fine which may extend to ten rupees.

(*5*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this section shall be tried summarily by a magistrate. 5 of 1898.

Power to compound offences.

24. (*1*) Subject to such conditions as may be prescribed, any officer authorised by the Chief Registrar by a general or special order in this behalf may, either before or after the institution of criminal proceedings under this Act, accept from the person who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence a sum of money not exceeding fifty rupees.

* * * * *

Power to make rules.

30. (*1*)* * * * *

(*2*) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for—

* * * * *

(*d*) the person from whom and the form in which a certificate as to cause of death shall be obtained;

(*e*) the particulars of which extract may be given under section 12;

(*f*) the authority which may grant permission for registration of a birth or death under sub-section (*2*) of section 13;

(*g*) the fees payable for registration made under section 13;

* * * * *

(*i*) the search of birth and death registers and the fees payable for such search and for the grant of extracts from the registers;

* * * * *

LOK SABHA

———

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BILL

further to amend the Registration of Births and Deaths Act, 1969.

———

(*Shri Amit Shah, Minister of Home Affairs and Cooperation*)

MGIPMRND—139LS(S3)—18-07-2023.

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As introduced in Lok Sabha

Bill No. 194 of 2023

THE TELECOMMUNICATIONS BILL, 2023

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As introduced in Lok Sabha

Bill No. 194 of 2023

THE TELECOMMUNICATIONS BILL, 2023

A

BILL

to amend and consolidate the law relating to development, expansion and operation of telecommunication services and telecommunication networks; assignment of spectrum; and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

Short title, extent and commencement.

1. (*1*) This Act may be called the Telecommunications Act, 2023.

(*2*) It extends to,—

(*i*) the whole of India; and

(*ii*) to any offence committed or contravention made outside India by any person, as provided in this Act.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

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Definitions.

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

(*a*) "appointed day" means such date as the Central Government may, by notification appoint under sub-section (*3*) of section 1;

(*b*) "assignment" of a radio frequency or radio frequency channel means the permission for a radio station to use a radio frequency or radio frequency channel under specified conditions;

(*c*) "assignee" means a person holding an assignment of a radio frequency or radio frequency channel under section 4;

(*d*) "authorisation" means a permission, by whatever name called, granted under this Act for—

(*i*) providing telecommunication services;

(*ii*) establishing, operating, maintaining or expanding telecommunication networks; or

(*iii*) possessing radio equipment;

(*e*) "authorised entity" means a person holding an authorisation under section 3;

(*f*) "critical telecommunication infrastructure" means telecommunication networks notified under sub-section (*3*) of section 22;

(*g*) "message" means any sign, signal, writing, text, image, sound, video, data stream, intelligence or information sent through telecommunication;

(*h*) "National Frequency Allocation Plan" means guidelines issued from time to time by the Central Government for the use of the spectrum;

(*i*) "notification" means a notification published in the Official Gazette and the expression "notified" shall be construed accordingly;

(*j*) "person" shall include an individual, any company or association or body of individuals, whether incorporated or not, by whatsoever name called or referred to;

(*k*) "prescribed" means prescribed by rules made under this Act;

(*l*) "radio equipment" means telecommunication equipment used or capable of use for telecommunication by means of Hertzian or radio waves;

(*m*) "radio waves" means electromagnetic waves of frequencies propagated in space without any artificial guide;

(*n*) "Schedule" means a schedule to this Act;

(*o*) "spectrum" means the range of frequencies of Hertzian or radio waves;

(*p*) "telecommunication" means transmission, emission or reception of any messages, by wire, radio, optical or other electro-magnetic systems, whether or not such messages have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception;

(*q*) "telecommunication equipment" means any equipment, appliance, instrument, device, radio station, radio equipment, material, apparatus, or user equipment, that may be or is being used for telecommunication, including software and intelligence integral to such telecommunication equipment; and excludes such equipment as may be notified by the Central Government;

(*r*) "telecommunication identifier" means a series of digits, characters and symbols, or a combination thereof, used to identify uniquely a user, a

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telecommunication service, a telecommunication network, elements of a telecommunication network, telecommunication equipment, or an authorised entity;

(*s*) "telecommunication network" means a system or series of systems of telecommunication equipment or infrastructure, including terrestrial or satellite networks or submarine networks, or a combination of such networks, used or intended to be used for providing telecommunication services, but does not include such telecommunication equipment as notified by the Central Government;

(*t*) "telecommunication service" means any service for telecommunication;

(*u*) "user" means a natural or legal person using or requesting a telecommunication service, but does not include person providing such telecommunication service or telecommunication network.

CHAPTER II

POWERS OF AUTHORISATION AND ASSIGNMENT

Authorisation.

3. (*1*) Any person intending to—

(*a*) provide telecommunication services;

(*b*) establish, operate, maintain or expand telecommunication network; or

(*c*) possess radio equipment,

shall obtain an authorisation from the Central Government, subject to such terms and conditions, including fees or charges, as may be prescribed.

(*2*) The Central Government may while making rules under sub-section (*1*) provide for different terms and conditions of authorisation for different types of telecommunication services, telecommunication network or radio equipment.

(*3*) The Central Government, if it determines that it is necessary in the public interest so to do, may provide exemption from the requirement of authorisation under sub-section (*1*), in such manner as may be prescribed.

(*4*) Any exemption granted prior to the appointed day under the Indian Telegraph Act, 1885 or the Indian Wireless Telegraphy Act, 1933 shall continue under this Act, unless otherwise notified by the Central Government.

13 of 1885.
17 of 1933.

(*5*) Any authorised entity may undertake any merger, demerger or acquisition, or other forms of restructuring, subject to any law for the time being in force and any authorised entity that emerges pursuant to such process, shall comply with the terms and conditions, including fees and charges, applicable to the original authorised entity, and such other terms and conditions, as may be prescribed.

(*6*) A licence, registration, permission, by whatever name called, granted prior to the appointed day under the Indian Telegraph Act, 1885 or the Indian Wireless Telegraphy Act, 1933, in respect of provision of telecommunication services or telecommunication network—

13 of 1885.
17 of 1933.

(*a*) where a definite validity period is given, shall be entitled to continue to operate under the terms and conditions and for the duration as specified under such licence or registration or permission, or to migrate to such terms and conditions of the relevant authorisation, as may be prescribed; or

(*b*) where a definite validity period is not given, shall be entitled to continue to operate on the terms and conditions of such licence or registration or permission for a period of five years from the appointed day, or to migrate to such terms and conditions of the relevant authorisation, as may be prescribed.

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(*7*) Any authorised entity which provides such telecommunication services as may be notified by the Central Government, shall identify the person to whom it provides telecommunication services through use of any verifiable biometric based identification as may be prescribed.

(*8*) The Central Government may, subject to such terms and conditions, including fees or charges as may be prescribed, allot telecommunication identifiers for use by authorised entities.

(*9*) The Central Government may allow use of telecommunication identifiers allotted by international bodies which are recognised by the Central Government from time to time.

Assignment of spectrum.

4. (*1*) The Central Government, being the owner of the spectrum on behalf of the people, shall assign the spectrum in accordance with this Act, and may notify a National Frequency Allocation Plan from time to time.

(*2*) Any person intending to use spectrum shall require an assignment from the Central Government.

(*3*) The Central Government may prescribe such terms and conditions as may be applicable, for such assignment of spectrum, including the frequency range, methodology for pricing, price, fees and charges, payment mechanism, duration and procedure for the same.

(*4*) The Central Government shall assign spectrum for telecommunication through auction except for entries listed in the First Schedule for which assignment shall be done by administrative process.

Explanation.—For the purposes of this sub-section,—

(*a*) "administrative process" means assignment of spectrum without holding an auction;

(*b*) "auction" means a bid process for assignment of spectrum.

(*5*) (*a*) The Central Government may, by notification, amend the First Schedule for assignment of spectrum—

(*i*) in order to serve public interest; or

(*ii*) in order to perform government function; or

(*iii*) in cases where auction of spectrum is not the preferred mode of assignment due to technical or economic reasons.

(*b*) The notification referred to in clause (*a*) shall be laid before each House of Parliament.

(*6*) The Central Government, if it determines that it is necessary in the public interest so to do, may exempt,—

(*a*) from the requirement of assignment under sub-section (*2*), in such manner as may be prescribed; and

(*b*) by notification, specific usages within specified frequencies and parameters, from the requirements of sub-section (*2*).

(*7*) Any exemption with respect to use of spectrum granted under the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933 prior to the appointed day, shall continue under this Act, unless otherwise notified by the Central Government. 13 of 1885. 17 of 1933.

(*8*) Any spectrum assigned through the administrative process prior to the appointed day, shall continue to be valid on the terms and conditions on which it had been assigned, for a period of five years from the appointed day, or the date of expiry of such assignment, whichever is earlier.

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(*9*) Any spectrum assigned through auction prior to the appointed day, shall continue to be valid on the terms and conditions on which it had been assigned.

Re-farming and harmonisation.

5. The Central Government may, to enable more efficient use of spectrum, re-farm or harmonise any frequency range assigned under section 4, subject to such terms and conditions, as may be prescribed.

Explanation.—For the purposes of this section,—

(*a*) "harmonisation" means rearrangement of a frequency range;

(*b*) "re-farming" means repurposing of a frequency range for a different use, other than that for which it is used by an existing assignee.

Technologically neutral use of spectrum.

6. The Central Government may enable the utilisation of the spectrum in a flexible, liberalised and technologically neutral manner, subject to such terms and conditions, including applicable fees and charges, as may be prescribed.

Optimal utilisation of spectrum.

7. (*1*) The Central Government may, to promote optimal use of the available spectrum, assign a particular part of a spectrum that has already been assigned to an entity, known as the primary assignee, to one or more additional entities, known as the secondary assignees, where such secondary assignment does not cause harmful interference in the use of the relevant part of the spectrum by the primary assignee, subject to such terms and conditions as may be prescribed.

(*2*) The Central Government may, notwithstanding anything contained in any other law for the time being in force, after providing a reasonable opportunity of being heard to the assignee concerned, determines that any assigned spectrum has remained unutilised for insufficient reasons for such period as may be prescribed, terminate such assignment, or a part of such assignment, or prescribe further terms and conditions relating to spectrum utilisation.

Establishment of monitoring and enforcement mechanism.

8. (*1*) The Central Government may establish by notification, such monitoring and enforcement mechanism as it may deem fit to ensure adherence to terms and conditions of spectrum utilisation and enable interference-free use of the assigned spectrum.

(*2*) The Central Government may permit the sharing, trading, leasing and surrender of assigned spectrum, subject to the terms and conditions, including applicable fees or charges, as may be prescribed.

No refund of fees.

9. No person shall be entitled to the refund of any fees or charges paid in respect of or under an authorisation or assignment granted under this Act, if such authorisation or assignment is suspended, curtailed, revoked or varied.

CHAPTER III

RIGHT OF WAY FOR TELECOMMUNICATION NETWORK

Definition of terms used in this Chapter.

10. For the purpose of this Chapter,—

(*a*) "facility provider" means the Central Government or any authorised entity, including any contractor or sub-contractor or agent working for the Central Government or authorised entity, and shall include their successor or assignee;

(*b*) "public entity" means,—

(*i*) the Central Government;

(*ii*) the State Government;

(*iii*) local authority;

(*iv*) any authority, body, company or institution incorporated or established by the Central Government or the State Government, or under any statute; or

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(*v*) any non-government entity vested with the ownership, control or management of any public facility or class of public facilities, as may be notified by the Central Government;

(*c*) "public property" means any property, whether movable or immovable including any machinery, which is owned by, or in the possession of, or under the control or management of any public entity.

Right of way for telecommunication network in public property.

11. (*1*) Any facility provider may submit an application to a public entity under whose ownership, control or management, the public property is vested, to seek permissions for right of way for telecommunication network under, over, along, across, in or upon such public property.

(*2*) On receipt of an application from a facility provider under sub-section (*1*), the public entity shall, subject to the provisions of sub-section (*4*), grant permission for all or any of the following acts, namely:—

(*a*) survey such property for the purpose of assessing the feasibility for establishing telecommunication network; or

(*b*) enter the property from time to time to establish, operate, maintain, repair, replace, augment, remove or relocate any telecommunication network.

(*3*) The public entity shall grant permission under sub-section (*2*) in an expeditious manner and within such timelines as may be prescribed, and subject to such administrative expenses and compensation for right of way, which shall not exceed such amount as may be prescribed.

(*4*) Any rejection of an application under sub-section (*1*) shall be based on reasonable grounds to be recorded in writing.

(*5*) The facility provider shall do as little damage as possible to the public property, and ensure that the functionality and continuity of operations over such public property is not adversely affected, while undertaking any of the activities for which permission has been granted under sub-section (*2*).

(*6*) If any damage is caused to the property, the facility provider shall, at the option of the public entity, either,—

(*a*) restore such property to its state as existed prior to the undertaking of such activities; or

(*b*) pay compensation for such damage as may be mutually agreed.

(*7*) The provisions of this section shall be applicable to any public property vested for such projects or class of projects as notified by the Central Government, in respect of which, applications under sub-section (*1*) shall be made to the public entity granting the concession, contract or permission for such projects.

Right of way for telecommunication network on property not covered under section 11.

12. (*1*) Any facility provider may submit an application to the person under whose ownership, control or management of property not covered under section 11 is vested, to seek right of way for telecommunication network under, over, along, across, in or upon such property.

(*2*) On receipt of an application from a facility provider, the person receiving the application may enter into an agreement, specifying consideration as mutually agreed, for—

(*a*) undertaking surveys as may be required by the facility provider for the purpose of assessing the feasibility for establishing telecommunication network; or

(*b*) establishing, operating, maintaining, repairing, replacing, augmenting, removing or relocating any telecommunication network by the facility provider.

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(*3*) The facility provider shall do as little damage as possible to the property when undertaking any of the activities for which permission has been granted under sub-section (*2*).

(*4*) In case of any damage to the property, the facility provider shall restore such property to its state as existed prior to the undertaking of such activities, failing which the person granting permission under sub-section (*2*), shall be entitled to compensation as may be mutually agreed, for any such damage.

(*5*) The Central Government may by rules provide for the procedure to be followed by a facility provider to enter, survey, establish, operate, maintain, repair, replace or relocate the telecommunication network, including the notice period, the manner of issuance of notice, the framework governing objections by owner or occupier of the property, the manner in which such objections would be resolved, and matters relating to the compensation payable for any damage.

(*6*) If the person under sub-section (*2*) fails to provide the right of way requested, and the Central Government determines that it is necessary so to do in the public interest, it may, either by itself or through any other authority designated by the Central Government for this purpose, determine that such facility provider shall be permitted the right of way to establish, operate, maintain such telecommunication network, subject to such terms and conditions, including charges for the right of way, and compensation for damage to the property, if any, to be payable to such person as may be prescribed.

Non-discriminatory and non-exclusive grant of right of way.

13. Any person providing right of way under section 11 or section 12, shall ensure grant of right of way to the facility providers in a non-discriminatory manner and, as far as practicable, on a non-exclusive basis.

Telecommunication network distinct from property on which it is installed.

14. (*1*) A facility provider shall not have any right, title or interest in the property on which telecommunication network is established, except the right to use the property as provided under section 11 or section 12.

(*2*) The telecommunication network installed on any property, shall not be subject to any claims, encumbrances, liquidation or the like, relating to such property.

(*3*) The telecommunication network installed on any property, shall not be considered as part of such property, including for the purposes of any transaction related to that property, or any property tax, levy, cess, fees or duties as may be applicable on that property.

(*4*) Notwithstanding anything contained in any other law for the time being in force, no public entity, except with the permission of an officer authorised by the Central Government for this purpose, shall have the authority to take any coercive action, such as sealing, preventing access, or forcible shutdown of the telecommunication network established by an authorised entity, except where such actions may be necessary to deal with any natural disaster or public emergency.

Power of Central Government to establish common ducts and cable corridors.

15. (*1*) The Central Government may notify infrastructure projects or class of infrastructure projects, whether being developed by a public entity by itself, through a public private partnership or by any other person, that may require establishment of common ducts or conduits or cable corridors, for installation of telecommunication network.

(*2*) The telecommunication network referred to in sub-section (*1*) shall be made available on open access basis to facility providers, subject to such terms and conditions, including fees and charges, as may be prescribed.

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Removal, relocation or alteration of telecommunication network.

16. (*1*) Where, under section 11 or section 12, telecommunication network has been placed by the facility provider, under, over, along, across, in or upon any property, and any person entitled to do so desires to deal with that property in such a manner so as to render it necessary or convenient that the telecommunication network should be removed or relocated to another part thereof or to a higher or lower level or altered in form, he may require the facility provider to remove, relocate or alter the telecommunication network accordingly.

(*2*) If compensation has been paid under sub-section (*6*) of section 11, or sub-section (*4*) of section 12, such person shall, when making the requisition under sub-section (*1*), tender to the facility provider the amount requisite to defray the expense of the removal, relocation or alteration on such terms as may be mutually agreed.

(*3*) If any dispute arises under this Chapter, the matter shall be determined by the authority referred to in sub-section (*2*) of section 18.

(*4*) If the facility provider omits to comply with the requisition, the person making such requisition, may apply to the District Magistrate within whose jurisdiction the property is situated, to order the relocation or alteration.

(*5*) The District Magistrate receiving the application may, at its discretion and for reasons to be recorded in writing, approve or reject such relocation or alteration, subject to such conditions as it determines fit, including the relocation of the telecommunication network to any other part of the property or to a higher or lower level or for the alteration of its form, and the order so made shall be final.

Notice to facility provider.

17. (*1*) Any person desiring to exercise his right to deal with his property in such a manner as is likely to cause damage or to interrupt or interfere with the telecommunication network established under the provisions of this Act, or to interrupt or interfere with telecommunication services, shall give prior notice of such duration and in such manner, as may be prescribed, to the facility provider, the Central Government or to any authority that may be notified by the Central Government.

(*2*) The facility provider shall respond to such notice with details of such telecommunication network and precautionary measures to be undertaken, within such timelines as may be prescribed.

(*3*) Where a person referred to in sub-section (*1*) gives a notice of his exercise of the right relating to his property with the *bona fide* intention of averting imminent danger of personal injury to himself or any other person, such person shall be deemed to have complied with the provisions of the said sub-section.

(*4*) Any person who fails to comply with the provisions of sub-section (*1*), or deals with any property in such a manner as is likely to cause, or causes, damage to any telecommunication network, or is likely to interrupt or interfere, or interrupts or interferes with telecommunication services, a District Magistrate may, on the application of the facility provider, order such person to abstain from dealing with such property in such manner for a period not exceeding one month from the date of his order and forthwith to take such action with regard to such property as may be in the opinion of the District Magistrate necessary to remedy or prevent such damage, interruption or interference during such period.

(*5*) If any dispute arises relating to damages, the matter shall be determined by the authority referred to under sub-section (*2*) of section 18.

Dispute resolution relating to this Chapter.

18. (*1*) The District Magistrate, or any other authority as notified by the Central Government, within whose jurisdiction the property is situated, shall have the exclusive powers to resolve any disputes under this Chapter, except for disputes referred to under sub-section (*2*) of this section.

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(*2*) If any dispute arises relating to compensation under sub-section (*6*) of section 11, sub-section (*2*) and sub-section (*4*) of section 12, and sub-section (*5*) of section 17, it shall, on an application made for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situated, be determined by him.

(*3*) Every determination of a dispute by a District Magistrate or District Judge under this section, shall be final.

(*4*) Nothing in sub-section (*3*) shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the facility provider, from the person who has received the same.

CHAPTER IV

STANDARDS, PUBLIC SAFETY, NATIONAL SECURITY AND PROTECTION OF TELECOMMUNICATION NETWORKS

Power to notify standards.

19. The Central Government may notify standards and conformity assessment measures in respect of—

(*a*) telecommunication equipment, telecommunication identifiers and telecommunication network;

(*b*) telecommunication services, in consonance with any regulations notified by the Telecom Regulatory Authority of India from time to time;

(*c*) manufacture, import, distribution and sale of telecommunication equipment;

(*d*) telecommunication security, including identification, analysis and prevention of intrusion in telecommunication services and telecommunication networks;

(*e*) cyber security for telecommunication services and telecommunication networks; and

(*f*) encryption and data processing in telecommunication.

Provisions for public emergency or public safety.

20. (*1*) On the occurrence of any public emergency, including disaster management, or in the interest of public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government, if satisfied that it is necessary or expedient so to do, by notification—

(*a*) take temporary possession of any telecommunication service or telecommunication network from an authorised entity; or

(*b*) provide for appropriate mechanism to ensure that messages of a user or group of users authorised for response and recovery during public emergency are routed on priority.

(*2*) On the occurrence of any public emergency or in the interest of public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government, may, if satisfied that it is necessary or expedient to do so, in the interest of the sovereignty and integrity of India, defence and security of the State, friendly relations with foreign States, public order, or for preventing incitement to the commission of any offence, subject to such procedure and safeguards as may be prescribed, and for reasons to be recorded in writing, by order—

(*a*) direct that any message or class of messages, to or from any person or class of persons, to or from any telecommunication equipment or class of telecommunication equipment, or relating to any particular subject, brought for

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transmission by, or transmitted or received by any telecommunication service or telecommunication network, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed in intelligible format to the officer mentioned in such order; or

(*b*) direct that any telecommunication service or class of telecommunication services to or from any person or class of persons, to or from any telecommunication equipment or class of telecommunication equipment, or relating to any particular subject, transmitted or received by any telecommunication service or telecommunication network, shall be suspended.

(*3*) The press messages, intended to be published in India, of correspondents accredited to the Central Government or a State Government shall not be intercepted or detained, unless their transmission has been prohibited under clause (*a*) of sub-section (*2*).

(*4*) The action specified under sub-section (*1*), sub-section (*2*) and sub-section (*3*) shall be for such duration and in such manner as may be prescribed.

Measures for national security, etc.

21. The Central Government may, if satisfied that it is necessary or expedient so to do, in the interest of national security, friendly relations with foreign States, or in the event of war, by notification take such measures as are necessary in the circumstances of the case, including issuing directions in respect of the following, namely:—

(*a*) use of telecommunication equipment, telecommunication services, telecommunication network and telecommunication identifiers;

(*b*) standards applicable to manufacture, import and distribution of telecommunication equipment;

(*c*) standards to be adopted by authorised entities or assignees;

(*d*) procurement of telecommunication equipment and telecommunication services only from trusted sources;

(*e*) suspension, removal or prohibition of the use of specified telecommunication equipment and telecommunication services from countries or person as may be notified; or

(*f*) taking over the control and management of, or suspending the operation of, or entrusting any authority of the Central Government to manage any or all of any telecommunication services, or any telecommunication network or part thereof, connected with such telecommunication services.

Protection of telecommunication network and telecommunication services.

22. (*1*) The Central Government may by rules provide for the measures to protect and ensure cyber security of telecommunication networks and telecommunication services.

(*2*) The measures may include collection, analysis and dissemination of traffic data that is generated, transmitted, received or stored in telecommunication networks.

Explanation.—For the purposes of this sub-section, the expression "traffic data" means any data generated, transmitted, received or stored in telecommunication networks including data relating to the type, routing, duration or time of a telecommunication.

(*3*) The Central Government may, by notification in the Official Gazette, declare any telecommunication network, or part thereof, as Critical Telecommunication Infrastructure, disruption of which shall have debilitating impact on national security, economy, public health or safety.

(*4*) The Central Government may by rules provide for the standards, security practices, upgradation requirements and procedures to be implemented for such Critical Telecommunication Infrastructure.

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23. If it appears necessary or expedient so to do in the public interest, the Central Government may direct any authorised entity to transmit in its telecommunication services or telecommunication network, specific messages, in such manner as may be specified. Power to give directions.

