

17th August, 2022

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Bill No. XXIX of 2022

THE NATIONAL COMMISSION FOR WELFARE OF HOME-BASED
WORKERS BILL, 2022

A

BILL

*to provide for the establishment of a National Commission for Welfare of Home-based
Workers and for matters connected therewith.*

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

1. (1) This Act may be called the National Commission for Welfare of Home-based Workers Act, 2022.

Short title,
extent and
commencement.

5 (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.

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

Definitions.

10 (a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "employer" means any person who employs, either directly or through another person, on behalf of himself or any other person for remuneration, any home-based worker;

(c) "home-based work" means work carried out by a person, in his or her home or in other premises of his or her choice, other than the workplace of the employer; for remuneration; which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used;

(d) "home-based worker" means workers who produce goods or provide services for the market in their own home or in any other premises of his or her choice, other than the workplace of the employer;

(e) "National Commission" means the National Commission for the Welfare of Home-based Workers established under section 3; and

(f) "prescribed" means prescribed by rules made under this Act.

Establishment
of a National
Commission
for the
Welfare of the
Home-based
Workers.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Commission to be known as the National Commission for Welfare of Home-based Workers to improve the conditions of home-based workers in the country.

(2) The Commission shall consist of —

(a) a Chairperson;

(b) a Deputy Chairperson; and

(c) three members

to be appointed by the President by warrant under his signature and seal from amongst the persons having special knowledge and vast experience in the field of home-based work.

(3) The Central Government may appoint such number of officers and staff including experts to the Commission as may be required for its efficient functioning.

(4) The salary and allowances payable to, and other terms and conditions of service of the Chairperson, Deputy Chairperson, members, officers, staff and experts of the Commission shall be such as may be prescribed.

(5) The National Commission shall have the power to regulate its own procedure.

Functions of
the National
Commission.

4. (1) It shall be the duty of the National Commission to take such steps, as it may deem appropriate, for the welfare and protection of the rights of home-based workers and their dependant family members.

(2) Without prejudice to the generality of the foregoing provision, the National Commission shall ensure the following provisions for the benefit and welfare of home-based workers, namely:—

(a) recognise and accepting home-based workers as workers in their own right through legislative and administrative actions;

(b) conducting a national survey for the collection of statistics of home-based workers on a regular basis and not as a one off National Sample Survey module by adopting the official international statistical definition of 'home-based workers', and ensuring that such national surveys include a question on 'place of work' and 'source of work (contractor or firm or self)' so that the distinction between self-employed own account home-based workers and sub-contracted home-based workers becomes clear;

(c) undertaking the registration of home-based workers at the national and state level by assisting the appropriate Government and issuing a Home-based Worker Identification number (HBWIN card) for each of them;

(d) ensuring legal equality to home-based workers in status and rights in relation to other wage earners performing same work;

5 (e) ensuring decent wage, social security and occupational health and safety provisions for home-based workers through appropriate legislative and administrative measures;

(f) identifying, preventing and mitigating potential human rights violations that affect home-based workers;

(g) drafting a national policy for the welfare of the home-based workers;

10 (h) ensuring legal recognition of the home-based workers in global supply chains and include the protection of the rights and welfare of home-based workers in all due diligence processes applicable to such companies involved therein;

(i) promoting community-based skill-building trainings for the home-based workers by coordinating with the state and local governments;

(j) ensuring financial and digital inclusion of home-based workers;

15 (k) collaborating with all relevant stakeholders including the representatives of home-based workers, NGOs and trade unions in pursuance of the objective of the National Commission;

20 (l) submitting reports to the President regarding the working of safeguards on an annual basis or at such intervals as it thinks fit including measures for protection, welfare and social development of home-based workers.

5. (1) The President shall cause to be laid before each House of Parliament all the reports submitted to him under clause (1) of sub-section (2) of section 4 along with a memorandum explaining the reasons for not accepting any of the recommendations made thereto. President to lay report.

25 (2) Where the report, or any of its part is related to any of the issue connected with the State Government, a copy of such report shall be forwarded to the Governor of that State, who shall in turn, along with an explanatory memorandum concerned with the action taken or proposed to be taken on the recommendations related to the State, if any, and reasons for not accepting any of the recommendations, cause such report to be laid before the State
30 legislature.

6. The National Commission shall, while investigating any matter referred to in sub-section (2) of section 4, have all the powers of a Civil Court trying a suit and, in particular in respect of the following matters, namely:— National Commission to have powers of Civil Court.

35 (a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commission for the examination of witnesses and documents; and

40 (f) any other matter which may be prescribed.

7. The appropriate Government shall consult the National Commission on all policies affecting the interests of the home-based workers. Appropriate Government to consult the National Commission.

Central Government to provide adequate funds to the National Commission.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the National Commission for carrying out the purposes of this Act.

Power to remove difficulties.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty: 5

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

Act to have overriding effect.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. 10

Power to make rules.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 15 20

STATEMENT OF OBJECTS AND REASONS

Home-based workers are workers who produce goods or provide services for the market in their own home or in a structure attached to their own home. Most of the home-based workers produce goods for global supply chains across the world. The work they do can vary greatly and may include stitching garments and weaving textiles, stitching shoe uppers and footballs, producing craft products, processing and preparing food items, rolling incense sticks, cigarettes and cigars, assembling or packaging electronics, automobile parts, and pharmaceutical products etc. Although they remain largely invisible, home-based workers are engaged in many branches of industries—old and new—and represent a significant share of employment in global supplychains.

According to the 2017-18 India Periodic Labour Force Survey, there were about 35 million home-based workers representing 9.8 per cent. of all workers. A recent survey of 340 garment factories in Delhi and Bengaluru showed that 58 per cent. of surveyed factories outsource to home workers. These workers may be contracted directly by factories or through third party contractors.

Home-based workers are the most vulnerable among all informal economy workers. Relegated to the bottom of supply chains, they have the least bargaining power, the most insecure work, and low incomes. Majority of the workers lack social security, income security and health security. They also lack access to basic services such as water, health care, sanitation, and electricity which severely affect their lives and livelihoods.

Although home-based workers belong to the most vulnerable categories of workers, there is no official policies, programmes and schemes that protect their rights and welfare. The term home-based worker is not legally recognised. Hence, they remain as an exploited and invisible class of workers living under the mercy of global brands for whom they do the hard-work. It is critical for the Government to recognise and identify the problems of these large majority of workers and safeguard their legitimate rights and welfare through legislative and administrative actions. Considering the intensity and gravity of the problem, it is understood that an institutional framework with necessary powers, functions and capacity is an urgent policy priority.

Hence, the Bill seeks to attain the objectives mentioned above through the establishment of the National Commission for the Welfare of Home-based Workers.

SANDOSH KUMAR P.

FINANCIAL MEMORANDUM

Clauses 3 of the Bill provides for establishment of the National Commission for the Welfare of Home-based Workers to carry out the responsibilities assigned to it. It also provides for appointment of a Chairperson, Deputy Chairperson, members, officers, staff and experts to the Commission. Clause 8 provides for the Central Government to provide adequate funds for the functioning of the Commission.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India which cannot be estimated at present. Recurring expenditure is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

RAJYA SABHA

A

BILL

to provide for the establishment of a National Commission for Welfare of Home-based
Workers and for matters connected therewith.

(Shri Sandosh Kumar P., M.P.)

MGIPMRND—656RS(S3)—25-07-2022.

Bill No. XXXII of 2022

THE BENGAL FREEDOM FIGHTERS MEMORIAL BILL, 2022

A

BILL

to provide for the erection and management of a national memorial to perpetuate the memory of those from Bengal, who have fought and struggled for the freedom of India, from the oppressive British Raj, belonging to the territorial jurisdiction of Bengal Presidency (1765—1947), presidency of the British Indian Empire.

