

14<sup>th</sup> March, 2023

# REPEALING AND AMENDING OF ENACTMENTS

## Introduction

1. In regular attempts to repeal the obsolete and archaic laws, the Parliament introduces certain bills for such purpose. The power of the legislature in repealing a law is similar and co-extensive to the power of enactment of a law.
2. Repealing means to formally state a law to be no longer valid. Thus, when an Act is repealed, it ceases to have any force in law. Repealing of a law has the effect of abolition of a law
3. The Black's law dictionary defines the term repeal as a legislative act which abrogates or obliterates an existing statute.
4. In Keshavan Madhava Menon vs. State of Bombay; AIR 1951 SC 128, the Supreme Court dwelled upon the effect of an Act being repealed. It was held that the effect of the repeal is to obliterate the statute repealed as completely as if it had never been passed, and it must be considered as a law which never existed, except for the purposes of those actions or suits which were commenced, prosecuted and concluded while it was an existing law.
5. The Parliament undertakes this as a periodical measure by which statutes that have become obsolete and serve no purpose as such are repealed.
6. Amendment, on the other hand, is the process for bringing about a change in an already existing law in the form of additions, deletions or substitutions.
7. Amendment, on the other hand, is the process for bringing about a change in For instance, if a particular provision/s of an existing law are found to be ambiguous or incorrect or containing an error, then an Amendment Act is introduced to make certain changes in the existing statute such that the particular provision/s become clear, correct and errorless. an already existing law in the form of additions, deletions or substitutions.
8. Sometimes, an amendment is also brought when the provision in question requires certain changes or clarifi-

cations by reason of passage of time and the changing societal needs.

9. Another instance of an amendment in such sphere is the insertion of provisions relating to digital evidences under various laws due to the technological advancements. Thus, amendments bring about a modification or insertion in an existing statute.

## Background

1. The question of the archaic laws still being in force was brought before the Union Minister of Law and Justice while the Parliament was in session.
2. The question essentially related to how such unnecessary laws were creating trouble for general public in understanding the statutes while the Judiciary and Ministry of Law and Justice are taking steps and measures to make the courts and laws more accessible to litigants and the public at large.
3. The Hon'ble Union Minister of Law, Kiren Rijju answered with data as to the number of laws that were repealed since 2014 and subsequently introduced The Repealing and Amending Bill, 2022.

## The Repealing and Amending Bill, 2022

1. The Statement of Objects and Reasons as provided under the Bill states that the Bill has been introduced for the purpose of repealing enactments which have ceased to be in force or have become obsolete or the retention whereof as separate Acts is unnecessary.
2. The First Schedule and Second Schedule list the Acts to be repealed while the Third Schedule specifies an amendment in the Act mentioned therein.
3. Thus, on the enactment of the said Bill, the Acts mentioned under the First and the Second Schedule would stand repealed while the amendment specified under the Third Schedule would stand amended.



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4. Clause 4 of the Bill has been introduced as a precautionary provision. It states that the repealing of the Scheduled Acts shall not affect the validity of any actions already taken or any rights already determined and acquired within the provisions of such Acts. It shall also not affect any principle or rule or law recognised from any of such enactments.
5. The Bill does not introduce any new provision if a comparison is drawn to The Repealing and Amending Act of 2019 which repealed and amended certain Acts in a similar manner.
6. Repeals may either be express or implied. An express repeal is a formal statutory measure undertaken for repealing of laws.
7. An implied repeal is not a planned repeal, it comes into effect when a new law is enacted which is not in consonance with the already existing law in place on the same subject. In such case, the old law is deemed to have been repealed. The repeals and saving provisions under the new Act is referred to in determining the status of such laws.
8. The Repealing and Amending Bill, 2022 is an example of an express repeal, i.e., a formal express repealing statute is enacted for the purpose of officially repealing the mentioned statutes.