CHAPTER V

DIGITAL *BHARAT NIDHI*

24. (*1*) **The Universal Service Obligation Fund created under the Indian Telegraph Act, 1885, shall, from the appointed day, be the "Digital *Bharat Nidhi*", under the control of the Central Government, and shall be used to discharge functions as set forth in this Act.** Establishment of Digital *Bharat Nidhi*.

13 of 1885.

(*2*) **Any sums of money attributable to the Digital *Bharat Nidhi* that is paid pursuant to an authorisation under section 3, shall be credited to the Digital *Bharat Nidhi.***

(*3*) **The balance to the credit of the Digital *Bharat Nidhi* shall not lapse at the end of the financial year.**

(*4*) **All amounts payable under licences granted prior to the appointed day towards the Universal Service Obligation, shall be deemed to be the amounts payable towards the Digital *Bharat Nidhi.***

25. The sums of money received towards the Digital *Bharat Nidhi* under section 24, shall first be credited to the Consolidated Fund of India, and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, credit such proceeds to the Digital *Bharat Nidhi* from time to time for being utilised exclusively to meet any or all of the following objectives, namely:— Crediting of sum to Consolidated Fund of India.

(*a*) support universal service through promoting access to and delivery of telecommunication services in underserved rural, remote and urban areas;

(*b*) support research and development of telecommunication services, technologies, and products;

(*c*) support pilot projects, consultancy assistance and advisory support towards provision of service under clause (*a*) of this section;

(*d*) support introduction of telecommunication services, technologies, and products.

26. The Digital *Bharat Nidhi* shall be administered in a manner, as may be prescribed. Administration of Digital *Bharat Nidhi*.

CHAPTER VI

INNOVATION AND TECHNOLOGY DEVELOPMENT

27. The Central Government may, for the purposes of encouraging and facilitating innovation and technological development in telecommunication, create one or more regulatory sandboxes, in such manner, and for such duration, as may be prescribed. Regulatory sandbox.

Explanation.—For the purposes of this section, the expression "regulatory sandbox" refers to a live testing environment where new products, services, processes and business models which may be deployed, on a limited set of users, for a specified period of time, with certain relaxations from the provisions of this Act.

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CHAPTER VII

PROTECTION OF USERS

Measures for protection of users.

28. (*1*) For the purposes of this section, "specified message" means any message offering, advertising or promoting goods, services, interest in property, business opportunity, employment opportunity or investment opportunity, whether or not—

(*a*) the goods, services, interest, or opportunity are real; or

(*b*) it is lawful to acquire such goods, services, property, interest or take up the opportunity.

(*2*) The Central Government may by rules provide for measures for protection of users, in consonance with any regulations notified by the Telecom Regulatory Authority of India from time to time, including measures such as—

(*a*) the prior consent of users for receiving certain specified messages or class of specified messages;

(*b*) the preparation and maintenance of one or more registers, to be called as "Do Not Disturb" register, to ensure that users do not receive specified messages or class of specified messages without prior consent; or

(*c*) the mechanism to enable users to report any malware or specified messages received in contravention of this section.

(*3*) An authorised entity providing telecommunication services shall establish an online mechanism to enable users to register any grievance pertaining to the telecommunication service, and redressal of such grievances, in such manner as may be prescribed.

Duty of users.

29. No user shall—

(*a*) furnish any false particulars, suppress any material information, or impersonate another person, while establishing his identity for availing of telecommunication services; or

(*b*) fail to share information as required under this Act.

Dispute resolution mechanism to redress user grievances.

30. (*1*) The Central Government may establish or approve one or more online dispute resolution mechanisms for the resolution of disputes between users and authorised entities providing telecommunication services.

(*2*) Every authorised entity providing telecommunication services shall participate in the dispute resolution mechanism established under sub-section (*1*), and shall comply with such terms and conditions of participation in such mechanism as may be prescribed.

(*3*) This section shall not affect the rights of consumers under the Consumer Protection Act, 2019. 35 of 2019.

CHAPTER VIII

ADJUDICATION OF CERTAIN CONTRAVENTIONS

Definitions of terms used in this Chapter.

31. For the purposes of this Chapter,—

(*a*) "Adjudicating Officer" means an officer appointed under section 35; and

(*b*) "Designated Appeals Committee" means the committee appointed under section 36.

Breach of terms and conditions of authorisation or assignment.

32. (*1*) In case of breach of any of the terms and conditions of authorisation or assignment granted under this Act, the Adjudicating Officer shall, pursuant to an inquiry under the provisions of this Chapter—

(*a*) pass an order in writing in respect of one or both of the following, namely:—

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(*i*) direct such authorised entity, or assignee to do or abstain from doing any act or thing to prevent such breach or for such compliance;

(*ii*) impose civil penalties as specified in the Second Schedule; and

(*b*) make recommendations for the consideration of the Central Government regarding suspension, revocation, or curtailment of the duration of the authorisation or assignment.

(*2*) The Central Government may, after due consideration of the recommendations of the Adjudicating Officer under clause (*b*) of sub-section (*1*), suspend, curtail or revoke the authorisation or assignment, as the case may be, which may be reversed if the substantial violation is remedied to the satisfaction of the Central Government.

(*3*) While imposing penalties specified in the Second Schedule under this section and section 33, the Adjudicating Officer shall have due regard to the following factors, namely:—

(*a*) nature, gravity and duration of the contravention, taking into account the scope of the contravention;

(*b*) number of persons affected by such contravention, and the level of harm suffered by them;

(*c*) intentional or negligent character of the contravention;

(*d*) repetitive nature of the contravention;

(*e*) action taken by the concerned person to mitigate the contravention, including by providing a voluntary undertaking under sub-section (*1*) or sub-section (*2*) of section 34;

(*f*) revenue loss caused to the Central Government;

(*g*) any aggravating factors relevant to the circumstances of the case, such as the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the contravention; and

(*h*) any mitigating factors relevant to the circumstances of the case, such as the timely rectification of the contravention, or steps taken for the avoidance of loss as a result of the contravention.

Contraventions of Act.

33. (*1*) The Adjudicating Officer shall, upon receipt of a complaint in such form, manner and accompanied by such fees as may be prescribed, relating to contravention of this Act as specified in the Third Schedule, or *suo motu*, conduct an inquiry under the provisions of this Chapter, pass an order in writing specifying the civil penalty up to an amount as specified in the Third Schedule, payable by the person committing such contravention.

(*2*) The provisions of the Third Schedule shall apply to the abetment of, or attempt to commit, or conspiracy to commit such contravention, as they apply to such contravention.

Voluntary undertaking for contraventions.

34. (*1*) Any authorised entity or assignee committing the contravention as provided under section 32 or under serial No. 4 of the Third Schedule may, prior to any notice or initiation of process of determination of such contravention, submit a voluntary undertaking to the Adjudicating Officer, disclosing such contravention and measures taken or to be taken to mitigate such contravention.

(*2*) The acceptance of voluntary undertaking given under sub-section (*1*), subject to the provisions of sub-section (*6*), shall constitute a bar on proceedings under this Chapter.

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(*3*) Where the Adjudicating Officer has reasonable grounds to believe that a contravention as provided under section 32 or under serial No. 4 of the Third Schedule may have occurred, then it shall serve a notice to the authorised entity or assignee concerned under the relevant section.

(*4*) At any time during the process of hearing under sub-section (*3*), the authorised entity or assignee, may, submit a voluntary undertaking specifying the mitigation measures it proposes to take in respect of such contravention.

(*5*) The acceptance of the voluntary undertaking submitted under sub-section (*4*), subject to the provisions of sub-section (*6*), shall be construed as a mitigation measure and shall be duly considered for the purpose of determination of civil penalties under clause (*a*) of sub-section (*1*) of section 32, or under serial No. 4 of the Third Schedule.

(*6*) The voluntary undertaking under sub-section (*1*) or sub-section (*4*) of this section, may include an undertaking to take a specified action within a specified time; an undertaking to refrain from taking a specified action; and an undertaking to publicise the voluntary undertaking.

(*7*) The Adjudicating Officer may accept the voluntary undertaking under sub-section (*1*) or sub-section (*4*), or with the agreement of the authorised entity or assignee providing the voluntary undertaking, vary the terms included in such voluntary undertaking.

(*8*) When the authorised entity or assignee providing a voluntary undertaking fails to comply with any terms of such undertaking, the Adjudicating Officer may, after giving such authorised entity or assignee a reasonable opportunity of being heard, proceed with imposition of civil penalties specified under the Second Schedule or the Third Schedule, as applicable.

Adjudicating Officer.

35. (*1*) For the purposes of this Chapter, the Central Government shall, by an order published in the Official Gazette, appoint any officer of the Central Government not below the rank of Joint Secretary as one or more Adjudicating Officers for holding an inquiry in such manner as may be prescribed.

(*2*) The Adjudicating Officer may, upon the holding of such inquiry, pass such order as he deems fit in accordance with the provisions of section 32 or section 33.

Designated Appeals Committee.

36. (*1*) The Central Government may, by an order published in the Official Gazette, appoint officers of the Central Government not below the rank of Additional Secretary, as members of one or more Designated Appeals Committee to which any person aggrieved by an order made by the Adjudicating Officer under sub-section (*1*) of section 32 or under section 33, may prefer an appeal.

(*2*) Every appeal under sub-section (*1*) shall be filed within a period of thirty days from the date on which the copy of the order made by the Adjudicating Officer is received by the aggrieved person, and shall be in such form, manner and be accompanied by such fees as may be prescribed.

Process to be followed by Adjudicating Officer and Designated Appeals Committee.

37. (*1*) The functioning of the Adjudicating Officer and the Designated Appeals Committee shall, as far as possible, be digital by design and they shall function as digital offices and deploy such techno-legal measures as may be prescribed, to enable online process for their functioning.

(*2*) The Adjudicating Officer and Designated Appeals Committee shall have the same powers as a civil court, and all proceedings before it shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code. 45 of 1860.

Enforcement.

38. Any order made by the Adjudicating Officer or the Designated Appeals Committee shall be executable in the same manner as if it were a decree of civil court; and such orders shall be deemed to be final decrees under this section on the expiry of the period allowed for preferring an appeal against such orders as provided in section 36 and section 39.

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Appeals on matters relating to section 32.

39. Any person aggrieved by an order of the Designated Appeals Committee under section 36, in so far as it pertains to matters under sub-section (*1*) of section 32, or an order of the Central Government under sub-section (*2*) of section 32, may prefer an appeal to the Telecom Disputes Settlement and Appellate Tribunal constituted under section 14 of the Telecom Regulatory Authority of India Act, 1997, within a period of thirty days from the date on which a copy of the order is received by such authorised entity or assignee.

24 of 1997.

Appeals on matters relating to section 33.

40. Any person aggrieved by an order of the Designated Appeals Committee under section 36, in so far as it pertains to matters under section 33, may prefer an appeal to any civil court having jurisdiction over the matter.

Jurisdiction of civil court barred.

41. No civil court shall have jurisdiction in respect of any matter which the Adjudicating Officer, the Designated Appeals Committee, the Central Government or the Telecom Disputes Settlement and Appellate Tribunal are empowered by or under this Chapter to determine.

CHAPTER IX

OFFENCES

General provisions relating to offences.

42. (*1*) Whoever provides telecommunication services or establishes telecommunication network without authorisation under sub-section (*1*) of section 3, or causes damage to critical telecommunication infrastructure shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend up to two crore rupees, or with both.

(*2*) Whoever directly or indirectly or through personation—

(*a*) gains or attempts to gain unauthorised access to a telecommunication network or to data of an authorised entity or transfers data of an authorised entity; or

(*b*) intercepts a message unlawfully,

shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend up to two crore rupees, or with both.

Explanation.—For the purposes of this sub-section,—

(*i*) the expression "personation" shall have the same meaning as assigned to it under section 416 of the Indian Penal Code;

45 of 1860.

(*ii*) data of an authorised entity includes call data records, internet protocol data records, traffic data, subscriber data records and the like.

(*3*) Whoever,—

(*a*) possesses or uses without an authorisation, any equipment that blocks telecommunication;

(*b*) uses telecommunication identifiers not allotted or permitted in accordance with sub-sections (*8*) and (*9*) of section 3;

(*c*) tampers with telecommunication identifiers;

(*d*) possesses radio equipment without an authorisation or an exemption that can accommodate more than specified number of subscriber identity modules;

(*e*) obtains subscriber identity modules or other telecommunication identifiers through fraud, cheating or personation;

(*f*) wilfully possesses radio equipment knowing that it uses unauthorised or tampered telecommunication identifiers,

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shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend up to fifty lakh rupees, or with both.

(*4*) Whoever wilfully contravenes any measures specified in the notification on national security under section 21 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend up to two crore rupees, or with both and the Central Government may, if it deems fit, also suspend or terminate the telecommunication service of such person.

(*5*) Whoever causes damage to telecommunication network, other than critical telecommunication infrastructure shall be liable for compensation for the damage caused and fine which may extend up to fifty lakh rupees.

(*6*) Whoever abets any offence, or attempts to commit, or conspires to commit an offence under this Act, shall if the act abetted or conspired is committed in consequence of such abetment or conspiracy, be punished with the punishment provided for the offence.

(*7*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences specified under this section shall be cognizable and non-bailable. 2 of 1974.

(*8*) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate of first class shall try any offence punishable under this Act.

Power to search.

43. Any officer authorised by the Central Government in this behalf, may search any building, vehicle, vessel, aircraft or place in which he has reason to believe that any unauthorised telecommunication network or telecommunication equipment or radio equipment in respect of which an offence punishable under section 42 has been committed, is kept or concealed and take possession thereof.

Supply of information to authorised officers.

44. Notwithstanding anything contained in any law for the time being in force, where the Central Government is satisfied that any information, document or record in possession or control of any authorised entity or assignee relating to any telecommunication service, telecommunication network or use of spectrum, availed by any entity or consumer or subscriber is necessary to be furnished in relation to any pending or apprehended civil or criminal proceedings, an officer, specially authorised in writing by the Central Government in this behalf, shall direct such authorised entity or assignee to furnish such information, document or record to him and the authorised entity or assignee shall comply with the direction of such officer.

CHAPTER X

MISCELLANEOUS

Creation of security interests.

45. The Central Government may provide for such security interest which an authorised entity may provide to lenders financing such entities on such terms and conditions of such security interest as may be prescribed.

Certification of person for operation of radio equipment on a vessel or aircraft.

46. The Central Government may grant certification to any person to operate a radio equipment on such class of vessels registered under the Merchant Shipping Act, 1958, aircrafts registered under the Aircraft Act, 1934 and any other category of vessels or vehicles as may be notified by the Central Government, in accordance with such terms and conditions, including applicable fees and charges, as may be prescribed. 44 of 1958. 22 of 1934.

Certification for amateur station operator.

47. The Central Government may by rules provide for the manner of certification of person to install and operate an amateur station and such rules may specify the qualifications and terms and conditions subject to which, a certification for operating an amateur station may be granted, including through conduct of examinations for granting such certification, the fees and charges to be paid thereof, and other connected matters.

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Explanation.—For the purposes of this section,—

(*a*) "amateur services" means radio communication services for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, by duly authorised person interested in radio technique solely with a personal aim and without any pecuniary interest;

(*b*) "amateur station" means a radio station operated by an amateur for amateur services.

Prohibition of use of equipment which blocks telecommunication.

48. No person shall possess or use any equipment that blocks telecommunication unless permitted by the Central Government, or any authority authorised for specific purpose by the Central Government.

Penalties not to affect other liabilities.

49. (*1*) The penalties imposed pursuant to the provisions of Chapter VIII or Chapter IX, shall be in addition to, and not in derogation of, any liability in respect of payment of compensation or payment of any fees or charges due by an authorised entity or assignee.

(*2*) The provisions of this Act are in addition to and without prejudice to any other liability which a person may have incurred under any other law for the time being in force.

Act to apply for offence or contravention committed outside India.

50. This Act shall apply to any offence committed or contravention made outside India by any person if the act or conduct constituting such offence or contravention involves a telecommunication service provided in India, or telecommunication equipment or telecommunication network located in India.

Protection of action taken in good faith.

51. No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, or any other authority under this Act or any person acting on their behalf, as the case may be, for anything which is done in good faith, or intended to be done in pursuance of this Act or any rule, regulation or order made thereunder.

Consistency with other laws.

52. (*1*) The provisions of this Act shall be in addition to, and not be construed in derogation of the provisions of any other law, and shall be construed as consistent with such law, for the time being in force.

(*2*) If any conflict arises between a provision of this Act and a provision of any other law for the time being in force in the whole of India or restricted to the application within the territory of any State, the provision of this Act shall prevail to the extent of such conflict.

Implementation of Act.

53. The implementation of the Act shall be digital by design and the Central Government shall take any such measures as necessary to enable the digital implementation of the Act.

Employee of authorised entity not to be compelled to appear as witness.

54. No employee of an authorised entity shall, in any legal proceeding to which such authorised entity is not a party, be compelled to appear as a witness to prove the information contained in any electronic records submitted under sub-section (*4*) of section 65B of the Indian Evidence Act, 1872, except as required by order of the Court or a Judge made for special cause.

1 of 1872.

Rights in Continental Shelf and Exclusive Economic Zone.

55. The privilege of the Central Government to grant authorisations or assignment under this Act in the Continental Shelf and the Exclusive Economic Zone of India and the rights of an authorised entity or assignee, as the case may be, shall be subject to the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and applicable international laws as accepted and ratified by India.

80 of 1976.

Power of Central Government to make rules.

56. (*1*) The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with the provisions of this Act, to carry out the purposes of this Act.

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(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the terms and conditions, including fees or charges for obtaining authorisation under sub-section (*1*) of section 3;

(*b*) the manner of exemption for providing authorisation under sub-section (*3*) of section 3;

(*c*) the terms and conditions, including fees and charges, applicable to the original authorised entity that emerges pursuant to any merger, demerger, acquisition, or other forms of restructuring, under sub-section (*5*) of section 3;

(*d*) the terms and conditions for migration under sub-section (*6*) of section 3;

(*e*) the verifiable biometric based identification to be used by an authorised entity of telecommunication services under sub-section (*7*) of section 3;

(*f*) the terms and conditions, including fees or charges for allotment of telecommunication identifiers for use by authorised entities under sub-section (*8*) of section 3;

(*g*) the terms and conditions for the assignment of spectrum, including the frequency range, methodology for pricing, price, fees and charges, payment mechanism, duration and procedure under sub-section (*3*) of section 4;

(*h*) the manner of exemptions for assignment of spectrum under sub-section (*7*) of section 4;

(*i*) the terms and conditions for re-farming and harmonisation under section 5;

(*j*) the terms and conditions, including applicable fees and charges, and any other relevant condition subject to which the utilisation of the spectrum in a flexible, liberalised and technologically neutral manner under section 6;

(*k*) the terms and conditions for optimal utilisation of spectrum under sub-section (*1*) of section 7;

(*l*) the period of unutilised spectrum for insufficient reasons and further terms and conditions relating to spectrum utilisation under sub-section (*2*) of section 7;

(*m*) the terms and conditions, including applicable fees or charges for sharing, trading, leasing and surrender of assigned spectrum, under sub-section (*2*) of section 8;

(*n*) the timeline for granting permission for right of way for telecommunication network in public property; and the amount for administrative expenses and compensation for right of way under sub-section (*3*) of section 11;

(*o*) the procedure to be followed by a facility provider to enter, survey, establish, operate, maintain, repair, replace or relocate the telecommunication network, including the notice period, the manner of issuance of notice, the framework governing objections by owner or occupier of the property, the manner in which such objections would be resolved, and matters relating to the compensation payable for any damage under sub-section (*5*) of section 12;

(*p*) the terms and conditions, including charges for right of way, and compensation for damage to the property, under sub-section (*6*) of section 12;

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(*q*) the terms and conditions, including fees and charges subject to which the telecommunication network to be made available on open access basis to facility providers under sub-section (*2*) of section 15;

(*r*) the procedure and manner for giving prior notice under sub-section (*1*) of section 17;

(*s*) the timeline for responding the notice with details of telecommunication network and precautionary measures to be undertaken by the facility provider under sub-section (*2*) of section 17;

(*t*) the procedure and safeguards for public emergency or public safety under sub-section (*2*) of section 20;

(*u*) the duration and manner of taking action for public emergency or public safety under sub-section (*4*) of section 20;

(*v*) the measures to protect and ensure cyber security of, telecommunication networks and telecommunication services under sub-section (*1*) of section 22;

(*w*) the standards, security practices, upgradation requirements and procedures to be implemented for the Critical Telecommunication Infrastructure under sub-section (*4*) of section 22;

(*x*) the manner for administration of Digital *Bharat Nidhi* under section 26;

(*y*) the manner and duration for creating Regulatory Sandbox under section 27;

(*z*) the measures for protection of users under sub-section (*2*) of section 28;

(*za*) the manner for registration of any grievance and redressal of such grievances pertaining to the telecommunication service under sub-section (*3*) of section 28;

(*zb*) the terms and conditions for participating in the dispute resolution mechanism under sub-section (*2*) of section 30;

(*zc*) the form, manner and fees to be accompanied with the complaint under sub-section (*1*) of section 33;

(*zd*) the manner for holding inquiry by the Adjudicating Officer under sub-section (*1*) of section 35;

(*ze*) the form, manner and fees for filing an appeal before the Designated Appeals Committee under sub-section (*2*) of section 36;

(*zf*) the techno-legal measures for functioning of the Adjudicating Officer and the Designated Appeals Committee under sub-section (*1*) of section 37;

(*zg*) the terms and conditions of security interest under section 45;

(*zh*) the terms and conditions, including applicable fees and charges for granting certificates under section 46;

(*zi*) the manner of certification, qualification, and terms and conditions, including fees and charges for the examination for amateur station operator under section 47;

(*zj*) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

(*3*) Every rule made under this Act and amendment to the Schedule made under section 57 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 expiry of the session immediately following the session or the successive sessions aforesaid, both

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

Power of Central Government to amend Schedules.

57. (*1*) Subject to the provisions of this section, the Central Government may, by notification,—

(*a*) amend the First Schedule;

(*b*) amend the Second Schedule or the Third Schedule:

Provided that penalty or civil penalty specified in such Schedules shall be not exceeding ten crore rupees.

(*2*) Any amendment made under sub-section (*1*) shall have effect as if enacted in this Act and shall come into force on the date of the notification, unless the notification otherwise directs.

Power to remove difficulties.

58. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may be necessary or expedient, for removing the difficulty:

Provided that no order shall be made under this section after the expiration of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendment to Act 24 of 1997.

59. In the Telecom Regulatory Authority of India Act, 1997,—

(*a*) in section 2,—

(*i*) in sub-section (*1*),—

(*A*) for clause (*e*), the following clause shall be substituted, namely:—

'(*e*) "licensee" means an authorised entity providing telecommunication services under the Telecommunications Act, 2023, or registered for providing cable television network under the Cable Television Networks (Regulation) Act, 1995 or any other Act for the time being in force;';

7 of 1995.

(*B*) for clause (*ea*), the following clause shall be substituted, namely:—

'(*ea*) "licensor" means the Central Government which grants an authorisation for telecommunication services under the Telecommunications Act, 2023, or registration under the Cable Television Networks (Regulation) Act, 1995 or any other Act for the time being in force;';

7 of 1995.

(*C*) after clause (*j*), the following clause shall be inserted, namely:—

'(*ja*) "telecommunication" shall have the meaning as assigned to it in the Telecommunications Act, 2023;';

(*D*) for clause (*k*), the following clause shall be substituted, namely:—

'(*k*) "telecommunication services" means any service for telecommunication;';

(*ii*) in sub-section (*2*), for the words and figures "the Indian Telegraph Act, 1885 or the Indian Wireless Telegraphy Act, 1933", the words, figures and brackets "the Telecommunications Act, 2023 or the Cable Television Networks (Regulation) Act, 1995" shall be substituted;

13 of 1885.
17 of 1933.
7 of 1995.