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

1. (1) This Act may be called the Bengal Freedom Fighters Memorial Act, 2022.

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.

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

Definitions.

(a) "Memorial" means the Bengal Freedom Fighters Memorial to perpetuate the memory of those from Bengal, in the territorial jurisdiction of Bengal Presidency (1765—1947), Presidency of the British Indian Empire who laid down their lives or who have made notable contribution to the independence movement of India;

- (b) "Trust" means the trust for the erection and management of the Memorial;
- (c) "trustees" means the trustees of the Bengal Freedom Fighters Memorial.

Objects of the Trust.

3. The objects of the Trust shall be—

(a) to erect and maintain suitable buildings, structures and parks adjacent to the side of the Victorial Memorial in the city of Kolkata, State of West Bengal to perpetuate the memory of those from Bengal, in the territorial jurisdiction of Bengal Presidency (1765—1947), Presidency of the British Indian Empire who laid down their lives or who have made notable contribution to the freedom of India, on the said site; 5

(b) to acquire lands, buildings and other properties for the purposes of the trust; and 10

(c) to raise and receive funds for the purposes of the Memorial.

Trustees of the Memorial.

4. (1) The trustees of the Memorial shall be the following, namely:—

- (a) the Prime Minister—Chairperson;
- (b) the Union Minister in-charge of the Ministry of Culture; 15
- (c) the Leader of Opposition recognised as such in the House of the People or where there is no such Leader of Opposition, the Leader of the single largest opposition party in that House;
- (d) the Governor of the State of West Bengal;
- (e) the Chief Minister of the State of West Bengal; 20
- (f) three eminent persons to be nominated by the Central Government.

(2) The trustees shall be a body corporate with perpetual succession by the name of the "Trustees of the Bengal Freedom Fighters Memorial" and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts and to do all acts necessary for, and consistent with, the purposes of this Act. 25

Term of office of nominated Trustees.

5. The trustees nominated under clause (f) of sub-section (1) of section 4 shall be trustees for a period of five years, and shall be eligible for re-nomination.

Property vested in Trustees.

6. All the funds and property, whether movable or immovable, which may hereafter be given, bequeathed or otherwise transferred for the purposes of the Memorial or acquired for the said purposes shall vest in the trustees. 30

Grants of money by the Central Government.

7. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the trusts, grants of such sums of money as the Central Government may think fit, for the purposes of this Act.

Power of Trustees to appoint committee of management.

8. (1) For the purposes of managing the affairs of the trust, the trustees may, pass resolution at a meeting, appoint a committee of management, and to entrust it such powers, duties and functions, under such directions and limitations, as may be defined by such resolution. 35

(2) The trustees may appoint any person as members of the committee of management, whether such person are trustees or not, and may, from time to time, vary or rescind any resolution passed by it under this section. 40

Power to approve audited accounts.

9. The Trust shall meet at least once in a year to approve the audited accounts of the trust and shall transact such other business as may be considered necessary.

Validity of acts of Trustees not to be questioned by reason of vacancy, etc.

10. No act of the trustees shall be deemed to be invalid merely by reason any vacancy in, or any defect in the constitution of the body of trustees.

11. (1) The accounts of the trust 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 trust to the Comptroller and Auditor-General.

Accounts and audit.

5 (2) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the trust under this Act, shall have the same rights and privileges and the 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 books, accounts, connected
10 vouchers and other documents and papers and to inspect the office of the trust.

(3) The accounts of the trust as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the trust and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each
15 House of Parliament.

12. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the objects of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

20 (a) the manner in which funds belonging to the Memorial shall be kept deposited or invested;

(b) the mode of authentication of orders for payment of money by the trustees;

(c) the form in which accounts shall be kept by the trustees and the audit and publication of such accounts;

25 (d) the laying out, erection, improvement, maintenance and management of the memorial and the care and custody of the properties thereof;

(e) the condition under which the public shall have access to the Memorial or particular parts thereof and the regulation of the conduct of persons entering the precincts of the Memorial; and

30 (f) the preservation of, and the prevention of injury to or interference with, any property vested in the trustees and the prevention of persons from trespassing into any particular part of the Memorial.

(3) A rule made under this section may provide that a breach of any rule made under clauses (e) and (f) of sub-section (2) shall be punishable with fine which may extend to one
35 hundred rupees.

13. The Trust may make regulations consistent with the provisions of this Act for all or any of the following purpose, namely:—

Power of Trust to make regulations.

(a) the manner in which meetings of the trustees shall be convened, the quorum for the transaction of any business and the procedure at such meetings;

40 (b) the manner in which a majority decision of the trustees shall be obtained by circulation to the trustees of the matter requiring decision;

(c) the term of office of members of the committee of management, their powers and duties, and the circumstances in which and the conditions subject to which such powers and duties may be exercised; and

45 (d) the appointment of such officers and servants as may be necessary for the purpose of the trust and their terms and conditions of service.

Rules and regulations to be laid before 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. 5

STATEMENT OF OBJECTS AND REASONS

The Great Indian struggle for freedom from the oppressive British Raj started with the fall of the Nizam of Bengal in the decisive battle of Plassey on 23rd June, 1757. Between 1765—1947 in the territorial jurisdiction of Bengal Presidency, hundreds and thousands have laid down their lives and many more thousands and lakh of Indians stood against the tyranny of the British Raj.

The very concept of the great Memorial conceived under this Bill is to give space to mention their story and contribution so that every sung and unsung heroes who made notable contribution is remembered forever and our future generation will get an opportunity to learn from the true history of our ancestors and to uphold their ideals and be proud of our great race.

By the creation of this Memorial we shall honour and glorify our brave sons of Bengal. That everyone who laid down his or her life and contributed to the epic freedom struggle spanning over to centuries shall not go down as unsung heroes. The Memorial shall give space to each and every freedom Fighter with their photographs and their contribution to the freedom struggle.

The Memorial to be erected adjacent to the Victoria Memorial will bring forth its truest meaning.—the oppressor verses the oppressed, that such dark history of oppression should not be repeated in future to our holy mother India.

The need is, therefore, to recognize the sacrifice made by the people of Bengal Presidency (1765—1947) who contributed for our freedom movement from the area constituting Bengal Presidency by providing for establishment of the Bengal Freedom Fighters Memorial to perpetuate the memory of both known heroes and unsung heroes.

The Memorial will bring forth the fact that India won its independence through collective zeal of many.

Hence, this Bill.

SHANTA CHHETRI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the trust to erect and maintain suitable buildings, structures and parks adjacent to the site of the Victoria Memorial in the city of Kolkata; to acquire lands, buildings and other properties for the purposes of the trust; and to raise and receive funds for the purposes of the Memorial. Clause 7 provides for making grants to the trustees by the Central Government after the appropriation by Parliament by law for the purpose of the Act.

The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, it is difficult to estimate the amount required for the purpose, as it would depend upon the decisions of the trust.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Clause 13 empowers the Trust to make regulations for the prescribed purposes. The rules and regulations will relate to matters of details only, and as such, the delegation of legislative power is of a normal character.

RAJYA SABHA

A

BILL

to provide for the erection and management of a national memorial to perpetuate the memory of those from Bengal, who have fought and struggled for the freedom of India, from the oppressive British Raj, belonging to the territorial jurisdiction of Bengal Presidency (1765—1947), presidency of the British Indian Empire.

(Smt. Shanta Chhetri, M.P.)

MGIPMRND—648RS(S3)—25.07.2022.

Bill No. XXXI of 2022

**CENTRAL PUBLIC SECTOR ENTERPRISES (PROTECTION OF
INTERESTS OF STATES) BILL, 2022**

A

BILL

to provide for safeguarding the interests and entitlement of States in the eventuality of disinvestment of Central Public Sector Enterprises and to ensure fairness and transparency in the process and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Central Public Sector Enterprises (Protection of Interests of States) Act, 2022. Short title and commencement.