### **The Schedules**

1. The First Schedule repeals certain archaic laws which serve no purpose anymore as well as Amendment Acts which by reason of being incorporated under the parent Act are of no use as a separate Act by themselves.
2. After the insertion of the amended provisions into the Act, the Amendment Acts per se become irrelevant and only clog the system. Their existence in the statute books plays no pivotal role and hence the repealing laws are used to delist them from the statutory status.

3. The Acts repealed under the First Schedule include The Land Acquisition (Mines) Act, 1885; The Telegraph Wires (Unlawful Possession) Act, 1950; The Coal Mines (Conservation and Development) Act, 1974; etc.
4. Some of the Amendment Acts that have been repealed are, among others, The Companies (Amendment) Act, 2017; The Insolvency and Bankruptcy Code (Amendment) Act, 2018; The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018; The Aadhaar and Other Laws (Amendment) Act, 2019; The Right to Information (Amendment) Act, 2019; The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 2019; etc.
5. The Second Schedule repeals certain Appropriation Acts (mostly relating to the Railways).
6. The First and Second Schedule repeal 24 and 41 Acts respectively.
7. The Third Schedule amends The Factoring Regulation Act, 2011. The amendment has been defined as an amendment of a patent error in the statute.
8. Section 31A of The Factoring Regulation Act, 2011 has been amended to the extent of the words “that Central Government” to be substituted with “that Government”.

### **Conclusion**

1. The Repealing and Amending Bill, 2022 is thus a periodical measure undertaken by the legislature to ensure that no irrelevant and unnecessary laws are in existence under the legal system which can create confusion and difficulty for litigants.
2. Such Acts also otherwise only take up space in the statutory books but may not be of any use or capable of being put to any purpose and hence are repealed through the repeal laws.

**Bill No. 290 of 2022**

**THE REPEALING AND AMENDING BILL, 2022**

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**BILL**

*to repeal certain enactments and to amend an enactment.*

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

- |    |   |                               |
|----|---|-------------------------------|
| 1. | This Act may be called the Repealing and Amending Act, 2022.  | Short title.                  |
| 5  | 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.                      |
| 10 | 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 repealed;

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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
1885	18	The Land Acquisition (Mines) Act, 1885.
1934	15	The Sugar-cane Act, 1934.
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.

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.



## STATEMENT OF OBJECTS AND REASONS

This Bill is one of those periodical measures by which enactments, which have ceased to be in force or have become obsolete or the retention whereof as separate Acts is unnecessary are repealed or by which the formal defects detected in enactments are corrected.

2. The note on Third Schedule which follows explain the reasons for the amendment suggested in the Bill in respect whereof some detailed explanation is necessary.

3. Clause 4 of the Bill contains a precautionary provision which it is usual to include in the Bill of this kind.

NEW DELHI;

*The 14<sup>th</sup> December, 2022.*

KIREN RIJJU.

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## PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

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**[F.No. 1(66)/2019-L.I dated 15 December, 2022 from Shri Kiren Rijju, Minister of Law and Justice to the Secretary General, Lok Sabha]**

The President, having been informed of the subject matter of the proposed Bill, recommends under clause (1) of article 117 of the Constitution of India, the introduction of the Repealing and Amending Bill, 2022 in Lok Sabha.

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#### NOTE ON THE THIRD SCHEDULE

The Factoring Regulation Act, 2011 (12 of 2012).—The amendment proposed to the Act seeks to rectify patent error.

ANNEXURE

EXTRACT FROM THE FACTORING REGULATION ACT, 2011

(12 OF 2012)

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**31A. (1)** \* \* \* \* \* Power to make regulations.

(3) Every regulation shall, as soon as may be after it is made by the Reserve Bank, be forwarded to the Central Government and that Central Government shall cause a copy of the same to be laid 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 regulation, or both Houses agree that the regulation should not be made, the 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 regulation.

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LOK SABHA

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*(Shri Kiren Rijju, Minister of Law and Justice)*