(*b*) in section 4, for the proviso, the following provisos shall be substituted, namely:—

"Provided that a person who is, or has been, in the service of Government shall not be appointed—

(*a*) as a Chairperson unless such person has held the post of Secretary to the Government of India or any equivalent post in the Central Government or the State Government; or

(*b*) as a member unless such person has held the post of Additional Secretary to the Government of India or any equivalent post in the Central Government or the State Government:

Provided further that a person who is, or has been, in a service other than that of Government, shall be appointed—

(*a*) as a Chairperson if such person has at least thirty years of professional experience and has served as a member of the board of directors or a chief executive of a company in the areas as specified in this section; or

(*b*) as a Member if such person has at least twenty-five years of professional experience and has served as a member of the board of directors or chief executive of a company in the areas as specified in this section.";

(*c*) in section 11,—

(*i*) in sub-section (*1*),—

(*A*) for the words and figures "Indian Telegraph Act, 1885", the words, figures and brackets "Telecommunications Act, 2023 or the Cable Television Networks (Regulation) Act, 1995" shall be substituted;

13 of 1885.
7 of 1995.

(*B*) in the fifth proviso, for the portion beginning with the words "may, within fifteen days from the date of receipt" and ending with the words "take a final decision", the following shall be substituted, namely:—

"shall, within thirty days from the date of receipt of such reference communicate to the Central Government any further recommendations that it may have, after considering the reference made by the Central Government and after receipt of further recommendation if any, the Central Government shall take a final decision.";

(*ii*) in sub-section (*2*),—

(*A*) for the words and figures "Indian Telegraph Act, 1885", the words, figures and brackets "Telecommunications Act, 2023 or the Cable Television Networks (Regulation) Act, 1995" shall be substituted;

13 of 1885.
7 of 1995.

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(*B*) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the Authority may direct an authorised entity or class of authorised entities providing telecommunication services, to abstain from predatory pricing that is harmful to competition, long term development and the overall health of the telecommunication sector.";

(*d*) in section 14, in clause (*a*),—

(*i*) sub-clause (*i*) shall be omitted;

(*ii*) for paragraph (*C*), the following shall be substituted, namely:—

"(*C*) any disputes to be adjudicated by the Adjudicating Officer or the Designated Appeals Committee under the Telecommunications Act, 2023;

(*iii*) after clause (*c*), the following clause shall be inserted, namely:—

"(*d*) hear and dispose of appeals under section 39 of the Telecommunications Act, 2023."; 24 of 1997.

(*iv*) Any action instituted under the Telecom Regulatory Authority of India Act, 1997 and pending immediately before the appointed day in the Telecom Disputes Settlement and Appellate Tribunal, shall continue to be heard and disposed of by the Telecom Disputes Settlement and Appellate Tribunal as if this Act had not been passed;";

(*e*) for section 38, the following section shall be substituted, namely:—

Application of certain laws.

"38. The provisions of this Act shall be in addition to the provisions of the Telecommunications Act, 2023 and, in particular, nothing in this Act shall affect any jurisdiction, powers and functions required to be exercised or performed by the appropriate authority in relation to any area falling within the jurisdiction of such authority.".

CHAPTER XI

REPEAL AND SAVINGS

Repeal of certain Acts and savings.

60. (*1*) Subject to the other provisions of this section, the enactments namely, the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933 and the Telegraph Wires (Unlawful Possession) Act, 1950, are hereby repealed. 13 of 1885. 17 of 1933. 74 of 1950.

(*2*) Notwithstanding the repeal of the provisions aforesaid, anything done or any action taken including any grant of license, registration or assignment, any order, or proceeding, pending or ongoing, under the repealed provisions shall be deemed to have been done or taken under this Act, and the provisions of this Act shall have effect in relation thereto.

(*3*) The provisions of Part-III of the Indian Telegraph Act, 1885 shall continue to apply to all cases pertaining to laying down of transmission lines under section 164 of the Electricity Act, 2003 as if the Indian Telegraph Act, 1885 has not been repealed, and the provisions of Part-III of the Indian Telegraph Act, 1885 shall continue in force with reference to section 164 of the Electricity Act, 2003 till such time as section 164 of the Electricity Act, 2003 is amended. 13 of 1885. 36 of 2003.

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13 of 1885. 17 of 1933. 74 of 1950.

Existing rules to continue.

61. All rules, orders, made or purported to have been made under the Indian Telegraph Act, 1885 or under the Indian Wireless Telegraphy Act, 1933, or under the Telegraph Wires (Unlawful Possession) Act, 1950, shall, in so far as they relate to matters for which provision is made in this Act and are not inconsistent therewith, be deemed to have been made under this Act as if this Act had been in force on the date on which such rules, orders were made, and shall continue in force unless and until they are superseded by any rules made under this Act.

Validation of certain acts and indemnity.

62. All acts of executive actions done, decisions taken, actions done, proceedings taken and orders passed, prior to the appointed day, by the Central Government, by any officer of the Central Government, or by any other authority, with respect to assignment of spectrum or provision of telecommunication services, or telecommunication network or establishment of telecommunication infrastructure, in the belief or purported belief that the acts done, decisions taken, actions done, and proceedings taken, were being done, taken or passed under the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933 or the Telegraph Wires (Unlawful Possession) Act, 1950, shall be as valid and operative as if they had been done, taken or passed in accordance with law; and no suit or other legal proceeding shall be maintained or continued against any person whatsoever, on the ground that any such acts, decisions, proceedings taken were not done or taken in accordance with law.

THE FIRST SCHEDULE

[*See* sections 4 (*4*), (*5*) and 57(*1*)]

ASSIGNMENT OF SPECTRUM THROUGH ADMINISTRATIVE PROCESS

1. National security and defence.
2. Law enforcement and crime prevention.
3. Public broadcasting services.
4. Disaster management, safeguarding life and property.
5. Promoting scientific research, resource development, and exploration.
6. Safety and operation of roads, railways, metro, regional rail, inland waterways, airports, ports, pipelines, shipping, and other transport systems.
7. Conservation of natural resources and wildlife.
8. Meteorological department and weather forecasting.
9. Internationally recognised dedicated bands for amateur stations, navigation, telemetry, and other like usages.
10. Use by Central Government, State Governments, or their entities or other authorised entities for safety and operations of mines, ports and oil exploration and such other activities where the use of spectrum is primarily for supporting the safety and operations.
11. Public Mobile Radio Trunking Services.
12. Radio backhaul for telecommunication services.

    Explanation.—The term "radio backhaul" shall mean the use of radio frequency only to interconnect telecommunication equipment, other than the customer equipment in telecommunication networks.
13. Community Radio Stations.
14. In-flight and maritime connectivity.
15. Space research and application, launch vehicle operations and ground station for satellite control.
16. Certain satellite-based services such as: Teleports, Television channels, Direct To Home, Headend In The Sky, Digital Satellite News Gathering, Very Small Aperture Terminal, Global Mobile Personal Communication by Satellites, National Long Distance, International Long Distance, Mobile Satellite Service in L and S bands.
17. Use by Central Government, State Governments or their authorised agencies for telecommunication services.
18. Bharat Sanchar Nigam Limited (BSNL) and Mahanagar Telephone Nigam Limited (MTNL).
19. Testing, trial, experimental, demonstration purposes for enabling implementation of new technologies, including for creation of one or more Regulatory Sandboxes.

THE SECOND SCHEDULE

[*See* sections 32(*1*) (*a*) and 34 (*8*)]

CIVIL PENALTIES FOR BREACH OF TERMS AND CONDITIONS UNDER SECTIONS 32 AND 34.

Categorisation	**Civil Penalty**
Severe	Up to Rs. 5 Crore
Major	Up to Rs. 1 Crore
Moderate	Up to Rs. 10 lakh
Minor	Up to Rs. 1 lakh
Non-severe	Written warning.

THE THIRD SCHEDULE

[*See* sections 33(*1*), (*2*), 34(*1*), (*3*), (*5*) and 34(*8*)]

CIVIL PENALTIES FOR CERTAIN CONTRAVENTIONS

Sl. No.	Contravention under the Act	Civil Penalty
1.	(*a*) Possessing radio equipment without an authorisation or an exemption, except for the offence under clauses (*d*) and (*f*) of sub-section (*3*) of section 42; (*b*) Use of subscriber identity modules in excess of number notified.	First Offence: Civil penalty up to fifty thousand rupees . Each subsequent offence: Civil penalty up to two lakh rupees for each such instance.
2.	Use by any person or entity of a telecommunication service or telecommunication network knowing or having reason to believe that such telecommunication service or telecommunication network does not have the required authorisation under this Act.	Civil penalty up to ten lakh rupees.
3.	Contravention of the provisions of section 28 (Measures for protection of users).	First Offence: Civil penalty up to fifty thousand rupees. Each subsequent offence: Civil penalty up to two lakh rupees for each such instance, or suspension of telecommunication service, or a combination thereof.
4.	Contravention of any provision of this Act or rules, or any terms or conditions of an assignment or authorisation in relation to any matter under this Act, for which no penalty or punishment is provided elsewhere in this Act.	First Offence: Civil penalty up to twenty-five thousand rupees. Second or subsequent offence: Further Civil penalty up to fifty thousand rupees for every day after the first during which the contravention continues.

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STATEMENT OF OBJECTS AND REASONS

Telecommunication sector is a key driver of economic and social development. It is the gateway to digital services. Security of our country is vitally dependent on safety of telecommunication networks. Therefore, there is a need to create a legal and regulatory framework that focuses on safe and secure telecommunication network that provides for digitally inclusive growth.

2. The current legal framework is governed by three laws enacted in 1885, 1933 and 1950. The nature of telecommunication, its usage and underlying technologies have undergone massive changes, especially in the past decade. Therefore, there is a need for enacting a legislation for telecom sector that serves the needs of our society.

3. The Telecommunications Bill, 2023 amends and consolidates the laws relating to development, expansion and operation of telecommunication services and telecommunication networks; assignment of spectrum; and for matters connected therewith or incidental thereto.

4. The Bill, *inter alia*, seeks to provide for the following—

(*a*) A framework for authorisation of telecommunication services, telecommunication networks, and possession of radio equipment; assignment and efficient utilization of spectrum including provisions for harmonisation and re-farming; development of new technologies; and regulatory sandbox for innovation using spectrum;

(*b*) A framework for developing and maintaining telecom networks through right of way provisions, and establishment of common ducts;

(*c*) A framework for standards and conformity assessment of telecommunication equipment, telecommunication identifiers, telecommunication network and telecommunication services;

(*d*) Provisions for national security, public emergency and public safety;

(*e*) Provisions for protection of users and defining duties of users;

(*f*) A framework for resolution of disputes;

(*g*) Compliance framework for effective implementation of the proposed legislation;

(*h*) Saving of Part III of Indian Telegraph Act, 1885 for cases pertaining to laying of transmission lines under section 164 of Electricity Act, 2003;

(*i*) Repeal of the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933 and the Telegraph Wires (Unlawful Possession) Act, 1950; and

(*j*) Amendments to certain provisions of the Telecom Regulatory Authority of India Act, 1997.

5. The Notes on Clauses explain in detail the various provisions contained in the Bill.

6. The Bill seeks to achieve the above objectives.

ASHWINI VAISHNAW.

NEW DELHI;
The 16*th December*, 2023.

Notes on clauses

Clause 1 provides for the short title, extent and commencement of the proposed legislation, and for enforcement of the various sections of the proposed legislation on different dates.

Clause 2 defines the various terms and expressions used in the proposed legislation.

Sub-clause (*1*) of clause 3 provides that the authorisation from the Central Government shall be mandatory for any person to provide telecommunication services, establish, operate, maintain or expand telecommunication network, or possess radio equipment subject to such terms and conditions including fees or charges as may be provided by rules.

Sub-clause (*2*) of clause 3 provides that while making rules under sub-clause (*1*) the Central Governmentmayprovide for different terms and conditions of authorisation for different types of telecommunication services, telecommunication network or radio equipment.

Sub-clause (*3*) of clause 3 provides that the Central Government, may provide by rules in public interest may provide exemptions from requirement of authorisation.

Sub-clause (*4*) of clause 3 provides that exemptions granted under the Indian Telegraph Act, 1885 or the Indian Wireless Telegraphy Act, 1933, shall continue under the proposed legislation, unless otherwise notified by the Central Government.

Sub-clause (*5*) of clause 3 deals with merger, demerger or acquisition, or other forms of restructuring of authorised entities and such other terms and conditions as may be provided by rules.

Sub-clause (*6*) of clause 3 provides for continuity of any license, registration, permission, by whatever name called, that have been granted prior to the appointed day of the proposed legislation.

Sub-clause (*7*) of clause 3 provides that an authorised entity under the proposed legislation which provides notified telecommunication services, shall be required to identify the person to whom it provides telecommunication services through use of any verifiable biometric based identification as may be provided by rules.

Sub-clause (*8*) of clause 3 provides that the Central Government mayallot telecommunication identifiers for use by authorised entities subject to such terms and conditions including fees or charges as may be provided by rules.

Sub-clause (*9*) of clause 3 provides that the Central Government may allow use of telecommunication identifiers allotted by international bodies.

Sub-clause (*1*) of clause 4 provides that the Central Government is the owner of spectrum on behalf of the people and shall assign the spectrum in accordance with the proposed legislation and may notify a National Frequency Allocation Plan from time to time.

Sub-clause (*2*) of clause 4 provides that any person intending to use spectrum shall require an assignment from the Central Government.

Sub-clause (*3*) of clause 4 provides that the Central Government may by rules provide terms and conditions applicable for assignment of spectrum.

Sub-clause (*4*) of clause 4 provides that the Central Government shall assign spectrum for telecommunication through auction, except for entries listed in the First Schedule for which assignment shall be done by administrative process.

Sub-clause (*5*) of clause 4 specifies the Central Government may by notification amend entries in the First Schedule in public interest or in order to perform government functions or in cases where auction is not the preferred mode of assignment due to technical or economic reasons.

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Sub-clause (*6*) of clause 4 provides for Central Government to provide exemptions in the public interest, from the requirements of assignment under sub-clause (*2*).

Sub-clause (*7*) of clause 4 provides for continuity of any exemption that may have been granted under the Indian Telegraph Act, 1885 and Indian Wireless Telegraphy Act, 1933 prior to the appointed day of the proposed legislation.

Sub-clause (*8*) of clause 4 provides for continuity of spectrum assigned through the administrative process prior to the appointed day of the proposed legislation.

Sub- clause (*9*) of clause 4 provides for continuity of terms and conditions on which any spectrum was assigned through auction prior to the appointed day of the proposed legislation.

Clause 5 provides that the Central Government may allow re-farming or harmonisation of spectrum to enable more efficient use of spectrum subject to such terms and conditions as may be provided by rules.

Clause 6 provides that the Central Government may enable the utilisation of the spectrum in a flexible, liberalised and technologically neutral manner subject to such terms and conditions including applicable fees and charges as may be provided by rules.

Sub-clause (*1*) of clause 7 is an enabling provision to promote optimal use of the available spectrum subject to such terms and conditions as may be provided by rules.

Sub-clause (*2*) of clause 7 provides the Central Government to terminate an assignment or prescribe further terms and conditions, if it determines that the assigned spectrum has remained unutilised without any sufficient reasons.

Sub-clause (*1*) of clause 8 provides for monitoring and enforcement mechanism to enable interference-free use of the assigned spectrum.

Sub-clause (*2*) of clause 8 provides for the sharing, trading, leasing and surrender of assigned spectrum.

Clause 9 provides that no person shall be entitled to the refund of any fees or charges paid in respect of or under an authorisation or assignment, if such authorisation or assignment is suspended, curtailed, revoked or varied.

Clause 10 provides for definitions of the terms "facility provider", "public entity" and "public property" used in Chapter III.

Sub-clause (*1*) of clause 11provides that a facility provider may submit an application to a public entityto seek permissions for right of way for telecommunication network in public property.

Sub- clause (*2*) of clause 11 provides a public entity, receiving an application under sub-clause (1) to grant permission for right of way.

Sub-clause (*3*) of clause 11 mandates the public entity to grant permission under sub-clause (2) in an expeditious manner, and subject to prescribed administrative expenses and compensation as maybe provided by rules.

Sub-clause (*4*) of clause 11 provides that any rejection of an application for right of way shall be based on reasonable grounds to be recorded in writing.

Sub-clause (*5*) of clause 11 mandates that the facility provider shall do as little damage as possible to the public property, and ensure that the functionality and continuity of operations over such public property is not adversely affected.

Sub-clause (*6*) of clause 11 provides for obligations of the facility provider if any damage is caused to the property.

Sub-clause (*7*) of clause 11 provides that the provisions of clause 11 shall be applicable to any public property vested for such projects or class of projects as notified by the Central Government, and in such cases, applications for right of way shall be made to the public entity granting the concession, contract or permission for such projects.

Sub-clause (*1*) of clause 12 provides for application process for right of way on property other than public property. A facility provider in such a case is required to submit an application for right of way for telecommunication network to the person under whose ownership, control or management of such property is vested.

Sub-clause (*2*) of clause 12 provides that the person receiving the application under sub-clause (*1*) shall provide right of way subject to mutual agreement with the facility provider.

Sub-clause (*3*) of clause 12 mandates the facility provider to do as little damage as possible to the property when exercising right of way.

Sub- clause (*4*) of clause 12 provides for obligations of the facility provider in case of any damage to the property.

Sub-clause (*5*) of clause 12 provides the Central Government to set forth procedure for right of way on property other than public property.

Sub-clause (*6*) of clause 12 deals with situations when the person under sub-clause (*2*) of clause (12) fails to provide the right of way requested.In such situations, the Central Government may, in the public interest, determine that such facility provider shall be permitted the right of way to establish, operate, maintain such telecommunication network, subject to prescribed terms and conditions.

Clause 13 provides that any person providing right of way under Clauses 11 or 12, shall ensure grant of right of way to the facility providers in a non-discriminatory manner and, as far as practicable, on a non-exclusive basis.

Sub-clause (*1*) of clause 14 provides that a facility provider shall not have any right, title or interest in the property on which telecommunication network is established, except the right to use the property as provided under Clauses 11 or 12.

Sub-clause (*2*) of clause 14 provides that the telecommunication network installed on any property, shall not be subject to any claims, encumbrances, liquidation or the like, relating to such property.

Sub-clause (*3*) of clause 14 provides that telecommunication network installed on any property, shall not be considered as part of such property, including for the purposes of any transaction related to that property, or any property tax, levy, cess, fees or duties as may be applicable on that property.

Sub- clause (*4*) of clause 14 provides that, except for cases where action is necessary to deal with any natural disaster or public emergency, no public entity shall take coercive actions such as sealing, preventing access, or forcible shutdown of the telecommunication network,unless permission of an officer authorised by the Central Government has been obtained for this purpose.

Sub-clause (*1*) of clause 15 provides for the Central Government to notify infrastructure projects thatare mandated to establish common ducts or conduits or cable corridors, for installation of telecommunication network.

Sub-clause (*2*) of clause 15 provides that the telecommunication network referred to in sub-clause (*1*) shall be made available on open access basis to facility providers, subject to suchterms and conditions including fees and charges as may be provided by rules.

Sub-clause (*1*) of clause 16 deals with situations when telecommunication network may need to be relocated or altered, pursuant to the interests of the person entitled to deal with the underlying property where the telecommunication network has been placed. Such person may request the facility provider to undertake the relocation or alteration.

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Sub-clause (*2*) of clause 16 provides for adjustment of the compensation while defraying the expense of the relocation or alteration.

Sub-clause (*3*) of clause 16 provides that if any dispute arises, the matter shall be determined by the authority referred to in sub-clause (*2*) of clause 18.

Sub-clause (*4*) of clause 16 provides that if the facility provider omits to comply with the requisition for relocation or alteration, the person making such requisition may apply to the District Magistrate within whose jurisdiction the property is situated, to order the relocation or alteration.

Sub-clause (*5*) of clause 16 deals with powers of the District Magistrate while receiving the application for relocation or alteration.

Sub-clause (*1*) of clause 17 provides for the procedure to be followed if a person is desirous to deal with their property in a manner likely to cause damage to or interrupt or interfere with the telecommunication network established on such property or with telecommunication services.

Sub-clause (*2*) of clause 17 provides for obligations of the facility provider, the Central Government or any other authority to provide details of telecommunication network and precautionary measures to be undertaken, within such timelines as may be provided by rules.

Sub-clause (*3*) of clause 17 deals with situations where notice under sub-clause (*1*) is given by a person in exercise of rights relating to their property with the bona fide intention of averting imminent danger of personal injury to himself.

Sub-clause (*4*) of clause 17 provides the procedure when a person fails to comply with the requirement of giving notice or deals with the property in a manner that is likely to cause or causes damage to the telecommunication network or interrupts or interferes with it.

Sub-clause (*5*) of clause 17 provides that any dispute in relation to damages shall be determined by the District Judge.

Sub-clause (*1*) of clause 18 provides for dispute resolution powers of the District Magistrate relating to right of way.

Sub-clause (*2*) of clause 18 provides that disputes relating to compensation shall be determined by the District Judge within whose jurisdiction the property is situated.

Sub-clause (*3*) of clause 18 provides that every determination of a dispute by the District Magistrate or District Judge shall be final.

Sub-clause (*4*) of clause 18 provides that nothing shall affect the right of any person to recover by suit the whole or part of any compensation paid by the facility provider, from the person who has received the same.

Clause 19 empowers the Central Government to notify standards and conformity assessment measures in respect of telecommunication services, telecommunication network, telecommunication equipment, or telecommunication identifiers.

Sub-clause (*1*) of clause 20 provides for powers of the Central Government or State Government in relation to temporary possession of any telecommunication services or telecommunication network, and appropriate mechanism for priority routing of messages, upon occurrence of any public emergency, orfor disaster management, or in the interest of public safety.

Sub-clause (*2*) of clause 20 provides for other actions in relation to occurrence of public emergency or in the interest of public safety, where the Central Government, or a State Government, is satisfied that it is necessary or expedient to do so, in the interest of the sovereignty and integrity of India, defence and security of the State, friendly relations with foreign States, public order, or for preventing incitement to the commission of any offence.

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Sub-clause (3) of clause 20 provides that press messages, intended to be published in India, of correspondents accredited to the Central Government or a State Government shall not be intercepted or detained unless their transmission is specifically prohibited by order.

Sub-clause (*4*) of clause 20 provides that the actions taken under Clause 20 shall only be for such duration and in such manner as prescribed.

Clause 21 deals with measures that the Central Government may takein the interest of national security.

Sub-clause (*1*) of clause 22 provides for measures to ensure cybersecurity of telecommunication network and telecommunication services.

Sub-clause (*2*) of clause 22 provides that these measures may include collection, analysis and dissemination of traffic data that is generated, transmitted, received or stored in telecommunication networks.

Sub-clause (*3*) of clause 22 provides that the Central Government may by notification, declare any telecommunication network, or part thereof, as Critical Telecommunication Infrastructure.

Sub-clause (*4*) of clause 22 provides the Central Government may by rules provide for the standards, security practices and upgradation requirements for such Critical Telecommunication Infrastructure.

Clause 23 empowers the Central Government to direct any authorised entity to transmit specific messages in public interest.

Sub-clause (*1*) of clause 24 provides that the Universal Service Obligation Fund under the Indian Telegraph Act, 1885 shall be the Digital Bharat Nidhi under the proposed Act.

Sub-clause (*2*) of clause 24 provides that any sums of money attributable to the Digital Bharat Nidhithat are paid pursuant to an authorisation under clause 3 shall be credited to the Digital Bharat Nidhi.

Sub-clause (*3*) of clause 24 provides that the balance to the credit of Digital Bharat Nidhishall not lapse at the end of the financial year.

Sub-clause (*4*) of clause 24 provides that all amounts payable under licenses granted prior to the appointed day towards the Universal Service Obligation Fundshall be deemed to be amounts payable towards the Digital Bharat Nidhi.