5 (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.

Definitions.

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

(a) “Central Public Sector Enterprise” means a company incorporated under the Companies Act, 2013 or under any previous company law, or institutions formed in pursuance of any Act of Parliament, in which not less than fifty-one per cent of the share capital is held by the Central Government or by any other CPSE or CPSEs, or partly by the Central Government and partly by one or more CPSEs, or partly by the Central Government and partly by one or more States with majority share capital with the Central Government, and includes a company which is a subsidiary company of such as institution; 18 of 2013.

(b) “CPSE” means Central Public Sector Enterprise; 10

(c) “disinvest” or “disinvestment” means disinvestment by transfer, by way of sale or allotment in any manner whatsoever, in whole or in part of the share capital in a CPSE to any person or private entity, whether incorporated or not, by the Central Government or any other CPSEs, with or without transfer of management control;

(d) “management control” means and includes the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner; 15

(e) “notification” means notification published in the Official Gazette and the expression “notified” with its cognate meanings and grammatical variations shall be construed accordingly; 20

(f) “prescribed” means prescribed by rules made by the Central Government under this Act;

(g) “State” means a State or States which contributed land free of cost or at subsidized rates or assisted by cash or in kind or resources for the incorporation or functioning of a CPSE, whether or not holding shares in that CPSE. 25

(2) Words and expressions used but not defined in this Act shall have the meanings respectively assigned to them in the Companies Act, 2013. 18 of 2013.

Procedure for disinvestment and protection of interests of States.

3. (1) In the eventuality of the Central Government or its instrumentalities resolving to disinvest a CPSE, the valuation of the CPSE shall be done beforehand, which shall, under no circumstances whatsoever, be done through, or by availing the assistance of, a private entity. 30

(2) The valuation of a CPSE shall be in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. 35

(3) The valuation report of the CPSE 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 CPSE to the Comptroller and Auditor-General of India.

(4) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the valuation report of a CPSE 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 and assets of the CPSE. 40 45

(5) The valuation report, as audited 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 to the Central Government, which shall cause the same to be laid before each House of Parliament and shall also make the valuation report available to the State.

5 (6) The State, referred to in clause (g) of section 2, shall be preferred to in the disinvestment by being given the right of first refusal of the purchase of the CPSE for the valuation amount so arrived at:

10 Provided that in the case of more than one State involved in the contribution of land free of cost or at subsidized rates, or assistance by cash or in kind or resources, for the incorporation or functioning of a CPSE, the right of first refusal shall be given to all such States in descending order in direct proportion to the total value of contribution and/or assistance, as the case may be, rendered by each of such States.

15 (7) The Central Government or its instrumentalities may proceed with disinvestment, if and only if the State referred to in clause (g) of section 2 refuses to purchase the CPSE for the amount arrived at the valuation, subject to the condition that any sort of disinvestment in such an eventuality shall be by resorting to competitive bidding in such manner as may be prescribed.

20 (8) In addition to, and not in derogation of, the rights conferred by the provisions in the preceding sub-sections, all States including, but not limited to, the States referred to in clause (g) of section 2 as well as its instrumentalities including State PSUs, both jointly or severally, be entitled to participate in the competitive bidding for disinvestment:

Provided that no qualification or disability criteria shall be insisted for states or its instrumentalities for participation in the bidding for disinvestment.

25 (9) The competitive bidding shall, under no circumstances whatsoever, be done through, or by availing the assistance of a private entity.

30 **4.** Without prejudice to a State or States, referred to in clause (g) of section 2, failing to purchase a CPSE during the disinvestment process, it shall be entitled for rateable distribution by way of apportionment, from the proceeds of disinvestment, the value, present value or pro rata share of the total bid amount, whichever is higher, for the land, cash or services provided by it for the incorporation or functioning of the CPSE. Distribution of the proceeds of disinvestment.

5. Notwithstanding anything inconsistent therewith contained in any other law or rules or regulations for the time being in force, and any instrument having force of law, the provisions of this Act shall have overriding effect. Act to have overriding effect.

35 **6. (1)** The Central Government may, by notification, make rules to carry out the provisions of this Act. Power to make rules.

40 (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

According to the founding fathers of our Nation, Central Public Sector Enterprises (CPSEs) are the 'temples of modern India'. CPSEs have played a significant role in the growth of economy of the Nation during post-independence era. The CPSEs can be broadly classified into three types, *viz.* Departmental Undertakings—directly managed by concerned Ministry or Department (e.g. Railways, Posts, etc.), Non-Departmental Undertakings - Public Sector Undertakings (e.g. Hindustan Petroleum Corporation Limited, Indian Oil Corporation Limited, etc.) and Financial Institutions (e.g. State Bank of India, Life Insurance Corporation, etc.). CPSEs represent a significant portion of the Indian economy. It comprises public services and enterprises and provides services for the benefit of the nation. The rationale behind the establishment of CPSEs was industrialisation and the establishment of capital goods industries and basic industries. CPSEs played a colossal role in the country in the creation of industrial base, employment opportunities, infrastructure, resources to the Government, reduction of inequalities, accelerating the economic growth and development of the country, ensuring social justice, etc. This sector was vital for the generation of capital in the Indian economy for several decades. CPSEs function for the welfare of the public and the overall development of the country at large. Public sector also enables the Government to administer social control on trade and industry for ensuring equitable distribution of goods and services.

Nevertheless, the disinvestment of these CPSEs, once called as crown jewels of the Nation, began in 1991. Any disinvestment of CPSE needs to be viewed in the context of the contributions rendered by States by way of providing land free of cost or at subsidized rates or assistance by cash or in kind or resources for the incorporation or functioning of that CPSE. The present policy of disinvestment doesn't consider this cardinal point. The intent of the Bill is to provide an opportunity to such States to take over the control of such CPSEs or to entitle such States the right to have rateable distribution by way of apportionment, from the proceeds of disinvestment, the value, present value or pro rata share of the total bid amount, whichever is higher, for the land, cash or services provided by it for the incorporation or functioning of the CPSE.

Further there are instances of glaring aberrations in the disinvestment modality also. The proceeds from the disinvestment of the PSUs will be generally meagre when compared to the real value of the CPSEs. There are several factors attributing to this stark contrast. The modality developed by DIPAM to appoint private entities and to delegate them the task of valuation of CPSEs, collection and evaluation of bids, etc. is flawed. A private entity is outside the ambit of 'the Right to Information Act, 2005' or auditing by the Comptroller & Auditor General of India. Delegation of the responsibilities of the Government to external private entities to do the valuation of CPSEs, technical evaluation, collection of bids, etc. attract public criticism, while the responsibility of the Executive to ensure a fair and transparent process will get largely thinned.

Also, the Central Government is at present denying permission to the State Governments or State PSUs in participating in the strategic disinvestment of CPSEs. It will be against the basic values of co-operative federalism enshrined in our Constitution if the Union Government comes forward to infringe the rights of a State or its PSUs in participating in an open bid for the sale of a CPSE. There are no cogent and convincing reasons in preventing States from purchasing CPSEs or participating in the disinvestment process.

In addition, those States which contributed land free of cost or at subsidized rates or assisted by cash or in kind or resources for the incorporation or functioning of a CPSE, whether or not holding shares in that CPSE, are entitled to have preference in the disinvestment process by being given the right of first refusal of purchase of the CPSE directly.

This Bill, therefore, seeks to introduce provisions to safeguard the interests and entitlement of States in the eventuality of disinvestment of Central Public Sector Enterprises as well as to ensure fairness and transparency in the process.

Hence, this Bill.

JOHN BRITTAS

MEMORANDUM REGARDING DELAGATED LEGISLATION

Sub-clause 2 of clause 3 of the Bill empowers the Central Government to provide by rules the form of valuation of a CPSE. Sub-clause 7 of clause 3 of the Bill empowers the Central Government to provide by rules the manner in which the competitive bidding for the disinvestment of a CPSE shall be done. Similarly Clause 6(1) empowers the Central Government to make and notify rules to carry out the provisions of this Act.

The matters in respect of which rules may be made under the aforesaid provisions are matters of procedure or administrative details only, and it is not practicable to provide for them in the Bill itself. The delegation of legislative powers is, therefore, of a normal character.

RAJYA SABHA

A

BILL

to provide for safeguarding the interests and entitlement of States in the eventuality of disinvestment of Central Public Sector Enterprises and to ensure fairness and transparency in the process and for matters connected therewith or incidental thereto.

(Shri John Brittas, M.P.)

MGIPMRND—654RS(S3)—25-07-2022.

Bill No. XXXIV of 2022

THE COMPULSORY VOTING BILL, 2022

A

BILL

to provide for compulsory voting by the electorate in the country and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Compulsory Voting Act, 2022.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

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

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

Definitions.

(a) "appropriate Government" means—

(i) in the case of a State, the Government of that State;

10 (ii) in the case of an Union Territory having its own legislature, the Government of that Union Territory; and

(iii) in other cases, the Central Government.

(b) "prescribed" means prescribed by the rules made under this Act;

(c) "voter" in relation to a constituency means a person whose name is entered in the electoral roll of that constituency for the time being in force and who is not subject to any of the disqualification mentioned in section 16 of the Representation of the People Act, 1950.

5 43 of 1950.

Compulsory voting.

3. It shall be compulsory for every voter who is eligible to vote at an election to exercise his right to vote when called for by the Election Commission:

Provided that a voter may be exempted from exercising his right to vote—

(a) if he is physically incapacitated from an illness of a serious nature and produces a medical certificate from a registered medical practitioner certifying such incapacity; or

10

(b) if the Election Commission or such other authority as may be empowered by the Election Commission, on receipt of a request either before or after the poll, from the voter, is satisfied that there are genuine and *bona fide* grounds for such exemption.

Protection and safety for voters at polling booths.

4. The Election Commission shall ensure protection and safety of all voters who come to polling booths to cast their votes.

15

Sending of list of names of voters not casting their votes to the Government.

5. The Election Commission shall send a list of names of all eligible voters, who have not cast their votes, to Central Government or the State Government, as the case may be, in such manner as may be prescribed.

Adequate number and spacing of polling booths.

6. (1) There shall be set up adequate number of polling booths at convenient locations.

20

(2) The polling booths shall be set up in such a way—

(a) that number of voters in each booth shall be equal to the extent possible;

(b) that the distance between one polling booth and another shall not exceed five hundred meters:

Provided that in hilly regions and desert areas polling booths may be set up according to density of population, in such manner as may be prescribed.

25

Special arrangements for poll staff.

7. There shall be made suitable arrangements enabling the persons deployed in connection with the polling duty to cast their votes.

Special arrangements for senior citizens, etc.

8. There shall be made separate arrangement in every polling booth for senior citizens, physically challenged persons and pregnant women to enable them to cast their votes.

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Punishment.

9. Any person, who fails to cast his vote shall be liable to—

(a) a fine of rupees five hundred, or two day's imprisonment, or forfeiture of his ration card;

(b) be rendered ineligible for contesting any election for a period of ten years from the date of his conviction;

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(c) be ineligible for entitlement to any welfare scheme announced by the appropriate Government from time to time:

Provided that if such person is an employee of the Union Government or the State Government or the Union Territory Administration or any public sector undertaking owned

or controlled by Union Government or the State Government or the Union Territory Administration, such person shall also be punished with—

(a) forfeiture of ten days' salary; and

(b) delay in promotion for a period of two years.

5 **10.** Any voter who, despite his illness or physical incapacity has exercised his right to vote at an election or any voter who has exercised his right to vote at all elections held during a period of fifteen years preceding the commencement of this Act without any break, shall be— Incentive for voting.

(a) given preference in jobs in the services under the Central Government; and

10 (b) given preference in admission to the institutions of higher education.

11. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.

Central Government to provide funds.

12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

15 (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should be of no effect, the rule shall thereafter have effect only in such modified form or
20 be of no effect, as the case may be. However, any such modification or annulment of that rule shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Our country is the largest democracy in the world having population of around 139 crores. The Constitution has adopted the system of universal adult suffrage to secure political justice.

A strong Parliamentary system is there. Since 1951, free and fair elections have been conducted at regular interval for both Houses of Parliament, State Legislatures and Local Bodies. Election in India sets norms for many other countries.

But it has been observed that only around sixty per cent voters use their right to vote. It has been observed during almost all elections in the country that the number of voters actually voting is very less than that of eligible voters. Hence, average polling remains very low. This tendency of election clearly indicates us that taking appropriate steps to encourage citizens for exercising their voting rights to elect their representatives is needed so that the results of elections may reflect the intents of all voters and not only of a part of them. In many cases, citizens knowingly do not cast votes or even they boycott elections. Hence, the purport of this Bill is to make voting compulsory for every voter subject to certain restrictions to increase the percentage of voting in the country. However, under this Act such voters, who are either physically incapacitated or have genuine grounds for not doing so, have been exempted.

Since voting is being made compulsory, punishment for those who are not voting has been proposed. Moreover, those voters have been proposed to be given incentives who despite their illness, have continuously exercised their right to vote at elections.

Some of the countries that introduced mandatory voting laws were Belgium in 1892. Argentina in 1914 and Australia in 1924. Countries that enforce compulsory voting are Argentina, Australia, Austria, Bulgaria, Brazil, Chile, Cyprus, Ecuador, Fiji, Greece, Lichtensteen, Mexico, Nauru, Peru, Singapore, Switzerland (One Canton only), Turkey and Uruguay. Compulsory voting is a system in which electors are bound to vote in elections or attend a polling place on voting day. Compulsory voting system confers a higher degree of political legitimacy.

Hence this Bill.

DEEPAK PRAKASH

FINANCIAL MEMORANDUM

Clause 6 provides for setting up of adequate polling booths in every constituency. Clauses 7 and 8 provide for special arrangements for persons deployed for poll duty and for senior citizens, physically challenged persons and pregnant women to enable them to cast their votes. Clause 11 requires the Central Government to provide adequate funds for carrying out the purposes of the Act.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees eight thousand crore is likely to be involved. A non-recurring expenditure of about rupees five thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill which will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

RAJYASABHA

A

BILL

to provide for compulsory voting by the electorate in the country and for matters connected therewith or incidental thereto.

(Shri Deepak Prakash, M.P.)

MGIPMRND—646RS(S3)—25-07-2022.

Bill No. XXV of 2022

THE CONSTITUTION (AMENDMENT) BILL, 2022

A

BILL

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2022;

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.

5 **2.** After clause (2) of article 246 of the Constitution, the following proviso shall by inserted, namely:—

Amendment of
article 246.

"Provided that the power of the Parliament to make laws with respect to any of the matters enumerated in the Concurrent List shall be subject to ratification by the

Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill seeking such provisions is presented to the President for assent."

Amendment of
article 254.