Clause 25 provides for the mechanism for crediting of sums of money received towards the Digital Bharat Nidhi, and the objectives of the Digital Bharat Nidhi.

Clause 26 provides that the Digital Bharat Nidhishall be administered in a manner, as may be provided by rules.

Clause 27 empowers the Central Government to create one or more regulatory sandboxes for the purposes of encouraging and facilitating innovation and technological development in telecommunication.

Sub-clause (*1*) of clause 28 defines the term "specified message".

Sub-clause (*2*) of clause 28 provides that the Central Government, may make rules to provide for measures for protection of users in consonance with any regulations notified by the Telecom Regulatory Authority of India.

Sub-clause (*3*) of clause 28 provides that an authorised entity providing telecommunication services shall establish an online mechanism for redressal of user grievances in such manner as may be provided by rules.

Clause 29 specifies the duty of users under the proposed legislation.

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Sub-clause (*1*) of clause 30 provides that the Central Government may establish or approve one or more online dispute resolution mechanisms for resolution of disputes between users and authorised entities.

Sub-clause (*2*) of clause 30 provides that every authorised entity providing telecommunication services shall participate in the dispute resolution mechanism established under sub-clause (*1*).

Sub-clause (*3*) of clause 30 provides that participation in this mechanism shall not affect the rights of consumers under the Consumer Protection Act, 2019.

Clause 31 provides for definitions of "Adjudicating Officer" appointed under Clause 35, and "Designated Appeals Committee" appointed under Clause 36.

Sub-clause (*1*) of clause 32 provides for the powers of the Adjudicating Officer with reference to breach of any terms and conditions of authorisation or assignment granted under the proposed legislation.

Sub-clause (*2*) of clause 32 provides for measures that the Central Government may take after duly considering recommendations of the Adjudicating Officer.

Sub-clause (*3*) of clause 32 specifies factors that the Adjudicating Officer would need to considerwhile imposing penalties as specified under the Second Schedule of the proposed legislation.

Sub-clause (*1*) of clause 33 provides for powers of the Adjudicating Officerwhile undertaking inquiry into contraventions as specified in the Third Schedule of the proposed legislation.

Sub-clause (*2*) of clause 33 provides that provisions of the Third Schedule shall also apply to the abetment of or attempt to commit, or conspiracy to commit such contravention.

Clause 34 provides for voluntary undertaking which may be submitted by an authorised entity or assignee upon breach of terms and conditions of authorisation or assignment or specific contraventions listed in the Third Schedule of the proposed legislation.

Clause 35 provides forthe appointment of one or more Adjudicating Officers.

Clause 36 provides for the appointment of officers to the Designated Appeals Committee.

Clause 37 provides for the process to be followed by Adjudicating Officer and Designated Appeals Committee.

Clause 38 provides for enforcement of orders of the Adjudicating Officer and Designated Appeals Committee.

Clause 39 provides that appeals from the orders of Designated Appeals Committee with respect to matters under sub-clause (*1*) of clause 32 or orders of the Central Government under sub-clause (*2*) of clause 32 shall lie with Telecom Disputes Settlement and Appellate Tribunal constituted under the Telecom Regulatory Authority of India Act, 1997.

Clause 40 provides that appeals from the orders of Designated Appeals Committee with respect to matters under clause 33 shall lie with any civil court having jurisdiction over the matter.

Clause 41 provides that no civil court shall have jurisdiction in respect of any matter which the Adjudicating Officer, the Designated Appeals Committee, the Central Government or the Telecom Disputes Settlement and Appellate Tribunal are empowered by the proposed Legislation to determine.

Clause 42 relates to general provisions relating to offences.

Clause 43 provides for powers of search by an authorised officer in relation to offences under the proposed Legislation.

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Clause 44 provides for supply of information to authorised officers.

Clause 45 provides for the Central Government to provide by rules the security interest that an authorised entity may provide to lenders financing such entities.

Clause 46 provides the grant of certification for operation of radio equipment on vessels registered under the Merchant Shipping Act, 1958, aircrafts registered under the Aircraft Act, 1934 and any other category of vessels or vehicles as notified.

Clause 47 deals with certification required for installation and operation of an amateur station.

Clause 48 prohibits possession or use of any equipment that blocks telecommunication, unless permitted by the Central Government.

Clause 49 provides that penalties imposed under the proposed legislation shall be in addition to, and not in derogation of, any liability in respect of payment of compensation or payment of any fees or charges due by an authorised entity or assignee.

Clause 50 provides for the applicability of the proposed legislation to offences or contraventions committed outside India.

Clause 51 provides for protection of action taken in good faith.

Clause 52 provides for consistency with other laws.

Clause 53 provides that the implementation of the proposed legislation shall be digital by design.

Clause 54 provides that an employee of an authorised entity shall not be compelled to appear as witness, in any legal proceeding to which such authorised entity is not a party, to prove the electronic records, except as required by order of the Court or a Judge made for special cause.

Clause 55 provides that authorisations or assignment in the Continental Shelf and the Exclusive Economic Zone of India and the rights of an authorised entity or assignee, shall be subject to the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and applicable international laws as accepted and ratified by India.

Clause 56 confers powers on theCentral Government to make rules.

Clause 57 confers powers on the Central Government to amend the Schedules of the proposed legislation by notification.

Clause 58 provides power to remove difficulties.

Clause 59 provides for certain amendments to the Telecom Regulatory Authority of India Act, 1997.

Clause 60 provides for the repeal of the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933 and the Telegraph Wires (Unlawful Possession) Act, 1950. Any action taken including grant of license, registration or assignment, any order, or proceeding, pending or ongoing, under the repealed legislations shall be deemed to have been done or taken under the proposed legislation.

Clause 61 provides for existing rules to continue. It states that all rules, orders, made or purported to have been made under the repealed acts shall continue until they are superseded by rules under the proposed legislation.

Clause 62 deals with validation of certain acts and grant of indemnity.

The First Schedule is a list of the purposes for which spectrum shall be assigned through administrative process.

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The Second Schedule provides for civil penalties for breach of terms and conditions of authorisation or assignment.

The Third Schedule provides for civil penalties for certain contraventions of the proposed legislation.

FINANCIAL MEMORANDUM

Clause 9, sub-clauses (*4*) and (*6*) of clause 12, sub-clause (*2*) of clause 15, clause 25 and clause 33 of the Bill, *inter alia*, provides that the sums of money received towards the Digital *Bharat Nidhi* established under clause 24, shall be credited to the Consolidated Fund of India and the Central Government may after due appropriation made by Parliament by law in this behalf, credit such proceeds to the Digital *Bharat Nidhi* from time to time for being utilised exclusively to meet any or all of the objectives listed in the clause.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 56 of the Bill, seeks to empower the Central Government, by notification and subject to the condition of previous publication, not inconsistent with the provisions of the Act, to make rules for—

(*a*) the terms and conditions, including fees or charges for obtaining authorisation under sub-clause (*1*) of clause 3;

(*b*) the manner of exemption for providing authorisation under sub- clause (*3*) of clause 3;

(*c*) the terms and conditions, including fees and charges, applicable to the original authorised entity that emerges pursuant to any merger, demerger, acquisition, or other forms of restructuring, under sub-clause (*5*) of clause 3;

(*d*) the terms and conditions for migration under sub-clause (*6*) of clause 3;

(*e*) the verifiable biometric based identification to be used by an authorised entity of telecommunication services under sub-clause (*7*) of clause 3;

(*f*) the terms and conditions, including fees or charges for allotment of telecommunication identifiers for use by authorised entities under sub-clause (*8*) of clause 3;

(*g*) the terms and conditions for the assignment of spectrum, including the frequency range, methodology for pricing, price, fees and charges, payment mechanism, duration and procedure under sub-clause (*3*) of clause 4;

(*h*) the manner of exemptions for assignment of spectrum under sub-clause (*6*) of clause 4;

(*i*) the terms and conditions for re-farming and harmonisation under clause 5;

(*j*) the terms and conditions, including applicable fees and charges, and any other relevant condition subject to which the utilisation of the spectrum in a flexible, liberalised and technologically neutral manner under clause 6 ;

(*k*) the terms and conditions for optimal utilisation of spectrum under sub- clause (*1*) of clause 7;

(*l*) the period of unutilised spectrum for insufficient reasons and further terms and conditions relating to spectrum utilisation under sub-clause (*2*) of clause 7;

(*m*) the terms and conditions, including applicable fees or charges for sharing, trading, leasing and surrender of assigned spectrum, under sub-clause (*2*) of clause 8;

(*n*) the timeline for granting permission for right of way for telecommunication network in public property; and the amount for administrative expenses and compensation for right of way under sub-clause (*3*) of clause 11;

(*o*) the procedure to be followed by a facility provider to enter, survey, establish, operate, maintain, repair, replace or relocate the telecommunication network, including the notice period, the manner of issuance of notice, the framework governing objections by owner or occupier of the property, the manner in which such objections would be resolved, and matters relating to the compensation payable for any damage under sub-clause (*5*) of clause 12;

(*p*) the terms and conditions, including charges for right of way, and compensation for damage to the property, under sub-clause (*6*) of clause 12;

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(*q*) the terms and conditions, including fees and charges subject to which the telecommunication network to be made available on open access basis to facility providers under sub-clause (*2*) of clause 15;

(*r*) the procedure and manner for giving prior notice under sub-clause (*1*) of clause 17;

(*s*) the timeline for responding the notice with details of telecommunication network and precautionary measures to be undertaken by the facility provider under sub-clause (*2*) of clause 17;

(*t*) the procedure and safeguards for public emergency or public safety under sub-clause (*2*) of clause 20;

(*u*) the manner for taking action for public emergency or public safety under sub- clause (*4*) of clause 20;

(*v*) the measures to protect and ensure cyber security of, telecommunication networks and telecommunication services under sub-clause (*1*) of clause 22;

(*w*) the standards, security practices, upgradation requirements and procedures to be implemented for the Critical Telecommunication Infrastructure under sub-clause (*4*) of clause 22;

(*x*) the manner for administration of Digital Bharat Nidhi under clause 26;

(*y*) the manner and duration for Regulatory Sandbox under clause 27;

(*z*) the measures for protection of users under sub-clause (*2*) of clause 28;

(*za*) the manner for registration of any grievance and redressal of such grievances pertaining to the telecommunication service under sub-clause (*3*) of clause 28;

(*zb*) the terms and conditions for participating in the dispute resolution mechanism under sub-clause (*2*) of clause 30;

(*zc*) the form, manner and fees to be accompanied with the complaint under sub-clause (*1*) of clause 33;

(*zd*) the manner for holding inquiry by the Adjudicating Officer under sub-clause (*1*) of clause 35;

(*ze*) the form, manner and fee for filing an appeal before the Designated Appeals Committee under sub-clause (*2*) of clause 36;

(*zf*) the techno-legal measures for functioning of Adjudicating Officer and the Designated Appeals Committee under sub-clause (*1*) of clause 37;

(*zg*) the terms and conditions of security interest under clause 45;

(*zh*) the terms and conditions, including applicable fees and charges for granting certificates under clause 46; and

(*zi*) the manner of certification, qualification, and terms and conditions, including fees and charges for the examination for amateur station operator under clause 47.

2. The matters in respect of which the said rules may be made are matters of procedure and administrative details, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE TELECOM REGULATORY AUTHORITY OF INDIA ACT, 1997

(24 OF 1997)

* * * * *

2. (*1*) In this Act, unless the context otherwise requires,— Definitions.

* * * * *

(*e*) "licensee" means any person licensed under sub-section (*1*) of section 4 of
13 of 1885. the Indian Telegraph Act, 1885 for providing specified public telecommunication services;

(*ea*) "licensor" means the Central Government or the telegraph authority who
13 of 1885. grants a licence under section 4 of the Indian Telegraph Act, 1885;

* * * * *

(*k*) "telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio tax services, video tax services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means but shall not include broadcasting services:

Provided that the Central Government may notify other service to be telecommunication service including broadcasting services.

(*2*) Words and expressions used and not defined in this Act but defined in the Indian
13 of 1885. Telegraph Act, 1885 or the Indian Wireless Telegraphy Act, 1933, shall have the meanings
17 of 1933. respectively assigned to them in those Acts.

* * * * *

4. The Chairperson and other members of the Authority shall be appointed by the Central Government from amongst persons who have special knowledge of, and professional experience in, telecommunication, industry, finance, accountancy, law, management or consumer affairs: Qualifications for appointment of Chairperson and other members.

Provided that a person who is, or has been, in the service of Government shall not be appointed as a member unless such person has held the post of Secretary or Additional Secretary, or the post of Additional Secretary and Secretary to the Government of India or any equivalent post in the Central Government or the State Government for a period of not less than three years.

* * * * *

CHAPTER III

POWERS AND FUNCTIONS OF THE AUTHORITY

13 of 1885. **11.** (*1*) Notwithstanding anything contained in the Indian Telegraph Act,1885, the functions of the Authority shall be to— Functions of Authority.

(*a*) make recommendations, either *suo motu* or on a request from the licensor, on the following matters, namely:—

(*i*) need and timing for introduction of new service provider;

(*ii*) terms and conditions of licence to a service provider;

(*iii*) revocation of license for non-compliance of terms and conditions of licence;

(*iv*) measures to facilitate competition and promote efficiency in the operation of telecommunication services so as to facilitate growth in such services;

(*v*) technological improvements in the services provided by the service providers;

(*vi*) type of equipment to be used by the service providers after inspection of equipment used in the network;

(*vii*) measures for the development of telecommunication technology and any other matter relatable to telecommunication industry in general;

(*viii*) efficient management of available spectrum;

(*b*) discharge the following functions, namely:—

(*i*) ensure compliance of terms and conditions of licence;

(*ii*) notwithstanding anything contained in the terms and conditions of the licence granted before the commencement of the Telecom Regulatory Authority of India (Amendment) Act, 2000, fix the terms and conditions of inter-connectivity between the service providers; 2 of 2000.

(*iii*) ensure technical compatibility and effective inter-connection between different service providers;

(*iv*) regulate arrangement amongst service providers of sharing their revenue derived from providing telecommunication services;

(*v*) lay-down the standards of quality of service to be provided by the service providers and ensure the quality of service and conduct the periodical survey of such service provided by the service providers so as to protect interest of the consumers of telecommunication service;

(*vi*) lay-down and ensure the time period for providing local and long distance circuits of telecommunication between different service providers;

(*vii*) maintain register of inter-connect agreements and of all such other matters as may be provided in the regulations;

(*viii*) keep register maintained under clause (*vii*) open for inspection to any member of public on payment of such fee and compliance of such other requirement as may be provided in the regulations;

(*ix*) ensure effective compliance of universal service obligations;

(*c*) levy fees and other charges at such rates and in respect of such services as may be determined by regulations;

(*d*) perform such other functions including such administrative and financial functions as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of this Act:

* * * * *

Provided also that if the Central Government, having considered that recommendation of the Authority, comes to a *prima facie* conclusion that such recommendation cannot be accepted or needs modifications, it shall refer the recommendation back to the Authority for its reconsideration, and the Authority may, within fifteen days from the date of receipt of such reference, forward to the Central Government its recommendation after considering the reference made by that Government. After receipt of further recommendation if any, the Central Government shall take a final decision.

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13 of 1885.

(*2*) Notwithstanding anything contained in the Indian Telegraph Act, 1885, the Authority may, from time to time, by order, notify in the Official Gazette the rates at which the telecommunication services within India and outside India shall be provided under this Act including the rates at which messages shall be transmitted to any country outside India:

Provided that the Authority may notify different rates for different persons or class of persons for similar telecommunication services and where different rates are fixed as aforesaid the Authority shall record the reasons therefor.

* * * * *

CHAPTER IV

APPELLATE TRIBUNAL

Establishment of Appellate Tribunal.

14. The Central Government shall, by notification, establish an Appellate Tribunal to be known as the Telecom Disputes Settlement and Appellate Tribunal to—

(*a*) adjudicate any dispute—

(*i*) between a licensor and a licensee;

* * * * *

(*C*) the dispute between telegraph authority and any other person referred to in sub-section (*1*) of section 7B of the Indian Telegraph Act, 1885;

13 of 1885.

* * * * *

Application of certain laws.

38. The provisions of this Act shall be in addition to the provisions of the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933 and, in particular, nothing in this Act shall affect any jurisdiction, powers and functions required to be exercised or performed by the Telegraph Authority in relation to any area falling within the jurisdiction of such Authority.

13 of 1885.
17 of 1933.

* * * * *

LOK SABHA

———

A

BILL

to amend and consolidate the law relating to development, expansion and operation of telecommunication services and telecommunication networks; assignment of spectrum; and for matters connected therewith or incidental thereto.

———

(*Shri Ashwini Vaishnaw, Minister of Railways Communications & Electronics and Information Technology*)

MGIPMRND—479LS(S3)—16.12.2023.

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AS PASSED BY LOK SABHA
ON 27.7.2023

Bill No. 299-C of 2022

THE *JAN VISHWAS* (AMENDMENT OF PROVISIONS) BILL, 2023

A

BILL

to amend certain enactments for decriminalising and rationalising offences to further enhance trust-based governance for ease of living and doing business.

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

Short title and commencement.

1. (*1*) This Act may be called the *Jan Vishwas* (Amendment of Provisions) Act, 2023.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for amendments relating to different enactments mentioned in the Schedule.

Amendment of certain enactments.

2. The enactments mentioned in column (4) of the Schedule are hereby amended to the extent and in the manner mentioned in column (5) thereof.

Revision of fines and penalties.

3. The fines and penalties provided under various provisions in the enactments mentioned in the Schedule shall be increased by ten per cent. of the minimum amount of fine or penalty, as the case may be, prescribed therefor, after the expiry of every three years from the date of commencement of this Act.

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Savings.

4. The amendment or repeal by this Act of any enactment shall not affect any other enactment in which the amended or repeal enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of, or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, or recognised or derived by, in or from any enactment hereby amended or repealed;

nor shall the amendment or repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE SCHEDULE

(*See* section 2)

Sl. No.	Year	No.	Short title	Amendments
(1)	(2)	(3)	(4)	(5)
1.	1867	25	The Press and Registration of Books Act, 1867	(*A*) In section 8C,— (*i*) in sub-section (*1*), after the words, figure and letter "declaration under section 8B", the words, figures and letter "or an order by the Press Registrar suspending or cancelling the certificate of registration under section 12 or imposing penalties under section 13 or under section 19K" shall be inserted; (*ii*) in sub-section (*2*), after the words "records from the Magistrate", the words "or from the Press Registrar, as the case may be," shall be inserted. (*B*) For sections 12 to 14, the following sections shall be substituted, namely:— "12. Suspension or cancellation of certificate of registration.—(*1*) The Press Registrar may, by order, suspend the certificate of registration of a newspaper for a period not exceeding one year, if— (*a*) the publisher has failed to publish the newspaper continuously. *Explanation.*—For the removal of doubts, it is hereby clarified that if a newspaper publishes less than half of its issues, as are required to be published under rule (*6*) of section 5, such newspaper shall be deemed to

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(1)	(2)	(3)	(4)	(5)
				have failed to publish continuously; or (*b*) the publisher of a newspaper has given false particulars in the annual statement; or (*c*) the publisher of a newspaper has failed to furnish the annual statement within two years from the end of the financial year for which the annual statement was to be furnished. (*2*) The Press Registrar may, by order, cancel the certificate of registration where— (*i*) a newspaper has ceased publication for a period exceeding twenty-four months; (*ii*) the publisher of a newspaper fails to furnish the annual statement even after the expiry of the period during which the certificate of registration was suspended under clause (*c*) of sub-section (*1*); (*iii*) the registration was obtained on false representation or on concealment of any material fact; (*iv*) the title of the newspaper bears the same or similar title already held by any other owner of a newspaper either in the same language anywhere in India or in any other language in the same State or Union territory. (*3*) No order for suspension or cancellation of certificate of registration shall be made under this section, without giving a reasonable opportunity of being heard to the publisher or owner of the newspaper, as the case may be. (*4*) A copy of order of suspension or cancellation passed under this section shall be made available to the Central Government or the State Government or the Union territory administration, as the case may be, and to the Magistrate. 13. Penalty for certain contraventions.—The Press Registrar may impose a penalty— (*i*) not exceeding ten thousand rupees where the publisher prints or publishes any book or paper

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(1)	(2)	(3)	(4)	(5)

otherwise than in conformity with the provisions contained in section 3;

(*ii*) not exceeding ten thousand rupees where the keeper of the press fails to make and subscribe the declaration in conformity with the provisions contained in section 4;

(*iii*) not exceeding twenty thousand rupees where the publisher fails to furnish the annual statement as required under clause (*a*) of section 19D within one year from the end of the financial year in respect of which the annual statement was required to be furnished;

(*iv*) not exceeding twenty thousand rupees where a person who has ceased to be a printer or publisher of any newspaper fails or neglects to make a declaration in compliance with the provisions of section 8;

(*v*) not exceeding two thousand rupees for not delivering books or not supplying printer with maps referred to in section 9;

(*vi*) not exceeding two thousand rupees where any printer of a newspaper neglects to deliver copies of the newspaper in compliance with the provisions of sections 11A and 11B.".

(*C*) Sections 15A to 17 shall be omitted.

(*D*) For section 19K, the following section shall be substituted, namely:—

"19K. Penalty for contravention of section 19D or section 19E.—If the publisher of any newspaper—

(*a*) refuses or neglects to comply with the provisions of clause (*b*) of section 19D or section 19E; or

(*b*) publishes in the newspaper in pursuance of clause (*b*) of section 19D any particulars relating to the newspaper which he has reason to believe to be false,

he shall be liable to penalty not exceeding ten thousand rupees.".

(*E*) Section 19L shall be omitted.

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(1)	(2)	(3)	(4)	(5)
2.	1898	6	The Indian Post Office Act, 1898	Chapter X shall be omitted.
3.	1923	5	The Boilers Act, 1923	(*A*) In section 22,— (*a*) in clause (*iii*), for the word and figures "section 16,", the words and figures "section 16; or" shall be substituted; (*b*) after clause (*iii*), the following clause shall be inserted, namely:— "(*iv*) to report an accident to a boiler or boiler component when so required under section 18,"; (*c*) in the long line, for the words "punishable with fine", the words "liable to penalty" shall be substituted. *(B*) For section 23, the following section shall be substituted, namely:— "23. Penalties for illegal use of boiler.—Any owner of a boiler who— (*a*) in any case in which a certificate or provisional order is required for the use of the boiler under this Act, uses the boiler either without any such certificate or order being in force or at a higher pressure than that allowed thereby; or (*b*) uses or permits to be used a boiler which has been transferred from one State to another without such transfer having been reported as required under clause (*b*) of section 6; or (*c*) fails to cause the register number allotted to the boiler under this Act to be permanently marked on the boiler as required under sub-section (*6*) of section 7, shall be liable to penalty which may extend to one lakh rupees, and in the case of a continuing contravention or failure, with an additional penalty which may extend to one thousand rupees for every day during which such contravention or failure continues.". (*C*) In section 24, clauses (*a*), (*b*) and (*d*) shall be omitted. (*D*) In section 25, in sub-section (*1*), for the words “punishable with fine”, the words “liable to penalty” shall be substituted. (*E*) After section 26, the following sections shall be inserted, namely:— “26A. Adjudication.—(*1*) The State Government or the Union territory

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(1)	(2)	(3)	(4)	(5)
				administration, as the case may be, for the purposes of determining the penalties under sections 22, 23, sub-section (*1*) of section 25 and section 30, may authorise the District Magistrate or the Additional District Magistrate, as the case may be, having jurisdiction, to be the adjudicating officer to hold an inquiry and impose penalty, in the manner as may be prescribed by the State Government or the Central Government, as the case may be.
				(*2*) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry, and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of sections 22, 23, sub-section (*1*) of section 25 and section 30, he may impose penality:
				Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard.
				26B. Appeal.—(*1*) Whoever aggrieved by the order, passed by the adjudicating officer under section 26A, may prefer an appeal to an officer not below the rank of Secretary to the State Government or the Union territory administration, as the case may be, to be an appellate authority, specially authorised by that Government or administration in this behalf, within sixty days from the date of receipt of order, in such form and manner as may be prescribed by the State Government or the Central Government, as the case may be.
				(*2*) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.
				(*3*) The appellate authority may, after giving the parties to the appeal an opportunity of being heard, pass such order as he may think fit.
				(*4*) An appeal under sub-section (*1*) shall be disposed of within sixty days from the date of filing.”.