3. In clause (1) of article 254 of the Constitution, after the words, figure and brackets "subject to the provisions of clause (2)", the words, figures and brackets "and proviso to clause (2) of article 246" shall be inserted. 5

STATEMENT OF OBJECTS AND REASONS

The Constitution of India commences with the sentence “*India, that is Bharat, shall be a Union of States*”. While resolving the above terms, the founding fathers would have borne in mind the need to enshrine, enrich and encourage the rich diversity of the Nation. There won’t be an iota of doubt that the Union Government has a bounden duty to enrich federalism, diversity and pluralism in the Country. Union Government and its instrumentalities are expected to perform in a befitting manner to uphold and nurture the democratic and federal values that the framers of our Constitution had infused into it. Insofar as the legislative powers are concerned, the basic structure of the Constitution is not unitary but quasi-federal in character.

The distribution of legislative powers of Parliament and State Legislatures are mainly delineated in Articles 245 to 253 under Part XI of the Constitution read with the Seventh Schedule thereto. Similarly, Article 254 elucidates the position in case of inconsistency between laws made by Parliament and laws made by the Legislatures of States.

But there are reasonable perturbations now-a-days in respect of legislations put forth by the Union Government with respect to the matters enumerated in List III in the Seventh Schedule (Concurrent List). Such actions will obliterate the values of co-operative federalism and social fabric of the States. Introduction of National Eligibility cum Entrance Test (NEET) applying to all States taking away their sovereignty to regulate medical education in the States, apparently conducting Common University Entrance Test (CUET) for admission to Central Universities without giving any weightage for Class XII marks awarded by the State Boards, insertion of Part IXB in the Constitution *vide* the Constitution (Ninety Seventh Amendment) Act, 2011 *vis-a-vis* the Co-operative Societies (which was subsequently struck down by the Supreme Court as far as it relates with the co-operative societies working within a State, by declaring that Part IXB of the Constitution is operative only insofar as it concerns multi-State cooperative societies both within the various States and in the Union territories of India), etc. are some examples of this inclination by the Union Government.

Any legislation by the Parliament with respect to the matters enumerated in the Concurrent List ought to have been made only after due consultations and deliberations with States, by taking the State Governments into confidence. It is pertinent to note that the frontline activities of the State Governments put them in the vanguard for the people and to judge the requirements better. Hence consultations and concurrence with the State Governments will ensure a new legislation by the Parliament with respect to the matters enumerated in the Concurrent List more reasonable, justifiable, democratic and inclusive.

In view of the above, there is a need to amend article 254(1) and to insert a new Proviso to article 246(2) of the Constitution of India to ensure inclusive legislation by the Parliament with respect to the matters enumerated in List III in the Seventh Schedule.

Hence this Bill.

JOHN BRITTAS

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

	*	*	*	*	*
Subject-matter of laws made by Parliament and by the Legislatures of States.	246.	*	*	*	*
	(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").				
	*	*	*	*	*
Inconsistency between laws made by Parliament and laws made by the Legislatures of States.	254.	(1) If any provision of the law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.			

RAJYA SABHA

A

BILL

further to amend the Constitution of India.

(Shri John Brittas, M.P.)

MGIPMRND—652RS—25-07-2022.

Bill No. XXVI of 2022

THE CONSTITUTION (AMENDMENT) BILL, 2022

A

BILL

further to amend the Constitution of India.

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

- | | | |
|---|--|-------------------------------|
| | 1. (1) This Act may be called the Constitution (Amendment) Act, 2022. | Short title and commencement. |
| | (2) It shall come into force at once. | |
| 5 | 2. In article 4 of the Constitution, clause (2) shall be omitted. | Amendment of article 4. |
| | 3. In article 55 of the Constitution, in the proviso to the Explanation, for the figure "2026", the figure "2051" shall be substituted. | Amendment of article 55. |
| | 4. In article 81 of the Constitution, for the proviso to clause (3), the following proviso shall be substituted, namely: | Amendment of article 81. |

"Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2051 have been published, be construed,—

(i) for the purpose of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and 5

(ii) for the purpose of sub-clause (b) of clause (2) as a reference to the 2011 census."

Amendment
of article 82.

5. In article 82 of the Constitution, for the third proviso, the following proviso shall be substituted, namely:

"Provided also that until the relevant figures for the first census taken after the year 2051 have been published, it shall not be necessary to readjust— 10

(i) the allocation of seats in the House of People to the States as readjusted on the basis of the 1971 census; and

(ii) the division of each State into territorial constituencies as may be readjusted on the basis of the 2011 census, under this article." 15

Amendment
of article 170.

6. In article 170 of the Constitution,—

(a) in clause (2), in the proviso to the Explanation, for the figure "2026", the figure "2051" be substituted; and

(b) in the third proviso to clause (3), for the figure "2026", the figure "2051" shall be substituted. 20

Amendment
of article 330.

7. In article 330 of the Constitution, in the proviso to the Explanation, for the figures "2026" and "2001", the figure "2051" and "2011" shall respectively be substituted.

Amendment
of article 332.

8. In article 332 of the Constitution,

(a) in clause (3A), for the figure "2026, the figure "2051" shall be substituted; and

(b) in clause (3B), for the figure "2026", the figure "2051" shall be substituted. 25

Amendment
of article 368.

9. In article 368 of the Constitution, in clause (2), for sub-clause (a), the following sub-clause shall be substituted, namely:—

"(a) article 2, article 3, article 54, article 55, article 73, article 162, article 241 or article 279A or".

STATEMENT OF OBJECTS AND REASONS

India is called a Union of States and therefore the States are an indestructible and integral part of it. Most of the States have completed more than half a century of existence as stable political entities. The different States now present in India not only denote the particular territorial regions or the administrative divisions, but also represent a culturally integrated democratic community, which has become central to the lives of the people in the States.

2. India being a democratic country upholding federal principles, the States should not be altered without the consensus of the people of these States. Therefore, it is required that the existence of all the States should be protected from any alteration by law with a simple majority in the Parliament. Hence, any changes made to the States should have the protection of article 368 of the Constitution of India.

3. By the Constitution (Eighty-fourth Amendment) Act, 2001, the share of seats of the States in the Parliament was protected from change. This protection is only upto the year 2026. The rationale for undertaking this amendment was ensuring justice to the States who have lowered their population growth through consistent efforts.

4. Keeping in view of the difference in the degrees progress of family planning programmes in different parts of the country, there is a need to extend the current freeze on the number of representatives (Members of Parliament and Members of Legislative Assembly) by not undertaking fresh delimitation up to the year 2051 as a measure so that the States which have succeeded in the adoption of family planning methods are not affected adversely by the reduction in the respective seats allotted to them in the Parliament.

5. At the same time, in order to promote the empowerment of the marginalized sections there is a need to refix the number of seats reserved for the Scheduled Castes and Scheduled Tribes in the House of the People and the Legislative Assemblies of the States on the basis of the population ascertained at the census for the year 2011 in such a manner that the respective share of the States in the Parliaments is not altered.

6. The Bill seeks to achieve these objectives.

DR. V. SIVADASAN

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

* * * * *

Laws made under articles 2 and 3 to provide for the amendment of the First and the Fourth Schedules and supplemental, incidental and consequential matters.

4. (1) Any law referred to in article 2 or article 3 shall contain such provisions for the amendment of the First Schedule and the Fourth Schedule as may be necessary to give effect to the provisions of the law and may also contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary.

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368.

* * * * *

Manner of election of President.

55. (1) As far as practicable, there shall be uniformity in the scale of representation of the different States at the election of the President.

(2) For the purpose of securing such uniformity among the States *inter se* as well as parity between the States as a whole and the Union, the number of votes which each elected member of Parliament and of the Legislative Assembly of each State is entitled to cast at such election shall be determined in the following manner:—

(a) every elected member of the Legislative Assembly of a State shall have as many votes as there are multiples of one thousand in the quotient obtained by dividing the population of the State by the total number of the elected members of the Assembly;

(b) if, after taking the said multiples of one thousand, the remainder is not less than five hundred, then the vote of each member referred to in sub-clause (a) shall be further increased by one;

(c) each elected member of either House of Parliament shall have such number of votes as may be obtained by dividing the total number of votes assigned to the members of the Legislative Assemblies of the States under sub-clause (a) and (b) by the total number of the elected members of both Houses of Parliament, fractions exceeding one-half being counted as one and other fractions being disregarded.