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(1)	(2)	(3)	(4)	(5)
				(*F*) In section 27, the words "Presidency Magistrate or a" shall be omitted. (*G*) In section 28A, in sub-section (*1A*), after clause (*c*), the following clauses shall be inserted, namely:— "(*ca*) the manner of holding inquiry and imposing penalty under sub-section (*1*) of section 26A; (*cb*) the form and manner of preferring appeal under sub-section (*1*) of section 26B;". (*H*) in section 29, in sub-section (*1*), after clause (*h*) the following clauses shall be inserted, namely:— (*ha*) the manner of holding inquiry and imposing penalty under sub-section (*1*) of section 26A; (*hb*) the form and manner of preferring appeal under sub-section (*1*) of section 26B;". (*I*) In section 30,— (*i*) for the words "punishable, in the case of a first offence, with fine", the words "liable to penalty, in the case of a first contravention, with penalty'' shall be substituted; (*ii*) for the words "subsequent offence, with fine", the words "subsequent contravention, with penalty" shall be substituted.
4.	1927	16	The Indian Forest Act, 1927	(*A*) In section 26,— (*i*) in sub-section (*1*), clauses (*d*) and (*e*) shall be omitted; (*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely:— "(*1A*) Any person who, in a reserved forest— (*a*) trespasses or pastures cattle, or permits cattle to trespass shall be liable to penalty which may extend to five hundred rupees, in addition to such compensation for damage done to the forest as determined by a Forest-officer empowered under section 68; (*b*) causes any damage by negligence in felling any tree

(1)	(2)	(3)	(4)	(5)

or cutting or dragging any timber shall be liable to penalty which may extend to five thousand rupees, in addition to such compensation for damage done to the forest as determined by a Forest-officer empowered under section 68.".

(*B*) In section 33,—

(*i*) in sub-section (*1*), clauses (*e*), (*f*) and (*g*) shall be omitted;

(*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Any person who in a protected forest—

(*a*) leaves burning any fire kindled by him in the vicinity of any tree reserved under section 30, whether standing, fallen or felled, or closed portion of any protected forest;

(*b*) fells any tree or drags any timber so as to damage any tree reserved as aforesaid,

shall be liable to penalty which may extend to five thousand rupees in addition to such compensation for damage done to the forest as determined by a Forest-officer empowered under section 68.".

(*C*) In section 68,—

(*i*) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Power to compound offences and impose penalties.";

(*ii*) in sub-section (*1*)—

(*I*) in clause (*a*), for the word ", and", the word"; or" shall be substituted;

(*II*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) to accept from any person a sum of money by way

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(1)	(2)	(3)	(4)	(5)
				of penalty or compensation for violation of sub-section (*1A*) of section 26 or sub-section (*1A*) of section 33; and".
5.	1937	1	The Agricultural Produce (Grading and Marking) Act, 1937	(*A*) In section 3, in sub-section (*2*), after clause (*g*), the following clauses shall be inserted, namely:— "(*ga*) holding inquiry and imposing penalty under sub-section (*1*) of section 5C; (*gb*) preferring appeal under sub-section (*1*) of section 5D;". (*B*) In section 4, for the words "punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees", the words "liable to penalty not exceeding five lakh rupees" shall be substituted. (*C*) In section 5, for the words "punishable with imprisonment for a term not exceeding three years and fine not exceeding five thousand rupees", the words "liable to penalty not exceeding fifteen lakh rupees" shall be substituted. (*D*) In section 5A, for the words "punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees", the words "liable to penalty not exceeding three lakh rupees" shall be substituted. (*E*) In section 5B, in sub-section (*4*), for the words "punishable with imprisonment for a term not exceeding six months and fine not exceeding five thousand rupees", the words "liable to penalty not exceeding five lakh rupees" shall be substituted. (*F*) For section 5C, the following sections shall be substituted, namely:— "5C. Adjudicating officer.—(*1*) The Central Government may, for the purposes of determining the penalties under sections 4, 5, 5A and 5B, appoint an officer not below the rank of Deputy Secretary to the Government of India or an officer not below the rank of Deputy Secretary to the State Government, to be adjudicating officer to hold an inquiry and impose penalty, in the manner, as may be prescribed:

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(1)	(2)	(3)	(4)	(5)

Provided that the Central Government may appoint as many adjudicating officers as may be required.

(*2*) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of sections 4, 5, 5A and 5B, he may impose penalty:

Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard in the matter.

5D. Appeal.—(*1*) Whoever aggrieved by the order, passed by the adjudicating officer under section 5C may prefer an appeal to the Agricultural Marketing Adviser, Government of India within thirty days from the date of receipt of order in such manner as may be prescribed.

(*2*) An appeal may be admitted after the expiry of the period of thirty days if the appellant satisfies the Agricultural Marketing Adviser that he had sufficient cause for not preferring the appeal within that period.

(*3*) The Agricultural Marketing Adviser may, after giving the parties to the appeal an opportunity of being heard, pass such order as he may think fit.

(*4*) The Agricultural Marketing Adviser referred to in sub-section (*1*) shall dispose of the appeal within sixty days from the date of filing.

5E. Recovery.—Notwithstanding anything contained in this Act, if penalty imposed by the adjudicating officer under section 5C or order of the Agricultural Marketing Adviser under section 5D, as the case may be, is not deposited, the amount shall be recovered as an arrear of land revenue.".

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(1)	(2)	(3)	(4)	(5)
6.	1940	23	The Drugs and Cosmetics Act, 1940	(*A*) In section 29, for the words "punishable with fine which may extend to five thousand rupees", the words "liable to penalty which may extend to one lakh rupees" shall be substituted. (*B*) In section 30, in sub-section (2), for the words "imprisonment which may extend to two years, or with fine which shall not be less than ten thousand rupees, or with both", the words "fine which shall not be less than five lakh rupees" shall be substituted. (*C*) In section 32B, in sub-section (1), after the words and figures "of section 13,", the words, brackets, letters and figures "clause (d) of section 27 and clause (ii) of section 27A," shall be inserted.
7.	1944	18	The Public Debt Act, 1944	Section 27 shall be omitted.
8.	1947	24	The Rubber Act, 1947	(*A*) In section 11, in sub-section (*3*), for the words "imprisonment for a term which may extend to one year or with fine or with both", the words and figures "penalty which may extend to one lakh rupees or cancellation of licence issued under section 14, or with both" shall be substituted. (*B*) In section 13, sub-section (*3*) shall be omitted. (*C*) In section 25, in sub-section (*2*), after clause (xxiii), the following clauses shall be inserted, namely:— "(*xxiiia*) the manner of holding inquiry and imposing penalty under sub-section (1) of section 26B; (*xxiiib*) the form and manner of preferring appeal under sub-section (*2*) of section 26B;". (*D*) In section 26, in sub-section (*1*), in the long line, for the words "punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both", the words "liable to penalty which may extend to fifty thousand rupees" shall be substituted. (*E*) After section 26A, the following section shall be inserted, namely:— "26B. Adjudication of penalties.—(*1*) For the purposes of adjudging the penalties under sub-section (*3*) of section 11 and section 26, the Executive Director shall appoint the Secretary to the Board or any other officer authorised by the Central Government, as the case may be, to be an adjudicating officer for holding an inquiry

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(1)	(2)	(3)	(4)	(5)
				and imposing penalty in the manner as may be prescribed, after giving any person concerned a reasonable opportunity of being heard. (*2*) Whoever is aggrieved by any order of the adjudicating officer may prefer an appeal to the Executive Director, within a period of sixty days from the date of receipt of such order in such form and manner as may be prescribed. (*3*) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the Executive Director that he had sufficient cause for not preferring the appeal within that period. (*4*) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard. (*5*) An appeal under sub-section (*2*) shall be disposed of within sixty days from the date of filing. (*6*) The amount of penalty imposed under sub-section (*1*), if not paid, may be recovered as an arrear of land revenue.".
9.	1948	8	The Pharmacy Act, 1948	(*A*) In section 18, in sub-section (*2*), after clause (*h*), the following clauses shall be inserted, namely:— "(*i*) the manner of holding inquiry and imposing penalty under sub-section (*1*) of section 43A; (*j*) the form and manner of preferring appeal under sub-section (*2*) of section 43A.". (*B*) In section 26A, in sub-section (*3*), for the words "punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one thousand rupees, or with both", the words "liable to penalty which may extend to one lakh rupees" shall be substituted. (*C*) In section 41, for sub-section (*1*), the following sub-section shall be substituted, namely:— "(*1*) If any person whose name is not for the time being entered in the register of the State falsely pretends that it is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable on first conviction with fine which may extend to one lakh rupees and on subsequent conviction with imprisonment which may extend to three

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(1)	(2)	(3)	(4)	(5)

months or with fine not exceeding two lakh rupees, or with both:

Provided that it shall be a defence if the name of the person is entered in the register of another State and that at the time of claim, an application for registration in the State had been made.".

(*D*) In section 42, in sub-section (*2*), for the words "imprisonment for a term which may extend to six months, or with fine not exceeding one thousand rupees or with both", the words "imprisonment for a term which may extend to three months, or with fine which may extend to two lakh rupees, or with both" shall be substituted.

(*E*) After section 43, the following section shall be inserted, namely:—

"43A. Adjudication of penalties.—(*1*) For the purposes of adjudging the penalties under section 26A, the Central Government shall authorise the President of the State Council, where the alleged violation is committed, to be the adjudicating officer for holding an inquiry and impose penalty in the manner as may be prescribed under section 18, after giving any person concerned a reasonable opportunity of being heard.

(*2*) Whoever is aggrieved by any order of the adjudicating officer may prefer an appeal to the President, Central Council, within a period of forty-five days from the date of receipt of such order in such form and manner as may be prescribed under section 18.

(*3*) The President, Central Council may entertain an appeal after the expiry of forty-five days, if it is satisfied that the appellant was prevented from sufficient cause for filing the appeal within the said period.

(*4*) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(*5*) An appeal under sub-section (*2*) shall be disposed of within ninety days from the date of filing.

(*6*) The amount of penalty imposed under sub-section (*1*), if not paid, may be recovered as an arrear of land revenue.".

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(1)	(2)	(3)	(4)	(5)
10.	1951	65	The Industries (Development and Regulation) Act, 1951	(*A*) In section 24, in sub-section (*1*), for the long line, the following long line shall be substituted, namely:— "he shall be liable to penalty which may extend to twenty-five lakh rupees.". (*B*) Section 24A the following sections shall be substituted, namely:— "24A. Adjudication.—(*1*) The Central Government, for the purposes of determining the penalties under section 24, shall authorise the District Magistrate or the Additional District Magistrate, having jurisdiction, to be the adjudicating officer, to hold an inquiry and impose penalty in the manner, as may be prescribed. (*2*) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of this Act, he may impose such penalty as he thinks fit in accordance with the provisions of section 24: Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard. 24B. Appeal.—(*1*) Whoever aggrieved by the order, passed by the adjudicating officer under section 24A, may prefer an appeal to an officer not below the rank of Joint Secretary to the Government of India, to be an appellate authority, within thirty days from the date of receipt of order, in such form and manner as may be prescribed. (*2*) An appeal may be admitted after the expiry of the period of thirty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period. (*3*) The appellate authority may, after giving the parties to the appeal an opportunity of being heard, pass such order as he may think fit.

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(1)	(2)	(3)	(4)	(5)
				(*4*) An appeal under sub-section (*1*) shall be disposed of within sixty days from the date of filing. 24C. Recovery.—Notwithstanding anything contained in this Act, if penalty imposed by the adjudicating officer under section 24A or order of the appellate authority under section 24B, as the case may be, is not deposited, the amount shall be recovered as an arrear of land revenue.". (*C*) Section 27 shall be omitted. (*D*) In section 28, for the words "prosecuted", the words "imposed penalty" shall be substituted. (*E*) Sections 29 and 29A shall be omitted. (*F*) In section 30,— (*i*) in sub-section (*2*), after clause (*pp*), the following clauses shall be inserted, namely:— "(*ppa*) the manner of holding inquiry and imposing penalty under sub-section (*1*) of section 24A; (*ppb*) the form and manner of preferring appeal under sub-section (*1*) of section 24B;"; (*ii*) in sub-section (*3*), for the word "punishable", the words "liable to penalty" shall be substituted.
11.	1952	37	The Cinematograph Act, 1952	(*A*) In section 7,— (*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:— '(*1*) If any person— (*a*) without lawful authority (the burden of proving which shall be on such person) alters or tampers in any way any film after it has been certified, he shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than ten lakh rupees, or with both; (*b*) exhibits or permits to be exhibited in any place, any film—

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(1)	(2)	(3)	(4)	(5)

(*i*) which has not been certified by the Board;

(*ii*) which, when exhibited does not display the prescribed mark of the Board;

(*iii*) which, when exhibited displays a mark of the Board which has since been altered or tampered with, after the mark has been affixed,

he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten lakh rupees, or with both and in the case of a continuing offence with a further fine which may extend to one lakh rupees for each day during which the offence continues;

(*c*) exhibits or permits to be exhibited in any place, a video film in contravention of the provisions of clause (*a*) or clause (*b*), he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten lakh rupees, or with both, and in the case of a continuing offence with a further fine which may extend to one lakh rupees for each day during which the offence continues;

(*d*) exhibits or permits to be exhibited any film, which has been certified by the Board as ''A'' within the meaning of this Act to any minor, such person shall be liable to penalty not exceeding ten thousand rupees per person for every such exhibition, levied by the authorised officer in such manner as may be prescribed;

(*e*) exhibits or permits to be exhibited any film, which has been certified by the Board as ''S'' within the meaning of this

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(1)	(2)	(3)	(4)	(5)
				Act, to a person who is not a member of such profession or class, shall be liable to a penalty not exceeding ten thousand rupees per person for every such exhibition, levied by the authorised officer in such manner as may be prescribed;
				(*f*) fails to comply with the provision contained in section 6A or with any order made by the Central Government or by the Board in the exercise of any of the powers or functions conferred on it by this Act or the rules made thereunder, he shall be liable to penalty not exceeding five lakh rupees, levied by the authorised officer and in such manner as may be prescribed:
				Provided that notwith standing anything contained in section 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for any Metropolitan Magistrate, or any Judicial Magistrate of the First Class specially empowered by the State Government in this behalf, to pass a sentence of fine exceeding five thousand rupees on any person convicted of any offence punishable under this Part under clauses (*a*) to (*c*):
				Provided further that no distributor or exhibitor or owner or employee of a cinema house shall be liable to punishment for contravention of any condition of endorsement of caution that has been certified as "UA" under this Part.';
				(*ii*) after sub-section (*3*), the following sub-section shall be inserted, namely:—
				"(*4*) Whoever aggrieved by any penalty imposed under clauses (*d*) to (*f*) of sub-section (*1*) or section 14, may prefer an appeal to such appellate authority within such period and in such form and manner as may be prescribed.".
				(*B*) In section 8, in sub-section (*2*), after clause (c), the following clauses shall be inserted, namely:—

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(1)	(2)	(3)	(4)	(5)
				"(*ca*) the authorised officer and the manner of levy of penalty by him in terms of clauses (d) to (f) of sub-section (*1*) of section 7; (*cb*) the period, form and manner of preferring appeal and appellate authority under sub-section (*4*) of section 7;" . (*C*) In section 14, for the words "punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues", the words "liable to penalty of one lakh rupees and, in the case of a continuing contravention, with a further penalty which may extend to ten thousand rupees for each day during which the contravention continues" shall be substituted. (*D*) For section 15, the following section shall be substituted, namely:— "15. Power to revoke or suspend licence.—(*1*) Where the holder of a licence has been convicted of an offence under clauses (*a*) to (*c*) of sub-section (*1*) of section 7, the licence may be revoked by the licensing authority. (*2*) Where the holder of a licence has been imposed penalty for contravention under clauses (*d*) to (*f*) of sub-section (*1*) of section 7 or section 14, the licence may be suspended by the licensing authority for a period not exceeding thirty days: Provided that in cases of more than three contraventions over a period of three years, the licensing authority, may, for the reasons to be recorded in writing, by order, revoke the licence: Provided further that no order under this section shall be made without giving the holder of the licence a reasonable opportunity of being heard.".
12.	1953	29	The Tea Act, 1953	(*A*) Sections 38 to 40 shall be omitted. (*B*) In section 41, in sub-section (*1*), for the words "punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both,", the words "liable to penalty which may extend to fifty thousand rupees" shall be substituted. (*C*) In section 42, for the words "punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing

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(1)	(2)	(3)	(4)	(5)

contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention", the words "liable to penalty which may extend to fifty thousand rupees and for subsequent contravention, penalty which may extend to one lakh rupees" shall be substituted.

(*D*) After section 42, the following section shall be inserted, namely:—

"42A. Adjudication of penalties.—(*1*) For the purposes of adjudging the penalties under sub-section (*1*) of section 41 and section 42, the Deputy Chairman of the Board shall appoint the Secretary to the Board or any other officer authorised by the Central Government, as the case may be, to be an adjudicating officer for holding an inquiry and imposing penalty in the manner as may be prescribed, after giving a reasonable opportunity of being heard.

(*2*) Whoever is aggrieved by any order of the adjudicating officer may prefer an appeal to the Deputy Chairman of the Board, within a period of sixty days from the date of receipt of such order in such form and manner as may be prescribed.

(*3*) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the Deputy Chairman that he had sufficient cause for not preferring the appeal within that period.

(*4*) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(*5*) An appeal under sub-section (*2*) shall be disposed of within sixty days from the date of filing.

(*6*) The amount of penalty imposed under sub-section (*1*), if not paid, may be recovered as an arrear of land revenue.".

(*E*) In section 49, in sub-section (*2*), after clause (x), the following clauses shall be inserted, namely:—

"(*xa*) the manner of holding inquiry and imposing penalty under sub-section (*1*) of section 42A;

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<table>
<tr><th>(1)</th><th>(2)</th><th>(3)</th><th>(4)</th><th>(5)</th></tr>
<tr><td></td><td></td><td></td><td></td><td>(xb) the form and manner of preferring appeal under sub-section (2) of section 42A;".</td></tr>
<tr><td>13.</td><td>1957</td><td>14</td><td>The Copyright Act, 1957</td><td>Section 68 shall be omitted.</td></tr>
<tr><td>14.</td><td>1958</td><td>44</td><td>The Merchant Shipping Act, 1958</td><td>(A) In section 436,—
(a) in sub-section (2), in the Table, against the serial numbers mentioned under column 1, in respect of the offences under column 2, relating to the sections under column 3 and the penalties under column 4, shall, respectively be substituted, in the manner as provided, namely:—
<table>
<tr><th>Serial No.</th><th>Offences</th><th>Section of this Act to which offence has reference</th><th>Penalties</th></tr>
<tr><td>1</td><td>2</td><td>3</td><td>4</td></tr>
<tr><td>16</td><td></td><td></td><td>"Penalty which may extend to two lakh rupees."</td></tr>
<tr><td>29</td><td></td><td></td><td>"Penalty which may extend to two lakh rupees."</td></tr>
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<tr><td>44</td><td></td><td></td><td>"Penalty which may extend to fifty thousand rupees."</td></tr>
<tr><td>57(a)</td><td></td><td></td><td>"He shall be liable to forfeit all or any part of the property he leaves on board and of the wages he has then earned and also if the</td></tr>
</table></td></tr>
</table>

(1)	(2)	(3)	(4)	(5)	
					desertion takes place at any place not in India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him;"
				57(*b*)	"he shall, if the contravention does not amount to desertion, be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay or any expense

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(1)	(2)	(3)	(4)	(5)			
							properly incurred in hiring a substitute."
				59	(*iv*) Clause (*d*) of section 194	194(*d*)	"imprisonment which may extend to three months, or fine which may extend to five hundred rupees, or both;"
					(*iva*) clause (*e*) of section 194	194(*e*)	"imprisonment which may extend to one month, and also for every twenty-four hours of such disobedience or neglect or forfeiture out of his wages of a sum not exceeding six days' pay or any expenses, which may have been properly incurred in hiring a substitute."
				60			"Penalty which may extend to one lakh rupees."
				65			"Penalty which may extend to two lakh rupees."
				66(*a*)			"Penalty which may extend to two lakh rupees."
				68			"Penalty which may extend to fifty thousand rupees."
				72			"Penalty which may extend to two lakh rupees."
				84			"Penalty which may extend to

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(1)	(2)	(3)	(4)	(5)	
					one lakh rupees for the first offence and five lakh rupees for every subsequent offence."
				108B	"The master or owner or agent shall be liable to penalty which may extend to five lakh rupees and the ship may also be detained."
				109	"Penalty which may extend to five lakh rupees."
				115D(*ii*)	"the offender shall be liable to penalty which may extend to fifty thousand rupees."
				133	"Penalty which may extend to one lakh rupees and the vessel may also be detained."
				135	"Penalty which may extend to fifty thousand rupees."
				137	"Penalty which may extend to one lakh rupees and the vessel may also be detained."
				137J	"Penalty which may extend to one lakh rupees and the vessel may also be detained."

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(1)	(2)	(3)	(4)	(5)
				(*b*) after sub-section (*2*), the following sub-sections shall be inserted, namely:— "(*3*) The penalty prescribed for the contravention of any provision of this Act shall be imposed by the Principal Officer of the Mercantile Marine Department: Provided that no penalty under this section shall be imposed unless the parties have been given a reasonable opportunity of being heard. (*4*) Whoever aggrieved by an order of the Principal Officer under sub-section (*3*), may, within a period of thirty days from the date of receipt of such order, prefer an appeal before the Director-General in such form and manner as the Central Government may prescribe. (*5*) The Director-General may, after giving the parties an opportunity of being heard, within a period of thirty days from the date of receipt of the appeal under sub-section (*4*), pass appropriate order. (*6*) Any contravention of the provisions of this Act for which penalty has been prescribed may be compounded for the first contravention by the Principal Officer referred to in sub-section (*3*) or such other Officer as may be notified by the Central Government in the Official Gazette in this behalf: Provided that where any such contravention has been compounded, the sum shall not, in any case, exceed the maximum amount of the penalty which may be imposed for such contravention. (*7*) Notwithstanding anything contained in this Act, if penalty imposed by the Principal Officer of the Mercantile Marine Department under sub-section (*3*) or order of the Director-General under sub-section (*5*), as the case may be, is not deposited, the amount shall be recovered as an arrear of land revenue.". (*B*) After section 436, the following section shall be inserted, namely:— "436A. Power to make rules.?The Central Government may, subject to the condition of previous publication, make rules prescribing the form and manner of appeal against the order of Principal Officer of the Mercantile Marine Department under sub-section (*4*) of section 436.".
15.	1961	47	The Deposit Insurance and Credit Guarantee	In section 47, for sub-section (*2*), the following sub-sections shall be substituted, namely:—

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(1)	(2)	(3)	(4)	(5)
			Corporation Act, 1961	" (*2*) If any person fails to produce any book, account or other document or to furnish any statement or information which, under the provisions of this Act, it is his duty to produce or furnish, he shall be liable to penalty which may extend to one lakh fifty thousand rupees in respect of each failure, and in the case of a continuing failure, with an additional penalty which may extend to seven thousand five hundred rupees for every day during which the failure continues after the first such failure. (*3*) For the purpose of adjudging the penalty under sub-section (*2*), the Corporation shall serve notice on the person requiring it to show cause why the amount specified in the notice should not be imposed and a reasonable opportunity of being heard shall also be given to such person. (*4*) Any penalty imposed by the Corporation under this section shall be payable within a period of fourteen days from the date on which notice issued by the Corporation demanding payment of the sum is served on the person and in the event of failure of the person to pay the sum within such period, may be levied on an order or direction made by the principal civil court having jurisdiction in the area where the person is situated: Provided that no order or direction shall be made except on an application made to the court by the Corporation or any officer authorised by it in this behalf. (*5*) The court which makes an order or direction under sub-section (*4*) shall issue a certificate specifying the sum payable by the person and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit. (*6*) No complaint shall be filed against any person in any court of law in respect of any contravention or default in respect of which any penalty has been imposed by the Corporation under sub-section (*2*). (*7*) Where any complaint has been filed against any person in any court in respect of any contravention or default of the nature referred to in sub-section (*1*), then, no proceedings for the imposition of any penalty on the person shall be initiated under sub-section (*2*).".
16.	1962	58	The Warehousing Corporations Act, 1962	Section 38 shall be omitted.
17.	1964	37	The Food Corporations Act, 1964	Section 41 shall be omitted.