(3) The election of the President shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

Explanation.—In this article, the expression—population means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 1971 census.

* * * * *

Composition of the House of the People.

81. * * * * *

(2) For the purposes of sub-clause (a) of clause (1),—

(a) there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States; and

(b) each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, the same throughout the State:

Provided that the provisions of sub-clause (a) of this clause shall not be applicable for the purpose of allotment of seats in the House of the People to any State so long as the population of that State does not exceed six million.

(3) In this article, the expression—population means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this clause to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed,—

(i) for the purposes of sub-clause (a) of clause (2) and the proviso to that clause, as a reference to the 1971 census; and

(ii) for the purposes of sub-clause (b) of clause (2) as a reference to the 2001 census.

82. Upon the completion of each census, the allocation of seats in the House of the People to the States and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Readjustment after each census.

Provided that such readjustment shall not affect representation in the House of the People until the dissolution of the then existing House:

Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the House may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust—

(i) the allocation of seats in the House of the People to the States as readjusted on the basis of the 1971 census; and

(ii) the division of each State into territorial constituencies as may be readjusted on the basis of the 2001 census, under this article.

* * * * *

170. * * * * *

Composition of the Legislative Assemblies.

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State.

Explanation.—In this clause, the expression—population means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 2001 census.

(3) Upon the completion of each census, the total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly:

Provided further that such readjustment shall take effect from such date as the President may, by order, specify and until such readjustment takes effect, any election to the Legislative Assembly may be held on the basis of the territorial constituencies existing before such readjustment:

Provided also that until the relevant figures for the first census taken after the year 2026 have been published, it shall not be necessary to readjust—

(i) the total number of seats in the Legislative Assembly of each State as readjusted on the basis of the 1971 census; and

(ii) the division of such State into territorial constituencies as may be readjusted on the basis of the 2001 census, under this clause.

* * * * *

Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.

330. (1) Seats shall be reserved in the House of the People for—

(a) the Scheduled Castes;

(b) the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and

(c) the Scheduled Tribes in the autonomous districts of Assam.

(2) The number of seats reserved in any State or Union territory for the Scheduled Castes or the Scheduled Tribes under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State or Union territory in the House of the People as the population of the Scheduled Castes in the State or Union territory or of the Scheduled Tribes in the State or Union territory or part of the State or Union territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union territory.

(3) Notwithstanding anything contained in clause (2), the number of seats reserved in the House of the People for the Scheduled Tribes in the autonomous districts of Assam shall bear to the total number of seats allotted to that State a proportion not less than the population of the Scheduled Tribes in the said autonomous districts bears to the total population of the State.

Explanation.—In this article and in article 332, the expression—population means the population as ascertained at the last preceding census of which the relevant figures have been published:

Provided that the reference in this *Explanation* to the last preceding census of which the relevant figures have been published shall, until the relevant figures for the first census taken after the year 2026 have been published, be construed as a reference to the 2001 census.

* * * * *

Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.

332. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, except the Scheduled Tribes in the autonomous districts of Assam, in the Legislative Assembly of every State.

(2) Seats shall be reserved also for the autonomous districts in the Legislative Assembly of the State of Assam.

(3) The number of seats reserved for the Scheduled Castes or the Scheduled Tribes in the Legislative Assembly of any State under clause (1) shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State or part of the State, as the case may be, in respect of which seats are so reserved, bears to the total population of the State.

(3A) Notwithstanding anything contained in clause (3), until the taking effect, under article 170, of the readjustment, on the basis of the first census after the year 2026, of the number of seats in the Legislative Assemblies of the States of Arunachal Pradesh, Meghalaya, Mizoram and Nagaland, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly of any such State shall be,—

(a) if all the seats in the Legislative Assembly of such State in existence on the date of coming into force of the Constitution (Fifty-seventh Amendment) Act, 1987 (hereafter in this clause referred to as the existing Assembly) are held by members of the Scheduled Tribes, all the seats except one;

(b) in any other case, such number of seats as bears to the total number of seats, a proportion not less than the number (as on the said date) of members belonging to the Scheduled Tribes in the existing Assembly bears to the total number of seats in the existing Assembly.

(3B) Notwithstanding anything contained in clause (3), until the re-adjustment, under article 170, takes effect on the basis of the first census after the year 2026, of the number of seats in the Legislative Assembly of the State of Tripura, the seats which shall be reserved for the Scheduled Tribes in the Legislative Assembly shall be, such number of seats as bears to the total number of seats, a proportion not less than the number, as on the date of coming into force of the Constitution (Seventy-second Amendment) Act, 1992, of members belonging to the Scheduled Tribes in the Legislative Assembly in existence on the said date bears to the total number of seats in that Assembly.

(4) The number of seats reserved for an autonomous district in the Legislative Assembly of the State of Assam shall bear to the total number of seats in that Assembly a proportion not less than the population of the district bears to the total population of the State.

(5) The constituencies for the seats reserved for any autonomous district of Assam shall not comprise any area outside that district.

(6) No person who is not a member of a Scheduled Tribe of any autonomous district of the State of Assam shall be eligible for election to the Legislative Assembly of the State from any constituency of that district:

Provided that for elections to the Legislative Assembly of the State of Assam, the representation of the Scheduled Tribes and non-Scheduled Tribes in the constituencies included in the Bodoland Territorial Areas District, so notified, and existing prior to the constitution of Bodoland Territorial Areas District, shall be maintained.

* * * * *
368. * * * * *

Power of Parliament to amend the Constitution and procedure therefor.

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

- (a) article 54, article 55, article 73, article 162, article 241 or article 279A or
- (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or
- (c) any of the Lists in the Seventh Schedule, or
- (d) the representation of States in Parliament, or
- (e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those legislatures before the Bill making provision for such amendment is presented to the President for assent.

* * * * *

RAJYA SABHA

A

BILL

further to amend the Constitution of India.

(Dr. V. Sivadasan, M.P.)

MGIPMRND—644RS(S3)—25.07.2022.

Bill No. XXXV of 2022

THE INDIAN NATIONAL ARMY REGIMENT BILL, 2022

A

BILL

to provide for the constitution and regulation of a new army regiment to be known as the Indian National Army Regiment for defending the borders of India against all foreign enemies and in honour of the members of Indian National Army of the Azad Hind Fauj and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Indian National Army Regiment Bill, 2022.

Short title and commencement.

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

Definitions.

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

(a) "battalion" means the unit of the Regiment constituted as a battalion by the Central Government;

(b) "Commandant" when used in any provision of the Act, with respect to any unit of the Regiment means the officer whose duty is under the rules of discharge with respect to that unit, the functions of a Commandant in regard to the matters of the description referred to in that provision;

(c) "Criminal Court" means a court of ordinary criminal Justice in any part of India;

(d) "Deputy-Inspector General" means a Deputy Inspector General of the Regiment appointed under section 4;

(e) "Director General" means the Director-General of the Regiment appointed under section 4;

(f) "Government" means the Central Government;

(g) "Inspector-General" means the Inspector-General of the Regiment appointed under section 4;

(h) "notification" means notification published in the Official Gazette;

(i) "offence" means any act or omission punishable under this Act and includes a civil offence;

(j) "officer" means a person appointed or in pay as an officer of the Regiment but does not include a subordinate officer or an under officer;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Regiment" means Indian National Army Regiment constituted under section 3;

(m) "regiment custody" means the arrest or confinement of a member of the Regiment according to rules;

(n) "rule" means, a rule made under this Act;

(o) "Security Regiment Court" means a court for trial of offences under the Act, to be converted in such manner as may be prescribed;

(p) "superior officer" when used in relation to a person subject to this Act, means—

(i) any member of the Regiment to whose command such person is for the time being, subject in accordance with the rules; and

(ii) any officer of higher rank or class or of a higher grade in the same class; and includes when such person is not an officer, a subordinate officer or an under officer of higher rank, class or grade;

(q) "subordinate officer" means a person appointed or in pay as Subedar-Major, as a Sub-Inspector of the Regiment; and

(r) "under-officer" means a Head Constable, Naik and Lance Naik of the Regiment.

3. (1) **There shall be an armed Regiment of the Union called the Indian National Army Regiment with its headquarter situated in Kalimpong district, in the State of West Bengal to ensure the security of the country.**

Constitution
of the Indian
National Army
Regiment.

(2) Subject to the provisions of this Act, the Regiment shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Regiment shall be such as may be prescribed.

5 **4. (1) The general superintendence, direction and control of the Regiment shall vest in and be exercised by the Central Government and subject thereto and to the provisions of this Act and rules made thereunder, the command and superintendence of the Regiment shall vest in an officer to be appointed by the Central Government as the Director-General of the Regiment.** Direction and control of the Regiment.

10 **(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such member of the rank of Inspector General, Deputy Inspector General, Commandants and other officers as may be prescribed.**

5. (1) The persons to be enrolled to the Regiment, the mode of enrolment and the procedure for enrolment shall be such as may be prescribed. Enrolment to the Regiment.

15 **(2) Notwithstanding anything contained in this Act and the rules made thereunder, every person who has, for a continuous period of three months been in receipt of pay as a person enrolled under this Act and borne on the rolls of the Regiment shall be deemed to have been duly enrolled.**

6. Every member of the Regiment shall be liable to serve in any part of India as well as outside India as and when required by the Government during his term of engagement. Liability for service outside India.

7. No member of the Regiment shall be at liberty, —

(a) to resign his appointment during the term of this engagement; or

(b) to withdraw himself from all or any of the duties of this appointment, except with the prior permission in writing of the prescribed authority.

Resignation and withdrawal from the post.

25 **8. Every person subject to this Act shall hold office during the pleasure of the President.** Tenure of service.

9. Subject to the provisions of this Act and rules, the Central Government may dismiss or remove any person from service. Termination of service by Central Government.

30 **10. A subordinate officer or an under-officer or other enrolled person who is retired, discharged, released, removed or dismissed from service shall be presented by the officer, to whose command he is subject, with a certificate in the language which is the mother tongue of such person and also in Hindi or English language setting forth—** Certificate of termination of service.

(a) the authority terminating his service;

(b) the cause for such termination; and

35 *(c) the full period of his service in the Regiment.*

11. (1) The Director-General or any Inspector General may dismiss or remove from the service or reduce to a lower grade or rank or ranks any person subject to this Act other than an officer. Dismissal, removal or reduction by the Director General and by other officer.

40 **(2) An officer not below the rank of Deputy Inspector General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or subordinate officer of such rank or ranks as may be prescribed.**

(3) Any officer not below the rank of Deputy Inspector General or any prescribed officer may reduce to a lower grade or rank or ranks any person under his command except an officer or a subordinate officer.

(4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules made thereunder.

- Mutiny. **12.** Any person subject to this Act who commits any of the following offences, that is to say,—
- (a) begins, incites, causes or conspires with any other person to cause any mutiny in the Regiment or in the Army, Naval or Air Forces of India or any forces co-operating therewith; or 5
 - (b) joins in any such mutiny; or
 - (c) being present at any such mutiny, does not use his utmost endeavor to suppress the same; or 10
 - (d) knowing or having reason to believe in the existence of any such mutiny or of any intention to mutiny or of any such conspiracy, does not without delay, give information thereof to his commandant or other superior officer; or
 - (e) endeavors to seduce any person in the Regiment or in the Army, Naval or Air Forces of India or any forces co-operating therewith from his duty or allegiance to the Union, 15
- shall, on conviction by a Security Regiment Court, be liable to suffer death or such less punishment as is mentioned in this Act.
- Absence without leave. **13.** Any person subject to this Act who commits any of the following offences that is to say— 20
- (a) absents himself without leave; or
 - (b) without sufficient cause overstays leave granted to him; or
 - (c) without sufficient cause fails to appear at the time appointed at the parade or place fixed for exercise or duty; or
 - (d) when on parade, or on the line of march without sufficient cause or without leave from his senior officer, quits the parade or line of march; or 25
 - (e) without leave from his senior officer or without due cause, absents himself from any school when duly ordered to attend there,
- shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto five years. 30
- Misbehaviour with a senior officer. **14.** Any officer, subordinate officer or under officer applies criminal force on a person that holds such a post as is under this Act or misbehave with him, shall on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto ten years.
- Extortion and corruption. **15.** Any person subject to this Act who commits any of the following offences that is to say— 35
- (a) commits extortion; or
 - (b) without proper authority exacts from any person money, provisions or service,
- shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto ten years. 40
- False accusations. **16.** Any person subject to this Act who commits any of the following offences, that is to say—
- (a) make a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or 45

(b) in lodging a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and willfully suppresses any materials facts,

5 shall, on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto three years or such less punishment as is in this Act mentioned.

10 **17.** Any person subject to this Act who disobeys in such manner as to show a willful defiance of authority any lawful command given personally by his senior officer in the execution of his office whether the same is given orally or in writing or by signal or shall on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend upto twenty years or such less punishment as a provided in this Act. Disobedience to Senior Officer.

15 **18.** Any person subject to this Act who commits any of the following offences, that is to say— Offence relating to Security Regiment Court.

(a) being duly summoned or ordered to attend as witness before a Security Regiment Court, willfully or without reasonable excuse makes default in attendance; or

20 (b) refuses to take an oath or make an affirmation legally required by a Security Regiment Court to be taken or made; or

(c) refuses to provide or deliver any document in his power or control legally required by a Security Regiment Court to be produced or delivered by him; or

(d) refuses, when a witness, to answer any question which he is by law bound to answer; or

25 (e) is guilty of contempt of the Security Regiment Court by using insulting or threatening language or by causing any interruption of disturbance in the proceedings of such court,

30 shall on conviction by a Security Regiment Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is mentioned in this Act.

19. (1) Punishment may be inflicted in respect of offences committed by persons subject to this Act and convicted by Security Regiment court according to the scale following, that is to say— Punishment awardable by Security Regiment Court.

(a) death; or

35 (b) imprisonment which may be for the term of life of any other lesser term but excluding imprisonment for a term not exceeding three months in Regiment Custody; or

(c) dismissal from service; or

40 (d) imprisonment for a term not exceeding three months in Regiment custody; or

(e) reduction to the ranks or to a lower rank or grade or a place in the list of their rank in the case of under-officer; or

(f) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion; or

45 (g) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose; or

(h) fine in respect of civil offences; or

(i) severe reprimand or reprimand except in the case of person below the rank of an under-officer; or

(j) forfeiture of pay and allowances for a period not exceeding three months for an offence committed in active duty; or

(k) forfeiture in case of person sentenced to dismissal from service of all the arrears of pay and allowances and other public money due to him at the time to such dismissal; or

(l) stoppage of pay and allowances until any proved loss or damage occasioned by the offence for which he is convicted is made good.

(2) Each of the punishment specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Minor
Punishment.