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(1)	(2)	(3)	(4)	(5)
18.	1970	39	The Patents Act, 1970	(*A*) In section 120, for the words "he shall be punishable with fine which may extend to one lakh rupees", the words "he shall be liable to penalty which may extend to ten lakh rupees, and in case of the continuing claim, a further penalty of one thousand rupees for every day after the first during which such claim continues" shall be substituted. (*B*) Section 121 shall be omitted. (*C*) In section 122,— (*i*) in sub-section (*1*), for the long line, the following long line shall be substituted, namely:— "he shall be liable to penalty which may extend to one lakh rupees, and in case of the continuing refusal or failure, a further penalty of one thousand rupees for every day after the first during which such refusal or failure continues."; (*ii*) in sub-section (*2*), for the words, "he shall be punishable with imprisonment which may extend to six months, or with fine, or with both", the words "he shall be liable to penalty for a sum equal to one half per cent. of the total sale or turnover, as the case may be, of business or of the gross receipts in profession as computed in the audited accounts of such person, or a sum equal to five crore rupees, whichever is less" shall be substituted. (*D*) In section 123, for the words "he shall be punishable with fine which may extend to one lakh rupees in the case of a first offence and five lakh rupees in case of a second or subsequent offence", the words "he shall be liable to penalty, which may extend to five lakh rupees, and in case of the continuing default, a further penalty of one thousand rupees for every day after the first during which such default continues" shall be substituted. (*E*) After section 124, the following sections shall be inserted, namely:— "124A. Adjudication of penalties.— The Controller may, by an order, authorise an officer referred to in section 73, to be the adjudicating officer for holding an inquiry and imposing penalty under the provisions of this Act, in the manner as may be

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(1)	(2)	(3)	(4)	(5)
				prescribed, after giving the person concerned a reasonable opportunity of being heard. 124B. Appeal.—(*1*) Whoever aggrieved by an order of the adjudicating officer under section 124A may prefer an appeal to the appellate authority, who shall be an officer at least one rank above the adjudicating officer, within a period of sixty days from the date of receipt of the order, as the Central Government may by notification authorise in this behalf. (*2*) Every appeal under this section shall be preferred in such form and manner as may be prescribed. (*3*) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period. (*4*) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard. (*5*) The appellate authority referred to in sub-section (*1*) shall dispose of the appeal within sixty days from the date of filing the appeal. (*6*) Notwithstanding anything contained in this Act, if the person fails to comply with the order of the adjudicating officer under section 124A or the order of the appellate authority under this section, as the case may be, within ninety days of such order, he shall, in addition to the penalty, be punishable with fine of one lakh rupees or imprisonment for a term which may extend to one year, or with both.". (*F*) In section 159, in sub-section (*2*), after clause (xiii), the following clauses shall be inserted, namely:— "(*xiiia*) the manner of holding inquiry and imposing penalty under section 124A; (*xiiib*) the form and manner of preferring appeal under sub-section (*2*) of section 124B;".

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(1)	(2)	(3)	(4)	(5)
19.	1972	13	The Marine Products Export Development Authority Act, 1972	(*A*) In section 20, in sub-section (*3*), for the words "be punishable with imprisonment for a term which may extend to one year, or with fine, or with both", the words "be liable to penalty not less than ten thousand rupees or not exceeding twice the value of goods, whichever is higher, in respect of which such order has been made" shall be substituted. (*B*) In section 23, for the words "be punishable with fine which may extend to five hundred rupees", the words "be liable to penalty which may extend to ten thousand rupees" shall be substituted. (*C*) For sections 24 and 25, the following sections shall be substituted, namely:— "24. Penalties for obstructing a member or officer of Authority in discharge of his duties and for failure to produce books and records.— Any person who— (*a*) obstructs any member authorised by the Chairman in writing or any officer or other employee of the Authority authorised by it in this behalf or any person authorised in this behalf by the Central Government or by the Authority, in the exercise of any power conferred, or in the discharge of any duty imposed, on him by or under this Act, 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; (*b*) having control over or custody of any account book or other record, fails to produce such book or record when required to do so by or under this Act, shall be liable to penalty which may extend to ten thousand rupees. 25. Other penalties.—Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder other than the provisions, punishment or penalty for the contravention whereof has been provided for in sections 20, 23 and 24 shall be liable to penalty not less than ten thousand rupees, or not exceeding an amount equivalent to the value of goods, whichever is higher, in respect of which such contravention has been made, and in case of a continuing contravention as aforesaid, a penalty of not less than fifty thousand rupees, or not exceeding an

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(1)	(2)	(3)	(4)	(5)
				amount equivalent to twice the value of goods, whichever is higher, in respect of which such contravention has been made. 25A. Adjudication of penalties.—(*1*) For the purposes of adjudging penalties under sub-section (*3*) of section 20, section 23, clause (*b*) of section 24 and section 25, the Chairman shall appoint the Secretary to the Authority or any other officer authorised by the Central Government, as the case may be, to be an adjudicating officer for holding an inquiry and imposing penalty under the provisions of this Act, in the manner as may be prescribed, after giving the person concerned a reasonable opportunity of being heard. (*2*) Whoever is aggrieved by an order of the adjudicating officer may prefer an appeal to the Chairman, within a period of sixty days from the date of receipt of such order in such form and manner as may be prescribed. (*3*) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the Chairman that he had sufficient cause for not preferring the appeal within that period. (*4*) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard. (*5*) The appellate authority referred to in sub-section (*2*) shall dispose of the appeal within sixty days from the date of filing. (*6*) The amount of penalty imposed under sub-section (*1*), if not paid, shall be recovered as an arrear of land revenue.". (*D*) In section 33, in sub-section (*2*), after clause (*q*), the following clauses shall be inserted, namely:— "(*qa*) the manner of holding inquiry and imposing penalty under sub-section (*1*) of section 25A; (*qb*) the form and manner of preferring appeal under sub-section (*2*) of section 25A;".
20.	1978	11	The High Denomination Banknotes (Demonetisation) Act, 1978	Repealed.

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(1)	(2)	(3)	(4)	(5)
21.	1981	14	The Air (Prevention and Control of Pollution) Act, 1981	(*A*) In section 21, for sub-section (*1*), the following shall be substituted, namely:— "(*1*) No person shall establish or operate any industrial plant in an air pollution control area unless the previous consent of the State Board has been obtained in pursuance of an application made by such person in accordance with the provisions of this section: Provided that the Central Government may in consultation with the Central Pollution Control Board, by notification in the Official Gazette, exempt certain categories of industrial plants from the application of the provisions of this sub-section.". (*B*) After section 21, the following section shall be inserted, namely:— "21A. Power to issue guidelines.—(*1*) Notwithstanding anything contained in this Act, the Central Government in consultation with the Central Board, may, by notification in the Official Gazette, issue guidelines on the matters relating to the grant, refusal or cancellation of consent by any State Board to establish or operate any industrial plant in an air pollution control area, including the mechanism for time bound disposal of the application made under section 21 or validity period of such consent. (*2*) Every State Board, in discharge of its functions for the purposes of grant, refusal or cancellation of consent under section 21 shall act in accordance with the guidelines issued under sub-section (*1*).". (*C*) For sections 37 to 41, the following sections shall be substituted, namely:— '37. Failure to comply with provisions of section 22 or directions issued under section 31A.—(*1*) Whoever contravenes or does not comply with the provisions of sections 22 or directions issued under section 31A, shall, in respect of each such contravention , be liable to penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees. (*2*) Where any person continues contravention under sub-section (*1*), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.

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(1)	(2)	(3)	(4)	(5)

38. Penalties for certain acts.—(*1*) Whoever—

(*a*) destroys, pulls down, removes, injuries or defaces any pillar, post or stake fixed in the ground or any notice or other matter put up, inscribed or placed, by or under the authority of the Board;

(*b*) obstructs any person acting under the orders or directions of the Board from exercising his powers and performing his functions under this Act;

(*c*) damages any works or property belonging to the Board;

(*d*) fails to furnish to the Board or any officer or other employee of the Board any information required by the Board or such officer or other employee for the purposes of this Act;

(*e*) fails to intimate the occurrence of the emission of air pollutants into the atmosphere in excess of the standards laid down by the State Board or the apprehension of such occurrence, to the State Board and other prescribed authorities or agencies as required under sub-section (*1*) of section 23;

(*f*) fails in giving any information which he is required to give under this Act, makes a statement which is false in any material particular,

shall be liable to penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees.

(*2*) Where any person continues contravention under sub-section (*1*), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.

38A. Penalty for contravention by Government Department.—(*1*) Where contravention of any provision of this Act has been committed by any Department of the Central Government or the State Government, the Head of the Department shall be liable to penalty equal to one month of his basic salary:

(1)	(2)	(3)	(4)	(5)
				Provided that he shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.
				(*2*) Where any contravention under sub-section (*1*) is attributable to any neglect on the part of, any officer, other than the Head of the Department, the officer shall be liable to penalty equal to one month of his basic salary:
				Provided that he shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention.
				39. Penalties for contravention of certain provisions of this Act.—If any person contravenes any of the provisions of this Act or any order or direction issued thereunder, for which no penalty has been provided for in this Act, shall be liable to penalty which shall not be less than ten thousand rupees, but which may extend to fifteen lakh rupees, and where such contravention continues, he shall be liable to additional penalty which may extend to ten thousand rupees for every day during which such contravention continues.
				39A. Adjudicating officer.—(*1*) The Central Government, for the purposes of determining the penalties under sections 37, 38, 38A and section 39, shall appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold an inquiry and to impose the penalty in the manner, as may be prescribed:
				Provided that the Central Government may appoint as many adjudicating officers as may be required.
				(*2*) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for or relevant to the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has contravened the provisions of this Act, he may determine such penalty as he thinks fit

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(1)	(2)	(3)	(4)	(5)
				under the provisions of sections 37, 38, 38A or 39, as the case may be: Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard. (*3*) The amount of penalty imposed under the provisions of sections 37, 38, 38A and 39, shall be in addition to the liability to pay relief or compensation under section 15 read with section 17 of the National Green Tribunal Act, 2010 (19 of 2010). 39B. Appeal.—(*1*) Whoever aggrieved by the order passed by the adjudicating officer under sections 37, 38, 38A or 39, may prefer an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 (19 of 2010). (*2*) Every appeal under sub-section (*1*) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person. (*3*) The Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against. (*4*) Where an appeal is preferred against any order of the adjudicating officer under sub-section (*1*), it shall not be entertained by the Tribunal unless the person has deposited with the Tribunal ten per cent. of the amount of the penalty imposed by the adjudicating officer. 39C. Penalty amount to be credited to Environmental Protection Fund.— Where an adjudicating officer imposes penalty or additional penalty, as the case may be, under sections 37, 38, 38A or 39, the amount of such penalty shall be credited to the Environmental Protection Fund established under section 16 of the Environment (Protection) Act, 1986 (29 of 1986). 39D. Offences for failure to comply with provisions of section 21 and for failure to pay penalty.—(*1*) Whoever fails to comply with the provisions of section 21, shall, in respect of each such failure, be punishable with imprisonment for a term

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(1)	(2)	(3)	(4)	(5)

which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to fifty thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(*2*) If the failure referred to in sub-section (*1*) continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine.

(*3*) Where any person fails to pay the penalty or the additional penalty, as the case may be, imposed under the provisions of this Act within ninety days of such imposition, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to twice the amount of the penalty or additional penalty so imposed or with both.

(*4*) Where any offence under sub-section (*1*) or sub-section (*2*) or sub-section (*3*) has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of such offence and he shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in sub-section (*1*) or sub-section (*2*) or sub-section (*3*), if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*5*) Notwithstanding anything contained in sub-section (*4*), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also

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(1)	(2)	(3)	(4)	(5)
				be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. *Explanation.*—For the purposes of this section,— (*a*) "company" includes body corporate, firm, trust, society and any other association of individuals; (*b*) "director" includes director of the company, partner of the firm, members of the society or trust or member of any association of individuals, as the case may be.'. (*D*) In section 43, in sub-section (*1*), after clause (*a*), the following clause shall be inserted, namely:— "(*aa*) the adjudicating officer or any officer authorised by him in this behalf; or". (*E*) In section 53, in sub-section (*1*), after clause (*g*), the following clause shall be inserted, namely:— "(*h*) the manner of holding inquiry and imposing penalties by the adjudicating officer under sub-section (*1*) of section 39A.".
22.	1981	61	The National Bank for Agriculture and Rural Development Act, 1981	In section 56, for sub-section (*2*), the following sub-sections shall be substituted, namely:— "(*2*) If any person fails to produce any book, account or other document, or to furnish any statement or information which, under the provisions of this Act, it is his duty to produce or furnish, he shall be liable to penalty which may extend to one lakh fifty thousand rupees in respect of each failure and in the case of a continuing failure, an additional penalty which may extend to seven thousand five hundred rupees for every day during which the failure continues after the first such failure. (*3*) For the purpose of adjudging penalty under sub-section (*2*), the National Bank shall serve notice on the person requiring it to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such person. (*4*) Any penalty imposed by the National Bank under this section shall be

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(1)	(2)	(3)	(4)	(5)
				payable within a period of fourteen days from the date on which notice issued by the National Bank demanding payment of the sum is served on the person and, in the event of failure of the person to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the person is situated: Provided that no such direction shall be made except on an application made to the court by the National Bank or by any officer authorised by the National Bank in this behalf. (*5*) The court which makes a direction under sub-section (*4*) shall issue a certificate specifying the sum payable by the person and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit. (*6*) No complaint shall be filed against any person in any court relating to any contravention or default in respect of which any penalty has been imposed by the National Bank under sub-section (*2*). (*7*) Where any complaint has been filed against any person in any court in respect of the contravention or default of the nature referred to in sub-section (*1*), then, no proceedings for the imposition of any penalty on the person shall be initiated under sub-section (*2*).".
23.	1986	10	The Spices Board Act, 1986	(*A*) In section 26, for the words "punishable with fine which may extend to five hundred rupees", the words "liable to penalty which may extend to fifty thousand rupees and for subsequent failure, penalty which may extend to one lakh rupees" shall be substituted. (*B*) In section 27, in the long line, for the words "punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "liable to penalty which may extend to fifty thousand rupees and for subsequent contravention penalty which may extend to one lakh rupees" shall be substituted.

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(1)	(2)	(3)	(4)	(5)
				(*C*) Section 28 shall be omitted. (*D*) In section 29, for the words "punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both", the words "liable to penalty which may extend to fifty thousand rupees and for subsequent contravention penalty which may extend to one lakh rupees" shall be substituted. (*E*) In section 30, for the words "punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention", the words "liable to penalty which may extend to fifty thousand rupees and for subsequent contravention penalty which may extend to one lakh rupees" shall be substituted. (*F*) After section 30, the following section shall be inserted, namely:— "30A. Adjudication of penalties.—(*1*) For the purposes of adjudging the penalties under sections 26, 27, 29 and 30, the Secretary to the Board shall appoint an officer not below the rank of Director in the Board or any other officer authorised by the Central Government, as the case may be, to be an adjudicating officer for holding an inquiry and imposing penalty in the manner as may be prescribed, after giving any person concerned a reasonable opportunity of being heard. (*2*) Whoever is aggrieved by any order of the adjudicating officer may prefer an appeal to the Secretary to the Board, within a period of sixty days from the date of receipt of such order in such form and manner as may be prescribed. (*3*) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the Secretary to the Board that he had sufficient cause for not preferring the appeal within that period.

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(1)	(2)	(3)	(4)	(5)
				(*4*) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard. (*5*) An appeal under sub-section (*2*) shall be disposed of within sixty days from the date of filing. (*6*) The amount of penalty imposed under sub-section (*1*), if not paid, shall be recovered as an arrear of land revenue.". (*G*) In section 38, in sub-section (*2*), after clause (m), the following clauses shall be inserted, namely:— "(*ma*) the manner of holding inquiry and imposing penalty under sub-section (*1*) of section 30A; (*mb*) the form and manner of preferring appeal under sub-section (*2*) of section 30A;".
24.	1986	29	The Environment (Protection) Act, 1986	(*A*) In section 2, after clause (*c*), the following clause shall be inserted, namely:— '(*ca*) "Fund" means the Environmental Protection Fund established under section 16;'. (*B*) In section 10, for sub-sections (*2*) to (*4*), the following sub-sections shall be substituted, namely:— "(*2*) Every person carrying on any industry, operation or process of handling any hazardous substance shall render assistance, as may be required, to the person empowered by the Central Government under sub-section (*1*) for carrying out the functions under that sub-section and if he fails to do so without any reasonable cause, he shall be liable to penalty provided under section 14B. (*3*) If any person willfully delays or obstructs any person empowered by the Central Government under sub-section (*1*) in the performance of his functions under sub-sections (*1*) or (*2*), he shall be liable to penalty provided under section 14B. (*4*) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any search or seizures under this section as they apply to

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(1)	(2)	(3)	(4)	(5)
				any search or seizures made under the authority of a warrant issued under section 94 of that Code.".
				(*C*) After section 14, the following sections shall be inserted, namely:—
				"14A. Penalty for contravention of section 7 or section 8.—(*1*) If any person, contravenes provisions of section 7 or section 8 or the rules made thereunder, he shall be liable to penalty in respect of each such contravention, which shall not be less than one lakh rupees but which may extend to fifteen lakh rupees.
				(*2*) Where any person continues contravention under sub-section (*1*), he shall be liable to additional penalty of fifty thousand rupees for every day during which such contravention continues.
				14B. Penalty for contravention of sections 9, 10 and 11.—(*1*) If any person contravenes or does not comply with the provisions of section 9, section 10 or section 11 or orders or directions issued under those sections, he shall be liable to penalty in respect of each such contravention which shall not be less than ten thousand rupees but which may extend to five lakh rupees.
				(*2*) Where any person continues contravention under sub-section (*1*), he shall be liable to additional penalty of ten thousand rupees for every day during which such contravention continues.".
				(*D*) For sections 15 to 17, the following shall be substituted, namely:—
				'15. Penalty for contravention of provisions of Act, rules, orders and directions.—(*1*) Where any person contravenes or does not comply with any of the provisions of this Act or the rules made or orders or directions issued thereunder for which no penalty is provided, he shall be liable to penalty in respect of each such contravention which shall not be less than ten thousand rupees but which may extend to fifteen lakh rupees.
				(*2*) Where any person continues contravention under sub-section (*1*), he shall be liable to additional penalty of

(1)	(2)	(3)	(4)	(5)

ten thousand rupees for every day during which such contravention continues.

15A. Penalty for contravention by companies.—(*1*) Where any company contravenes any of the provisions of this Act, the company shall be liable to penalty for each such contravention which shall not be less than one lakh rupees but which may extend to fifteen lakh rupees.

(*2*) Where any company continues contravention under sub-section (*1*), the company shall be liable to additional penalty of one lakh rupees for every day during which such contravention continues.

15B. Penalty for contravention by Government Department.—(*1*) Where contravention of any of the provision of this Act has been committed by any Department of the Central Government or the State Government, the Head of the Department shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.

(*2*) Where any contravention under sub-section (*1*) is attributable to any neglect on the part of, any officer, other than the Head of the Department, the officer shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention.

15C. Adjudicating officer.—(*1*) The Central Government, for the purposes of determining the penalties under this Act, may appoint an officer not below the rank of Joint Secretary to the Government of India or a Secretary to the State Government to be the adjudicating officer, to hold an inquiry and to impose penalty in the manner, as may be prescribed:

Provided that the Central Government may appoint as many adjudicating officers as may be required.

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(1)	(2)	(3)	(4)	(5)
				(*2*) The adjudicating officer may—
				(*a*) call upon any person alleged to have contravened or not complied with the provisions of this Act and the rules made thereunder or having the knowledge of the facts and circumstances of the case;
				(*b*) require such person to produce any record, register or other document in his possession or any other document, which in the opinion of the adjudicating officer may be relevant to the subject-matter.
				(*3*) The adjudicating officer shall, after giving the person a reasonable opportunity of being heard in the matter, and if, on such inquiry, he is satisfied that the person concerned has contravened or has not complied with the provisions of this Act or the rules made thereunder, he may impose such penalty as he thinks fit in accordance with the provisions of sections 14A, 14B, 15, 15A or section 15B, as the case may be.
				(*4*) The adjudicating officer, while adjudicating the quantum of penalty under sub-section (*3*), shall have due regard to the following, namely:—
				(*a*) the population and the area impacted or affected due to such contravention or non-compliance;
				(*b*) the frequency and duration of such contravention or non-compliance;
				(*c*) the vulnerability of the class of persons likely to be adversely affected by such contravention or non-compliance;
				(*d*) the damage caused or likely to be caused to any person, as a result of such contravention or non-compliance, if any;
				(*e*) the undue gain derived out of such contravention or non-compliance; and
				(*f*) such other factor, as may be prescribed.
				(*5*) The amount of penalty imposed under the provisions of sections 14A, 14B, 15, 15A or 15B, as the case may be, shall be

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(1)	(2)	(3)	(4)	(5)

in addition to the liability to pay relief or compensation under section 15 read with section 17 of the National Green Tribunal Act, 2010 (19 of 2010).

15D. Appeal.—(*1*) Whoever aggrieved by the order, passed by the adjudicating officer under this Act may prefer an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010 (19 of 2010).

(*2*) Every appeal under sub-section (*1*) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.

(*3*) The Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.

(*4*) Where an appeal is preferred against any order of the adjudicating officer under sub-section (*1*), such appeal shall not be entertained by the Tribunal unless such person has deposited with the Tribunal ten per cent. of the amount of the penalty imposed by the adjudicating officer.

15E. Penalty amount to be credited to Environmental Protection Fund.—Where any penalty or additional penalty, as the case may be, is imposed under sections 14A, 14B, 15, 15A or section 15B, the amount of the penalty shall be credited to the Environmental Protection Fund established under section 16.

15F. Offence for failure to pay penalty or additional penalty.—(*1*) Where any person fails to pay the penalty or additional penalty, as the case may be, under sections 14A, 14B, 15, 15A or section 15B within ninety days of such imposition, he shall be liable for imprisonment which may extend to three years or with fine which may extend to twice the amount of the penalty or with both.

(*2*) Where any offence under sub-section (*1*) has been committed by a company, every person who, at the time the

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(1)	(2)	(3)	(4)	(5)

offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of offence and he shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to any punishment provided in sub-section (*1*), if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*3*) Notwithstanding anything contained in sub-section (*2*), where an offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" includes body corporate, firm, trust, society and any other association of individuals;

(*b*) "director" includes director of the company, partner of the firm, members of the society or trust or member of any association of individuals, as the case may be.'.

(*E*) After Chapter III, the following Chapter shall be inserted, namely:—

"CHAPTER IIIA

FUND, ACCOUNTS AND AUDIT

16. Environmental Protection Fund.—(*1*) The Central Government may, by notification in the Official Gazette, establish a fund to be known as the Environmental Protection Fund.

(*2*) There shall be credited to the Fund—

(1)	(2)	(3)	(4)	(5)
				(*a*) the amount of penalty imposed under the Air (Prevention and Control of Pollution) Act, 1981(14 of 1981), and under this Act; (*b*) the interest or other income received out of investments made from the Fund; and (*c*) any other amount from such sources, as may be prescribed. (*3*) The Fund shall be applied for— (*a*) the promotion of awareness, education and research for the protection of environment; (*b*) the expenses for achieving the objects and for purposes of the Air (Prevention and Control of Pollution) Act, 1981(14 of 1981) and under this Act; (*c*) such other purposes, as may be prescribed. (*4*) The Central Government shall notify the administrator for the administration of the Fund and other matters connected therewith and incidental thereto in such manner, as may be prescribed. (*5*) The Central Government shall allocate seventy-five per cent. of the amount of penalties to the State Governments or Union territory administrations, which has been credited to the Fund. 16A. Accounts and audit of Fund.—(*1*) The Central Government shall maintain separate accounts and other relevant records in relation to the Environmental Protection Fund and prepare an annual statement of accounts in such form, as may be prescribed, in consultation with the Comptroller and Auditor-General of India. (*2*) The accounts of the Fund shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and such audited accounts together with the audit report thereon shall be forwarded annually to the Central Government. 16B. Annual Report.—The Central Government shall prepare its annual report in relation to Environmental Protection Fund

(1)	(2)	(3)	(4)	(5)
				giving a full account of its activities defined under this Act in such form, as may be prescribed, for each financial year during the previous financial year, and shall be laid before each House of Parliament along with audit report given by the Comptroller and Auditor-General of India.". (*F*) In section 19, after clause (*a*), the following clause shall be inserted, namely:— "(*aa*) adjudicating officer or any officer authorised by him in this behalf;". (*G*) For section 24, the following section shall be substituted, namely:— "24. Effect of other laws.—The provisions of this Act and the rules or orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.". (*H*) In section 25, in sub-section (*2*), after clause (*g*), the following clauses shall be inserted, namely:— "(*ga*) the manner of holding inquiry and imposing penalty by the adjudicating officer under sub-section (*1*) and other factors for determining quantum of penalty under clause (*f*) of sub-section (*4*), of section 15C; (*gb*) the other amount under clause (*c*) of sub-section (*2*) of section 16; (*gc*) the other purposes under clause (*c*) of sub-section (*3*) of section 16; (*gd*) the manner of administration of Fund under sub-section (*4*) of section 16; (*ge*) form for maintenance of accounts of the Fund and for preparation of annual statement of accounts under sub-section (*1*) of section 16A; (*gf*) form for preparing annual report of the Fund under section 16B;".
25.	1987	53	The National Housing Bank Act, 1987	(*A*) After section 33B, the following section shall be inserted, namely:— "33C. Power to take action against auditors.—Where any auditor fails to comply with any direction given or order made by the National Housing Bank or the

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(1)	(2)	(3)	(4)	(5)

Reserve Bank under section 33, the Reserve Bank may, after giving a reasonable opportunity of being heard, remove or debar the auditor from exercising the duties as auditor of any of the Reserve Bank regulated entities for a maximum period of three years, at a time.".

(*B*) In section 49,—

(*i*) sub-sections (*2*) and (2B) shall be omitted;

(*ii*) in sub-section (*3*), clause (aa) shall be omitted;

(*iii*) sub-section (*4*) shall be omitted.

(*C*) In section 52A,—

(*I*) in the marginal heading, for the word "fine", the word "penalty" shall be substituted;

(*II*) in sub-section (*1*),—

(*i*) in clause (*a*), for the words "five thousand", the words "twenty-five thousand" shall be substituted;

(*ii*) in clause (*b*),—

(*a*) the words, brackets and letters "or clause (aa)" shall be omitted;

(*b*) for the words "five lakh", the words "ten lakh" shall be substituted;

(*c*) for the words "twenty-five thousand", the words "one lakh" shall be substituted;

(*III*) after sub-section (*1*), the following sub-sections shall be inserted, namely:—

"(*1A*) If any person or housing finance institution which is a company fails to produce any book, account or other document, or to furnish any statement or information, which, under the provisions of this Act, is the duty of such person or housing finance institution to produce or furnish, the National Housing Bank or the Reserve Bank, as the case may

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(1)	(2)	(3)	(4)	(5)
				be, may impose on such person or housing finance institution, a penalty not exceeding one lakh fifty thousand rupees in respect of each contravention or default and where such contravention or default is a continuing one, further penalty which may extend to seven thousand five hundred rupees for every day, after the first, during which the contravention or default continues. (*1B*) If any auditor fails to comply with any direction given or order made by the National Housing Bank or the Reserve Bank under section 33, the National Housing Bank or the Reserve Bank, as the case may be, may impose on such person a penalty not exceeding ten lakh rupees. (*1C*) If any person (other than an auditor) or housing finance institution which is a company fails to comply with any direction given or order made by the National Housing Bank or the Reserve Bank under any of the provisions of Chapter V, the National Housing Bank or the Reserve Bank, as the case may be, may impose on such person or housing finance institution, a penalty not exceeding ten lakh rupees or twice the amount involved in such contravention or default, where the amount is quantifiable, whichever is more; and where such contravention or default is a continuing one, further penalty which may extend to one lakh rupees for every day, after the first, during which the contravention or default continues. (*1D*) If any other provision of this Act is contravened or if any default is made in complying with any other requirement of this Act, or of any order, regulation or direction made or given or condition imposed thereunder, the National Housing Bank or the Reserve Bank, as the case may be, may impose on any person or housing finance institution which is a company, guilty of such contravention or default, a penalty

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(1)	(2)	(3)	(4)	(5)
				not exceeding one lakh rupees in respect of each contravention or default and where such contravention or default is a continuing one, further penalty which may extend to ten thousand rupees for every day, after the first, during which the contravention or default continues."; (*IV*) in sub-section (*2*),— (*i*) for the word, brackets and figure "sub-section (*1*)", the words "this section" shall be substituted; (*ii*) for the words "housing finance institution" at both the places where they occur, the words "person or housing finance institution" shall be substituted; (*V*) in sub-section (*3*),— (*i*) for the words "served on the housing finance institution", the words "served on the person or housing finance institution" shall be substituted; (*ii*) for the words "failure of such housing finance institution", the words "failure of such person or housing finance institution" shall be substituted; (*iii*) for the words "the area where the registered office", the words "the area where such person ordinarily resides or, as the case may be, the registered office" shall be substituted; (*VI*) in sub-section (*4*), after the words "payable by the", the words "person or" shall be inserted.
26.	1988	59	The Motor Vehicles Act, 1988	(*A*) In section 192A, in sub-section (*1*),— (*i*) for the words "and a fine of ten thousand rupees", the words "a fine of ten thousand rupees, or with both" shall be substituted; (*ii*) the proviso shall be omitted. (*B*) In section 200, for sub-section (*1*), the following sub-section shall be substituted, namely:—

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(1)	(2)	(3)	(4)	(5)
				"(*1*) Any offence whether committed before or after the commencement of this Act punishable under section 177, section 177A, section 178, section 179, section 180, section 181, section 182, sub-section (*1*) or sub-section (*3*) or sub-section (*4*) of section 182A, section 182B, sub-section (*1*) or sub-section (*2*) of section 183, clause (*c*) of the Explanation to section 184, section 186, section 189, sub-section (*2*) of section 190, section 192, section 192A, sub-section (*3*) of section 192B, section 194, section 194A, section 194B, section 194C, section 194D, section 194E, section 194F, section 196, section 198 and section 201, may, either before or after the institution of the prosecution, be compounded by such officers or authorities and for such amount as the State Government may, by notification in the Official Gazette, specify in this behalf.". (*C*) In section 215, in sub-section (*3*), the following proviso shall be inserted, namely:— "Provided that where a State Government has not constituted the District Road Safety Committee, the Central Government may, by notification in the Official Gazette, constitute a Committee for such District, consisting of a Chairman and such other members as it considers necessary and on such terms and conditions as it may determine.".
27.	1989	24	The Railways Act, 1989	In section 144, for sub-section (*2*), the following sub-section shall be substituted, namely:— "(*2*) No person shall be permitted to beg in any railway carriage or upon any part of the railway.".
28.	1991	6	The Public Liability Insurance Act, 1991	(*A*) In section 2,— (*i*) clause (ha) shall be numbered as clause (hb) thereof and before clause (ha) as so renumbered, the following clause shall be inserted, namely:— '(*ha*) "property" includes any private property or public property affected or damaged by any unit or undertaking, due to manufacture, processing, treatment, package,

(1)	(2)	(3)	(4)	(5)

storage, transportation, use, collection, destruction, conversion, transfer or such other processes of hazardous substance;';

(*ii*) after clause (*j*), the following clause shall be inserted, namely:—

"(*k*) words and expressions used and not defined in this Act but defined in the Transfer of Property Act, 1882 (4 of 1882), and the Environment (Protection) Act,1986 (29 of 1986), shall have the meanings respectively assigned to them in those Acts.".

(*B*) In section 3, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Where death or injury to any person (other than a workman) or damage to any property has resulted from an accident, the owner shall be liable to reimburse such amount, or provide such other relief as may be prescribed, for—

(*a*) death due to fatal accident;

(*b*) medical expenses incurred due to total or partial disability;

(*c*) loss of wages due to partial disability;

(*d*) other injury or sickness;

(*e*) damage to private property; or

(*f*) such other loss or damage, as may be prescribed.".

(*C*) In section 4,—

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

"(*1*) Every owner of any undertaking shall take out, before he starts handling any hazardous substance, one or more insurance policies for such undertaking or unit providing for contracts of insurance whereby he is insured against liability to give such relief or reimburse such amount referred to in sub-section (*1*) of section 3.

Explanation.—For the purposes of this sub-section, it is hereby clarified that any undertaking having separate consent to operate under—

(*i*) the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974); and

(*ii*) the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981),

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(1)	(2)	(3)	(4)	(5)

shall be treated as a separate unit:

Provided that any owner handling any hazardous substance immediately before the commencement of the *Jan Vishwas* (Amendment of Provisions) Act, 2023 shall take out such insurance policy or policies as soon as may be and in any case within a period of one year from commencement of that Act.";

(*b*) for sub-section (*2A*), the following shall be substituted, namely:—

'(*2A*) An insurance policy taken out or renewed by an owner for any undertaking or unit shall be for an amount which shall not be less than the amount of the paid-up capital of that undertaking or unit handling any hazardous substance owned or controlled by that owner and may extend to such amount as may be prescribed but not exceeding five hundred crore rupees.

Explanation.—For the purposes of this sub-section "paid-up capital", in relation to an owner not being a company, means the market value of all assets and stocks of the undertaking on the date of contract of insurance.'.

(*D*) In section 6, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) where any damage has been caused to any public property or private property due to manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, transfer or such other processes, of such hazardous substance, an application for claim for restoration of the property may be made by the owner of the property or such other person, as may be prescribed, to the Collector.".

(*E*) In section 7, after sub-section (*8*), the following sub-section shall be inserted, namely:—

"(*9*) Where the environment is affected or damaged due to manufacture, processing, treatment, package, storage, transportation, use, collection, destruction, conversion, transfer or such other processes, of such hazardous substance, the Central Government may, on an

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(1)	(2)	(3)	(4)	(5)

application made by the Central Pollution Control Board or the State Pollution Control Board, as the case may be, allocate the fund from the Environmental Relief Fund for restoration of the damage so caused in the manner as may be prescribed.".

(*F*) In section 7A, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) There shall be credited to the Relief Fund established under sub-section (*1*)—

(*a*) the amount referred to in sub-section (*2C*) of section 4;

(*b*) the amount of penalty imposed under this Act;

(*c*) the interest or other income received out of investments made from the Fund; and

(*d*) any other amount from such sources, as may be prescribed.".

(*G*) For sections 14 and 15, the following sections shall be substituted, namely:—

"14. Penalty for contravention.— (*1*) Where any person contravenes any of the provisions of sub-section (*1*), sub-section (*2*), sub-section (*2A*) or sub-section (*2C*) of section 4, he shall be liable to penalty equal to the amount of annual premium for insurance policy and may extend to twice the amount of such premium.

(*2*) Where contravention under sub-section (*1*) continues, an additional penalty may be imposed by the adjudicating officer, which shall not exceed the amount of premium to be paid, for each month or part thereof during which the contravention continues."

"15. Penalty for non-compliance of directions.—(*1*) Where any person does not comply with any direction issued under section 12, he shall be liable to penalty which shall not be less than ten thousand rupees which may extend to fifteen lakh rupees.

(*2*) Where any person continues non-compliance under sub-section (*1*), he shall be liable to additional penalty to be imposed by the adjudicating officer, which shall not be less than ten thousand rupees for every day during which such non-compliance continues.

(*3*) Where any owner does not

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(1)	(2)	(3)	(4)	(5)
				comply with the direction issued under section 9 or obstructs any person in discharge of his functions under section 10 or under sub-sections (*1*), (*2*) or (*3*) of section 11, he shall be liable to penalty which shall not be less than ten thousand rupees but which may extend to fifteen lakh rupees. (*4*) Where any person continues non-compliance under sub-section (*3*), he shall be liable to additional penalty of ten thousand rupees for every day during which such non-compliance continues. 15A. Adjudicating officer.— (*1*) The Central Government, for the purposes of determining the penalties under sections 14 or 15, may appoint the District Magistrate having jurisdiction over the area or an officer not below the rank of Director to the Government of India or an officer not below the rank of Joint Secretary to the State Government, to be the adjudicating officer, to hold an inquiry and impose penalty in the manner, as may be prescribed: Provided that the Central Government may appoint as many adjudicating officers as may be required. (*2*) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of sub-section (*1*), sub-section (*2*), sub-section (*2A*) or sub-section (*2C*) of section 4 and section 12, he may determine such penalty as he thinks fit under the provisions of sections 14 and 15: Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard. 15B. Appeal.—(*1*) Whoever aggrieved by the order, passed by the adjudicating officer under section 15A, may prefer an appeal to the National Green Tribunal established under section 3 of the

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(1)	(2)	(3)	(4)	(5)

National Green Tribunal Act, 2010 (19 of 2010).

(*2*) Every appeal under sub-section (*1*) shall be filed within sixty days from the date on which the copy of the order made by the adjudicating officer is received by the aggrieved person.

(*3*) The Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such order as it thinks fit, confirming, modifying or setting aside the order appealed against.

(*4*) Where an appeal is preferred against any order of the adjudicating officer under sub-section (*1*), such appeal shall not be entertained by the Tribunal unless such person has deposited with the Tribunal ten per cent. of the amount of the penalty imposed by the adjudicating officer.".

(*H*) Section 16 shall be omitted.

(*I*) For section 17, the following sections shall be substituted, namely:—

'17. Penalty for contravention by Government Department.—(*1*) Where contravention of any provision of this Act has been committed by any Department of the Central Government or State Government, the Head of the Department shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for such contravention, if he proves that the contravention was committed without his knowledge or instructions or that he exercised all due diligence to prevent such contravention.

(*2*) Where any contravention under sub-section (*1*) is attributable to any neglect on the part of, any officer, other than the Head of the Department, he shall be liable to penalty equal to one month of his basic salary:

Provided that he shall not be liable for the contravention, if he proves that he exercised all due diligence to avoid such contravention.

17A. Penalty amount to be credited to Environmental Relief Fund.—Where any penalty or additional penalty, as the case may be, is imposed under section 14 or

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(1)	(2)	(3)	(4)	(5)
				section 15 or section 17, the amount of such penalty shall be credited to the Environmental Relief Fund established under section 7A.
				17B. Offence for failure to pay penalty or additional penalty.—(*1*) Where any person fails to pay the penalty or additional penalty imposed for—
				(*a*) contravention or continued contravention under sections 14 or 17, as the case may be; or
				(*b*) non-compliance of the directions issued under section 15,
				within ninety days of such imposition, he shall be liable for imprisonment which may extend to three years or with fine which may extend up to fifteen lakh rupees, or with both.
				(*2*) Where any offence under sub-section (*1*) has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly:
				Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
				(*3*) Notwithstanding anything contained in sub-section (*2*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
				Explanation.—For the purposes of this section,—
				(*a*) "company" means any body

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(1)	(2)	(3)	(4)	(5)
				corporate and includes a firm or other association of individuals; (*b*) "director" includes director of the company and in relation to a firm, a partner in the firm.'. (*J*) In section 23, in sub-section (*2*),— (*i*) for clause (*a*), the following clause shall be substituted, namely:— "(*a*) such amount under sub-section (*2A*) of section 4;"; (*ii*) after clause (e), the following clauses shall be substituted, namely:— "(*ea*) amount or relief and any other loss or damage under sub-section (*1*) of section 3; (*eb*) such other person under sub-section (*1A*) of section 6; (*ec*) manner of allocation of fund for restoration of damage under sub-section (*9*) of section 7; (*ed*) any other amount from other sources under clause (d) of sub-section (*1A*) of section 7A; (*ee*) manner of holding inquiry and imposing penalty under sub-section (*1*) of section 15A;". (*K*) The Schedule shall be omitted.
29.	1995	7	The Cable Television Networks (Regulation) Act, 1995	(*A*) For CHAPTER IV, the following CHAPTER shall be substituted, namely:— "CHAPTER IV PENALTIES 16. Penalty for contravention of provisions of this Act.—(*1*) Whoever contravenes any of the provisions of this Act shall be liable,— (*a*) for the first contravention with advisory, or censure, or warning, or a penalty which may extend to twenty thousand rupees, or with both; (*b*) for every subsequent contravention within a period of three years, with advisory, or censure, or warning, or a penalty which may extend to one lakh rupees, or with both, by such designated officer, as may be prescribed.

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(1)	(2)	(3)	(4)	(5)
				(*2*) The designated officer, may, for the reasons to be recorded in writing, by order, impose penalty referred to in sub-section (*1*): Provided that in cases of more than three contraventions over a period of three years, the designated officer, in addition to penalty referred to in sub-section (*1*), may, for the reasons to be recorded in writing, by order, suspend or revoke the registration granted: Provided further that no order by the designated officer under this sub-section shall be made without giving a reasonable opportunity of being heard. (*3*) Whoever aggrieved by the order made under sub-section (*2*), may prefer an appeal to the Secretary to the Government of India or such other officer authorised by him: Provided that no such appeal shall be admissible after the expiry of thirty days from the date of receipt of such order: Provided further that an appeal may be entertained after the expiry of the period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.". (*B*) In section 22, in sub-section (*2*), after clause (*da*), the following clause shall be inserted, namely:— "(*db*) the designated officer under sub-section (*1*) of section 16;".
30.	1999	47	The Trade Marks Act, 1999	(*A*) Section 106 shall be omitted. (*B*) In section 107, in sub-section (*2*), for the words "punishable with imprisonment for a term which may extend to three years, or with fine, or with both", the words " liable to penalty of a sum equal to one half per cent. of the total sales or turnover, as the case may be, in business or of the gross receipts in profession, as computed in the audited accounts of such person, or a sum equal to five lakh rupees, whichever is less" shall be substituted. (*C*) Sections 108 and 109 shall be omitted. (*D*) after section 112, the following section shall be inserted, namely:— "112A. Adjudication of penalties.—The Registrar may, by an order, authorise an officer referred to in section 3, to be adjudicating officer for holding an inquiry

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(1)	(2)	(3)	(4)	(5)

and imposing penalty under the provisions of this Act, in the manner as may be prescribed, after giving a reasonable opportunity of being heard.

112B. Appeal.—(*1*) Whoever aggrieved by an order of the adjudicating officer under section 112A may prefer an appeal to the appellate authority, who shall be an officer at least one rank above the adjudicating officer, within a period of sixty days from the date of receipt of the order, as the Central Government may by notification authorise in this behalf.

(*2*) Every appeal under this section shall be preferred in such form and manner as may be prescribed.

(*3*) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(*4*) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(*5*) The appellate authority referred to in sub-section (*1*) shall dispose of the appeal within sixty days from the date of filing.

(6) Notwithstanding anything contained in this Act, if the person fails to comply with the order of the adjudicating officer under section 112A or the order of the appellate authority under this section, as the case may be, within ninety days of such order, he shall, in addition to the penalty, be punishable with fine of one lakh rupees or imprisonment for a term which may extend to one year, or with both.".

(*E*) In section 140, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The importer or his agent shall, within fourteen days, comply with the requirement as aforesaid, and if he fails to do so, he shall be liable to penalty of ten thousand rupees:

Provided that the penalty under this section shall be levied and recovered by such authority under the Customs Act, 1962 (52 of 1962) for this purpose.".

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(1)	(2)	(3)	(4)	(5)
				(*F*) In section 157, in sub-section (*2*), after clause (*xxxiii*), the following clauses shall be inserted, namely:—
				"(*xxxiiia*) the manner of holding inquiry and imposing penalty under section 112A;
				(*xxxiiib*) the form and manner of preferring appeal under sub-section (*2*) of section 112B; ".
31.	1999	48	The Geographical Indications of Goods (Registration and Protection) Act, 1999	(*A*) After section 37, the following sections shall be inserted, namely:—
				"37A. Adjudication of penalties.— The Registrar may, by an order, authorise an officer referred to in section 3, to be adjudicating officer for holding an inquiry and imposing penalty under the provisions of this Act, in the manner as may be prescribed, after giving a reasonable opportunity of being heard.
				37B. Appeal.—(*1*) Whoever aggrieved by an order of the adjudicating officer under section 37A may prefer an appeal to the appellate authority, who shall be an officer at least one rank above the adjudicating officer, within a period of sixty days from the date of receipt of the order, as the Central Government may by notification authorise in this behalf.
				(*2*) Every appeal under this section shall be preferred in such form and manner as may be prescribed.
				(3) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.
				(4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.
				(5) The appellate authority referred to in sub-section (*1*) shall dispose of the appeal within sixty days from the date of filing.
				(6) Notwithstanding anything contained in this Act, if the person fails to comply with the order of the adjudicating officer under section 37A or the order of the appellate authority under this section, as the case may be, within ninety days of such

(1)	(2)	(3)	(4)	(5)
				order, he shall, in addition to the penalty, be punishable with fine of one lakh rupees or imprisonment for a term which may extend to one year, or with both.". (*B*) In section 42, in sub-section (*2*), for the words "punishable with imprisonment for a term which may extend to three years, or with fine, or with both", the words "liable to penalty of a sum equal to one-half per cent. of the total sales or turnover, as the case may be, in business or of the gross receipts in profession as computed in the audited accounts of such person, or a sum equal to five lakh rupees, whichever is less" shall be substituted. (*C*) Sections 43 and 44 shall be omitted. (*D*) In section 87, in sub-section (*2*), after clause (*o*), the following clauses shall be inserted, namely:— "(*oa*) the manner of holding inquiry and imposing penalty under section 37A; (*ob*) the form and manner of preferring appeal under sub-section (*2*) of section 37B;".
32.	2000	21	The Information Technology Act, 2000	(*A*) In section 33, in sub-section (*2*), for the words "punished with imprisonment which may extend up to six months or a fine which may extend up to ten thousand rupees or with both", the words "liable to penalty which may extend to five lakh rupees" shall be substituted. (*B*) In section 44,— (*i*) in clause (*a*), for the words "one lakh and fifty thousand", the words "fifteen lakh" shall be substituted; (*ii*) in clause (*b*), for the words "five thousand", the words "fifty thousand", shall be substituted; (*iii*) in clause (*c*), for the words "ten thousand", the words "one lakh" shall be substituted. (*C*) In section 45,— (*i*) for the words "rules or regulations", the words "rules, regulations, directions or orders" shall be substituted; (*ii*) for the words "compensation not exceeding twenty-five thousand rupees to the person affected by such contravention or a penalty not exceeding twenty-five thousand rupees", the following shall be substituted, namely:—

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(1)	(2)	(3)	(4)	(5)
				"penalty not exceeding one lakh rupees, in addition to compensation to the person affected by such contravention not exceeding—
				(*a*) ten lakh rupees, by an intermediary, company or body corporate; or
				(*b*) one lakh rupees, by any other person.".
				(*D*) In section 46,—
				(*i*) in sub-section (*1*), for the words "under this Chapter", the words "under this Act" shall be substituted;
				(*ii*) in sub-section (*1A*), the words "injury or" at both the places where they occur shall be omitted.
				(*E*) Section 66A shall be omitted.
				(*F*) In section 67C, in sub-section (*2*), for the words "punished with an imprisonment for a term which may extend to three years and also be liable to fine", the words "liable to penalty which may extend to twenty—five lakh rupees" shall be substituted.
				(*G*) In section 68, in sub-section (*2*), for the words "on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one lakh rupees or with both", the words "to penalty which may extend to twenty-five lakh rupees" shall be substituted.
				(*H*) In section 69B, in sub-section (*4*), for the words "three years and shall also be liable to fine", the words "one year or shall be liable to fine which may extend to one crore rupees, or with both" shall be substituted.
				(*I*) In section 70B, in sub-section (*7*), for the words "one lakh", the words "one crore" shall be substituted.
				(*J*) In section 72, for the words "punished with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both", the words "liable to penalty which may extend to five lakh rupees" shall be substituted.
				(*K*) In section 72A,—
				(*i*) in the marginal heading, for the word "Punishment", the word "Penalty" shall be substituted;
				(*ii*) for the words "punished with imprisonment for a term which may

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(1)	(2)	(3)	(4)	(5)
				extend to three years, or with fine which may extend to five lakh rupees, or with both", the words "liable to penalty which may extend to twenty—five lakh rupees" shall be substituted.
33.	2002	60	The Metro Railways (Operation and Maintenance) Act, 2002	(*A*) In section 6, in sub-section (*2*), after clause (*g*), the following clause shall be inserted, namely:— "(*ga*) levy and collect penalties under this Act;". (*B*) In section 59, in sub-section (*2*),— (*i*) for the words "punishable with fine which may extend to two hundred and fifty rupees", the words "liable to penalty which may extend to ten thousand rupees" shall be substituted; (*ii*) for the words "five hundred rupees", the words "ten thousand rupees" shall be substituted. (*C*) In section 63, for the words "after being warned by any metro railway official to desist, he shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both", the words "he shall be liable to penalty which may extend to five thousand rupees" shall be substituted. (*D*) In section 65, in the long line, for the words "five years, or with fine which may extend to six thousand rupees, or with both", the words "two years, or with fine which may extend to thirty thousand rupees, or with both" shall be substituted. (*E*) In section 69, for sub-section (4), the following sub-section shall be substituted, namely:— "(4) If any passenger liable to pay the excess charge and fare mentioned in sub-section (*1*), or the excess charge and any difference of fare mentioned in sub-section (*2*), fails or refuses to pay the same on a demand being made therefor, any metro railway official authorised by the metro railway administration in this behalf may apply to any Metropolitan Magistrate or, as the case may be, Judicial Magistrate of the first class, for the recovery of the sum payable as if it were a fine.". (*F*) For section 70, the following section shall be substituted, namely:— "70. Needlessly interfering with means of communication in a train.— If any

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(1)	(2)	(3)	(4)	(5)
				passenger or any other person without reasonable and sufficient cause makes use of, or interferes with, any means provided by the metro railway administration in a metro railway for communication between passengers and metro railway official in charge of the metro railway or misuses alarm bell or emergency stop push or emergency trip system or emergency call point of the metro railway, he shall be liable to penalty which may extend to ten thousand rupees.". (*G*) Section 80 shall be omitted. (*H*) In section 82, in sub-section (*1*), for the words and figures "sections 65 to 79", the words and figures "sections 65 to 68, 71 to 79" shall be substituted.
34.	2003	15	The Prevention of Money-laundering Act, 2002	In THE SCHEDULE, in PART A,— (*i*) for PARAGRAPH 21, the following PARAGRAPH shall be substituted, namely:— "PARAGRAPH 21 OFFENCES UNDER THE TRADE MARKS ACT, 1999 (47 OF 1999) Section — Description of offence 103 — Penalty for applying false trademarks, trade descriptions, etc. 104 — Penalty for selling goods or providing services to which false trademark or false trade description is applied. 105 — Enhanced penalty on second or subsequent conviction. 120 — Punishment of abetment in India of acts done out of India."; (*ii*) for PARAGRAPH 22, the following PARAGRAPH shall be substituted, namely:— "PARAGRAPH 22 OFFENCES UNDER THE INFORMATION TECHNOLOGY ACT, 2000 (21 OF 2000) Section — Description of offence 75 — Act to apply for offence or contravention committed outside India."; (*iii*) PARAGRAPH 25 shall be omitted; (*iv*) PARAGRAPH 27 shall be omitted.

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(1)	(2)	(3)	(4)	(5)
35.	2006	34	The Food Safety and Standards Act, 2006	(*A*) In section 59, in clause (*i*), for the words "imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees", the words "imprisonment for a term which may extend to three months and also with fine which may extend to three lakh rupees" shall be substituted. (*B*) In section 61,— (*i*) in the marginal heading, for the word "Punishment", the word "Penalty" shall be substituted; (*ii*) for the words "punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees", the words "liable to penalty which may extend to ten lakh rupees" shall be substituted. (*C*) In section 63,— (*i*) in the marginal heading, for the word "Punishment", the word "Penalty" shall be substituted; (*ii*) for the words "punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to five lakh rupees", the words "liable to penalty which may extend to ten lakh rupees" shall be substituted.
36.	2006	38	The Government Securities Act, 2006	In section 30,— (*i*) in sub-section (*1*), for the words "he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both", the words "the Bank may impose a penalty not exceeding five lakh rupees or twice the amount involved in such contravention, where the amount is quantifiable, whichever is higher, and where such contravention is a continuing one, with a further penalty, which may extend to five thousand rupees for every day after first day during which the contravention continues" shall be substituted; (*ii*) sub-section (*2*) shall be omitted.
37.	2006	41	The Cantonments Act, 2006	(*A*) Section 156 shall be omitted. (*B*) In section 185, for sub-section (*1*), the following sub-section shall be substituted, namely:— "(*1*) No person employed in any essential service under a Board in a

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(1)	(2)	(3)	(4)	(5)
				cantonment shall, in the absence of any contract, resign without reasonable cause or absent himself from duty without proper authority and in case of such resignation or absence from duty, disciplinary proceedings shall be initiated against him in accordance with such procedure as may be prescribed.".
				(*C*) Section 286 shall be omitted.
				(*D*) For section 287, the following section shall be substituted, namely:—
				"287. Arrest of persons, seizure and confiscation of things for offences under section 285.—(*1*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any police officer or excise officer may, without an order from a Judicial Magistrate, and without a warrant, arrest any person who commits an offence under section 285 and may seize and detain any spirituous liquor or intoxicating drug in respect of which an offence under section 285 has been committed and any vessels or coverings in which the liquor or drug is contained.
				(*2*) Where a person accused of an offence under section 285 has been previously convicted of an offence under that section, an officer in charge of a police station may, with the written permission of a Judicial Magistrate, seize and detain any spirituous liquor or intoxicating drug within the cantonment or within any limits defined under that section which, at the time of the alleged commission of the subsequent offence, belonged to, or was in the possession of, such person.
				(*3*) The court convicting a person of an offence under section 285 may order the confiscation of the whole or any part of anything seized under sub-section (*1*) or sub-section (*2*).
				(*4*) Subject to the provisions of Chapter XXXIV of the Code of Criminal Procedure, 1973 (2 of 1974) anything, seized under sub-section (*1*) or sub-section (*2*) and not confiscated under sub-section (*3*) shall be restored to the person from whom it was taken.".
				(*E*) In section 289 sub-section (*5*) shall be omitted.

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(1)	(2)	(3)	(4)	(5)
				(*F*) In section 314, in the proviso, in clause (*a*), the words, letter and figures "in the case of breach of any such provisions as is specified in Part B of Schedule IV," shall be omitted. (*G*) For SCHEDULE IV, the following SCHEDULE shall be substituted, namely:— "SCHEDULE IV (*See* section 314) Section — Subject 183(*1*) — Remaining in, or re-entering, cantonment after notice of expulsion for failure to attend hospital or dispensary. 296 — Discharging fire-arms, etc., so as to cause danger. 300 — Loitering or importuning for sexual immorality. 304(*a*) — Remaining in, or returning to, a cantonment after notice of expulsion.".
38.	2007	51	The Payment and Settlement Systems Act, 2007	(*A*) In section 26,— (*i*) in sub-section (*3*), for the words "punishable with fine which may extend to ten lakh rupees in respect of each offence and if he persists in such refusal, to a further fine which may extend to twenty-five thousand rupees for every day for which the offence continues", the words and figures "liable to penalty as may be imposed in accordance with the provisions of section 30" shall be substituted; (*ii*) in sub-section (*6*), for the words "punishable with fine which may extend to ten lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to twenty-five thousand rupees for every day, after the first during which the contravention or default continues", the words and figures "liable to penalty as may be imposed in accordance with the provisions of section 30" shall be substituted. (*B*) In section 30,— (*a*) in the marginal heading, for the word "fines", the word "penalties" shall be substituted; (*b*) in sub-section (*1*)— (*i*) after the word, brackets and

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(1)	(2)	(3)	(4)	(5)
				figure "sub-section (*2*)", the words, brackets and figure "or sub-section (*3*)" shall be inserted; (*ii*) for the words "five lakh", the words "ten lakh" shall be substituted.
39.	2009	7	The Collection of Statistics Act, 2008	(*A*) In section 9, in sub-sections (*2*) and (*3*), for the word "prosecution", the word "penalty" shall be substituted. (*B*) For CHAPTER IV, the following CHAPTER shall be substituted, namely:— "CHAPTER IV PENALTIES AND ADJUDICATION 15. Penalty for neglect or refusal to supply particulars and other contraventions.— (*1*) Whoever fails to produce any books of account, vouchers, documents or other business records or whoever neglects or refuses to fill in and supply the particulars required in any information schedule or return given or sent to him or whoever neglects or refuses to answer any question or inquiry addressed to him as may be required under or for the purposes of any provision of this Act or whoever acts in contravention or fails to comply with any provision of this Act or any rules made thereunder or any requirement imposed under this Act, shall be liable to penalty which may extend to one thousand rupees, and in the case of a company, with a penalty which may extend to one lakh rupees. (*2*) The imposition of penalty on a person or company shall not relieve him or it of the obligations under sub-section (*1*), and if after the expiry of fourteen days from the date of imposition of penalty, he or it still fails to give the required particulars or continues to neglect or refuse or contravene any provision of this Act or any rules made thereunder or any requirement imposed under this Act, shall be liable to a further penalty which may extend to one thousand rupees, and in the case of a company, to a further penalty which may extend to five thousand rupees, for each day after the first during which the neglect, refusal or contravention continues.

(1)	(2)	(3)	(4)	(5)
				15A. Adjudicating officer.—(*1*) The appropriate Government may, for the purposes of determining the penalties under section 15, appoint an officer as it may deem fit, to be adjudicating officer to hold an inquiry and impose penalty in the manner, as may be prescribed: Provided that the appropriate Government may appoint as many adjudicating officers as may be required. (*2*) The adjudicating officer may summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document, which in the opinion of the adjudicating officer, may be useful for, or relevant to, the subject-matter of the inquiry and if, on such inquiry, he is satisfied that the person concerned has failed to comply with the provisions of this Act, he may impose penalty: Provided that no such penalty shall be imposed without giving the parties concerned a reasonable opportunity of being heard. 15B. Appeal.—(*1*) Whoever aggrieved by the order passed by the adjudicating officer under this Act, may prefer an appeal to the appellate authority, above the rank of the adjudicating officer, authorised by the appropriate Government, within thirty days from the date of receipt of order in such form and manner as may be prescribed. (*2*) An appeal may be admitted after the expiry of the period of thirty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period. (*3*) The appellate authority may, after giving the parties to the appeal an opportunity of being heard, pass such order as he may think fit. (*4*) The appellate authority referred to in sub-section (*1*) shall dispose of the appeal within sixty days from the date of filing the appeal. 15C. Recovery.—Notwithstanding anything contained in this Act, if penalty imposed under this Act, is not deposited,

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(1)	(2)	(3)	(4)	(5)
				the amount shall be recovered as an arrear of land revenue.".
				(*C*) In section 33, in sub-section (*2*), after clause (*da*), the following clauses shall be inserted, namely:—
				"(*db*) the manner of holding inquiry and imposing penalty under sub-section (*1*) of section 15A;
				(*dc*) the form and manner of preferring appeal under sub-section (*1*) of section 15B;".
40.	2010	1	The Legal Metrology Act, 2009	(*A*) In section 25, for the words "twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months and also with fine", the words "one lakh rupees and for the second offence with fine which may extend to two lakh rupees and for the third and subsequent offence, with fine which may extend to five lakh rupees" shall be substituted.
				(*B*) In section 27, in the long line, for the words "twenty thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to three years or with fine or with both", the words "one lakh rupees and for the second offence with fine which may extend to two lakh rupees and for the third and subsequent offence, with fine which may extend to four lakh rupees" shall be substituted.
				(*C*) In section 28, for the words "ten thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both", the words "fifty thousand rupees and for the second offence with fine which may extend to one lakh rupees and for the third and subsequent offence with fine which may extend to two lakh rupees" shall be substituted.
				(*D*) In section 29, for the words "ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both", the words "fifty thousand rupees for the second offence with fine which may extend to one lakh rupees and for the third and subsequent offence with a fine which may extend to two lakh rupees" shall be substituted.
				(*E*) In section 31, for the words "five thousand rupees and for the second or subsequent offence, with imprisonment for a term

(1)	(2)	(3)	(4)	(5)
				which may extend to one year and also with fine", the words "twenty-five thousand rupees and for the second offence with fine which may extend to fifty thousand rupees and for the third and subsequent offence, with fine which may extend to one lakh rupees" shall be substituted. (*F*) In section 34, for the words "fine which shall not be less than two thousand rupees, but which may extend to five thousand rupees and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both", the words "fine which may extend to twenty-five thousand rupees and for the second offence with fine which may extend to fifty thousand rupees and for the third and subsequent offence, with fine which may extend to one lakh rupees" shall be substituted. (*G*) In section 35, for the words "fine which shall not be less than two thousand rupees, but which may extend to five thousand rupees and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both", the words "fine which may extend to twenty-five thousand rupees and for the second offence with fine which may extend to fifty thousand rupees and for the third and subsequent offence, with fine which may extend to one lakh rupees" shall be substituted. (*H*) In section 48,— (*a*) in sub-sections (*1*) and (*2*), for the words and figures "sections 27 to 39" at both places where they occur, the words and figures "sections 27 to 39, section 41" shall be substituted; (*b*) in sub-section (*3*), after the words and figures "sections 33 to 37,", the word and figures "section 41," shall be inserted.".
41.	2012	12	The Factoring Regulation Act, 2011	(*A*) For sections 21 and 22, the following sections shall be substituted, namely:— "21. Penalties.—If a default is made in filing under section 19, the particulars of any transaction of assignment of receivables and realisation of receivables by a factor, such company and every officer of the company who is in default shall be liable to penalty which may extend to five lakh rupees and in the case of a continuing offence, with an additional penalty which

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(1)	(2)	(3)	(4)	(5)
				may extend to ten thousand rupees for every day during which the default continues, to be imposed by the Reserve Bank in accordance with the provisions of sub-sections (*2*) to (*4*) of section 22.
				22. Penalties for non-compliance of direction by Reserve Bank.—(*1*) If any factor fails to comply with any direction issued by the Reserve Bank under section 6, or fails in filing the particulars of any transaction of receivables and realisation of receivables under section 19, the Reserve Bank may impose a penalty which may extend to five lakh rupees and in the case of a continuing failure, with an additional penalty which may extend to ten thousand rupees for every day during which the default continues.
				(*2*) For the purpose of adjudging the penalty under sub-section (*1*) or section 21, the Reserve Bank shall serve notice on the factor requiring it to show cause why the amount specified in the notice should not be imposed and a reasonable opportunity of being heard shall also be given to such factor.
				(*3*) Any penalty imposed by the Reserve Bank under this section or section 21 shall be payable within a period of fourteen days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the factor and in the event of failure of the factor to pay the sum within such period, may be levied on a direction made by the principal civil court having jurisdiction in the area where the registered office of the factor is situated; or, in the case of a factor incorporated outside India, where its principal place of business in India is situated:
				Provided that no such direction shall be made except on an application made to the court by the Reserve Bank or any officer authorised by Reserve Bank in this behalf:
				Provided further that the Reserve Bank may also recover the amount of penalty by debiting the current account, if any, of the defaulter or by liquidating the securities held to the credit of the defaulter.

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(1)	(2)	(3)	(4)	(5)
				(*4*) The court which makes a direction under sub-section (*3*) shall issue a certificate specifying the sum payable by the factor and every such certificate shall be enforceable in the same manner as if it were a decree made by the court in a civil suit.".
42.	2016	18	The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016	In section 41, for the words "punishable with imprisonment which may extend to one year or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both", the words "liable to penalty which may extend to one lakh rupees, or in the case of a company, with penalty which may extend to ten lakh rupees" shall be substituted.

LOK SABHA

A

BILL

to amend certain enactments for decriminalising and rationalising minor offences to further enhance trust-based governance for ease of living and doing business.

(*As passed by Lok Sabha*)

MGIPMRND—178LS—27-07-2023.

ALLAHABAD HIGH COURT JUDGES' LIBRARY PUBLICATION

AS PASSED BY LOK SABHA
ON 27.7.2023

Bill No. 290-C of 2022

THE REPEALING AND AMENDING BILL, 2023

A

BILL

to repeal certain enactments and to amend an enactment.

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

1. This Act may be called the Repealing and Amending Act, 2023. Short title.

2. The enactments specified in the First Schedule and the Second Schedule are hereby repealed. Repeal of certain enactments.

3. The enactment specified in the Third Schedule is hereby amended to the extent and in the manner specified in the fourth column thereof. Amendment of enactment.

4. The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to; Savings.

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

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nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed or recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

(*See* section 2)

REPEALS

Year	Act No.	Short Title
1	2	3
1850	18	The Judicial Officers Protection Act, 1850.
1855	28	The Usury Laws Repeal Act, 1855.
1857	5	The Oriental Gas Company Act, 1857.
1867	11	The Oriental Gas Company Act, 1867.
1871	4	The Coroners Act, 1871.
1881	16	The Obstruction in Fairways Act, 1881.
1885	18	The Land Acquisition (Mines) Act, 1885.
1912	13	The Delhi Laws Act, 1912.
1915	7	The Delhi Laws Act, 1915.
1922	22	The Police (Incitement to Disaffection) Act, 1922.
1923	6	The Cantonments (House Accommodation) Act, 1923.
1934	15	The Sugar-cane Act, 1934.
1941	12	The Delhi Restriction of Uses of Land Act, 1941.
1950	74	The Telegraph Wires (Unlawful Possession) Act, 1950.
1965	44	The Metal Corporation of India (Acquisition of Undertaking) Act, 1965.
1974	28	The Coal Mines (Conservation and Development) Act, 1974.
1976	100	The Metal Corporation (Nationalisation and Miscellaneous Provisions) Act, 1976.
1982	71	The Andhra Scientific Company Limited (Acquisition and Transfer of Undertakings) Act, 1982.
1983	17	The Delhi Motor Vehicles Taxation (Amendment) Act, 1983.
1994	13	The Air Corporations (Transfer of Undertakings and Repeal) Act, 1994.
2018	1	The Companies (Amendment) Act, 2017.
2018	8	The Insolvency and Bankruptcy Code (Amendment) Act, 2018.
2018	21	The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 2018.
2018	23	The Homoeopathy Central Council (Amendment) Act, 2018.
2018	26	The Insolvency and Bankruptcy Code (Second Amendment) Act, 2018.
2018	27	The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018.
2019	6	The Personal Laws (Amendment) Act, 2019.
2019	8	The Special Economic Zones (Amendment) Act, 2019.
2019	11	The Homoeopathy Central Council (Amendment) Act, 2019.
2019	14	The Aadhaar and Other Laws (Amendment) Act, 2019.
2019	24	The Right to Information (Amendment) Act, 2019.
2019	26	The Insolvency and Bankruptcy Code (Amendment) Act, 2019.
2019	36	The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 2019.
2019	37	The Supreme Court (Number of Judges) Amendment Act, 2019.
2020	19	The Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2020.

THE SECOND SCHEDULE

(*See* section 2)

REPEALS

Year	Act No.	Short Title
1	2	3
2013	5	The Appropriation (Railways) Vote on Account Act, 2013.
2013	6	The Appropriation (Railways) Act, 2013.
2013	7	The Appropriation (Railways) No. 2 Act, 2013.
2013	8	The Appropriation (Vote on Account) Act, 2013.
2013	9	The Appropriation Act, 2013.
2013	10	The Appropriation (No. 2) Act, 2013.
2013	15	The Appropriation (Railways) No. 3 Act, 2013.
2013	16	The Appropriation (No. 3) Act, 2013.
2013	21	The Appropriation (No. 4) Act, 2013.
2014	2	The Appropriation (No. 5) Act, 2013.
2014	3	The Appropriation (Railways) No. 4 Act, 2013.
2014	4	The Appropriation (Railways) Vote on Account Act, 2014.
2014	5	The Appropriation (Railways) Act, 2014.
2014	12	The Appropriation (Vote on Account) Act, 2014.
2014	13	The Appropriation Act, 2014.
2014	21	The Appropriation (Railways) No. 2 Act, 2014.
2014	22	The Appropriation (Railways) No. 3 Act, 2014.
2014	23	The Appropriation (No. 2) Act, 2014.
2014	24	The Appropriation (No. 3) Act, 2014.
2014	38	The Appropriation (No. 4) Act, 2014.
2015	6	The Appropriation (Railways) Vote on Account Act, 2015.
2015	7	The Appropriation (Railways) Act, 2015.
2015	8	The Appropriation (Vote on Account) Act, 2015.
2015	9	The Appropriation Act, 2015.
2015	13	The Appropriation (Railways) No. 2 Act, 2015.
2015	15	The Appropriation (No. 2) Act, 2015.
2015	24	The Appropriation (Railways) No. 3 Act, 2015.
2015	25	The Appropriation (No. 3) Act, 2015.
2016	7	The Appropriation (No. 4) Act, 2015.
2016	8	The Appropriation (No. 5) Act, 2015.
2016	14	The Appropriation (Railways) Vote on Account Act, 2016.
2016	15	The Appropriation (Railways) Act, 2016.
2016	19	The Appropriation (Vote on Account) Act, 2016.

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1	2	3
2016	20	The Appropriation Act, 2016.
2016	26	The Appropriation (Railways) No. 2 Act, 2016.
2016	29	The Appropriation (No. 2) Act, 2016.
2016	46	The Appropriation (No. 3) Act, 2016.
2016	50	The Appropriation (No. 4) Act, 2016.
2016	51	The Appropriation (No. 5) Act, 2016.
2017	8	The Appropriation (Railways) Act, 2017.
2017	9	The Appropriation (Railways) No. 2 Act, 2017.

THE THIRD SCHEDULE

(*See* section 3)

AMENDMENT

Year	Act No.	Short Title	Amendment
1	2	3	4
2012	12	The Factoring Regulation Act, 2011	In section 31A, in sub-section (*3*), for the words "that Central Government", the words "that Government" shall be substituted.

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to repeal certain enactments and to amend an enactment.

(*As passed by Lok Sabha*)

MGIPMRND—177LS—27-07-2023.