20. A Commandant or such officer as is with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person subject to this Act, otherwise than as an officer or a subordinate officer who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the following punishment, that is to say—

(a) imprisonment in Regiment custody upto twenty-eight days; or

(b) detention upto twenty-eight days; or

(c) confinement to the lines upto twenty-eight days; or

(d) extra guards or duties; or

(e) deprivation of any special position or special employments or any acting rank or reduction to a lower grade of pay; or

(f) forfeiture of good service and good conduct pay; or

(g) severe reprimand or reprimand; or

(h) fine upto fourteen days pay in any one month; or

(i) deduction from his pay of any sum required to make good such compensation for any expense, loss, damage, or destruction caused by him to the Central Government or to any building or property.

Punishment to
persons of and
below the rank
of subordinate
officer by
Deputy
Inspector
General and
others.

21. (1) An officer who is not below the rank of Deputy Inspector General or any other officer specified by the Director General with the consent of the Central Government shall initiate proceedings against any subordinate officer or one of the rank of subordinate officer who is the accused of any offence under this Act, in the prescribed manner and shall award one or more punishment of the following punishments, that is to say—

(a) forfeiture of seniority or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by a Security Regiment Court; or

(b) severe reprimand or reprimand; or

(c) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

(2) In every case in which punishment has been awarded under sub-section (1), certified true copies of the proceedings shall be forwarded in the prescribed manner by

the officer awarding the punishment to the prescribed senior authority who may, if the punishment awarded appears to him to be illegal, unjust or excessive, cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

5 **22. (1)** Whenever any weapon or part of a weapon or ammunition, forming part of the equipment of a unit of the Regiment, is lost or stolen, an officer not lower than the rank of the commandant of a battalion may, after making such enquiry as he thinks fit and subject to such rules, impose a collective fine upon the subordinate officers, under-officers and men of such a unit or upon so many of them, as in his judgment be held
10 responsible for such loss or theft.

(2) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

15 **23. The Central Government shall after due appropriation made by Parliament by law in this behalf, provide requisite funds, from time to time, for carrying out the purposes of this Act.** Central Government to provide funds.

24. The Central Government may give such directions to the Government of State concerned within the territorial jurisdiction of a State for carrying out in the State any provision of this Act or any rule made thereunder. Power to give directions.

20 **25. (1)** The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive
25 sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Indian National Army also known as Azad Hind Fauj, under the command of Netaji Subash Chandra Bose, led an epic fight for liberation of India through Myanmar. Indian National Army Regiment shall honour and keep alive the great contribution of the Azad Hind Fauj and also inspire this Regiment.

Indian National Army Regiment may form brigades in the name of great soldiers of Indian National Army such as Captain Mohan Singh Battalion, Rash Behari Bose Battalion, Netaji Subash Chandra Bose Battalion, and so on and so forth. The ideals and sacrifices of The Indian National Army soldiers shall inspire this Regiment for time immemorial.

The women wing of the Indian National Army Regiment may be called Rani of Jhansi Battalion, just as it were in Azad Hind Fauj. This Battalion shall uphold the women power and bravery of Indian women to defend the nation.

Every Indian irrespective of sex, caste, creed or religion, etc. shall be eligible to join this truly complete Indian specific regiment, belonging to all Indians as a whole. Upholding the concept of article 16 of the Constitution of India in both letter and spirit, no citizen shall be discriminated on the basis of race, caste, religion, creed, descent or place of birth in respect of joining this Regiment.

Indian National Army Regiment shall not only strengthen the security of the borders but will also act as a gesture of respect to the great sacrifices and values of Azad Hind Fauj.

Hence, this Bill.

SHANTA CHHETRI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Indian National Army Regiment. Clause 4 provides for appointment of certain officers of the Regiment. Clause 23 lays down that Central Government shall provide requisite funds for carrying out the purposes of the Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. At this juncture, it is not possible to quantify the funds that may be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is, therefore, of a normal character.

RAJYA SABHA

A

BILL

to provide for the constitution and regulation of a new army regiment to be known as the Indian National Army Regiment for defending the borders of India against all foreign enemies and in honour of the members of Indian National Army of the Azad Hind Fauj and for matters connected therewith or incidental thereto.

(Smt. Shanta Chhetri, M.P.)

MGIPMRND—650RS(S3)—25-07-2022.

Bill No. XXXIII of 2022

THE RIGHT OF CHILDREN TO FREE AND COMPULSORY
EDUCATION (AMENDMENT) BILL, 2022

A

BILL

further to amend the Right of Children to Free and Compulsory Education Act, 2009.

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

1. (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2022.

Short title and commencement.

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

35 of 2009.

2. In the long title of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), for the words “age of six to fourteen years”, the words “age of six to seventeen years”, shall be substituted.

Amendment of the long title.

10 3. Throughout the principal Act, for the words “elementary education”, “age of six to fourteen years”, and “fourteen years”, wherever they occur, the words “school education”, “age of six to seventeen years” and “seventeen years” shall respectively, subject to section 7 of this Act and such changes as the rules of grammar require, be substituted.

Substitution of references to certain expressions by certain other expressions.

Amendment of section 2.

4. In section 2 of the principal Act,—

(a) clause (f) shall be omitted; and

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

"(na) "school education" means the education from first class to twelfth class;"

5

Amendment of section 30.

5. For section 30 of the principal Act, the following section shall be substituted, namely:—

Examination and completion certificate.

"30. (1) No child shall be required to pass any Board examination till completion of his education of class eighth.

(2) Every child completing his education in class eighth shall be awarded a certificate, in such form and in such manner, as may be prescribed."

10

Amendment of section 38.

6. In clause (o) of sub-section (2) of section 38 of the principal Act, for the words "elementary education", the words "education of class eighth" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Education has a very important role in the development of the nation. As a developing nation, it is important that all children in the country get free school education till class twelfth.

2. The Bill proposes amendments to the Right of Children to Free and Compulsory Education Act, 2009, to provide that every child be given the right to full time elementary, secondary and higher secondary education in a formal school. Accordingly, it is proposed to amend the definition of the "child" by enhancing their age to seventeen years for considering them as a child and also providing them free school education up to class twelfth by suitably proposing amendments to the Act.

3. Only free and compulsory education monitored and ensured by the system can ensure the achievement of the purpose.

4. The proposed legislation, hence, is required to ensure free and compulsory education up to the class twelfth to every male and female child of the age of six to seventeen years, and thereby resulting in the progress of the nation.

5. The Bill seeks to achieve the above objectives.

DR. V. SIVADASAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to extend the free and compulsory education from elementary education to higher secondary education. The Bill, if enacted, would involve additional expenditure from the Consolidated Fund of India and it is very difficult to estimate the expenditure at this juncture.

ANNEXURE

EXTRACTS FROM THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009.

[35 OF 2009]

* * * * *

30. (1) No child shall be required to pass any Board examination till completion of elementary education.

Examination and completion certificate.

(2) Every child completing his elementary education shall be awarded a certificate, in such form and in such manner, as may be prescribed.

* * * * *

38. * * * * *

Power of appropriate Government to make rules.

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

* * * * *

(o) The form and manner of awarding certificate for completion of elementary education under sub-section (2) of section 30;

* * * * *

RAJYA SABHA

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BILL

further to amend the Right of Children to Free and Compulsory Education Act, 2009.

(Dr. V. Sivadasan, M.P.)

MGIPMRND—642RS(S3)—25.07.2022.

Bill No. XXVII of 2022

THE WAQF (AMENDMENT) BILL, 2022

A

BILL

further to amend the Waqf Act, 1995.

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

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

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.

43 of 1995.

2. For section 54 of the Waqf Act, 1995, (hereinafter referred to as the principal Act), the following section shall be substituted, namely—

Substitution of section 54.

“54. (1) In the event of any encroachment being made on any land, building, space or other property which is waqf property and if such encroachment was done without the sanction of the competent authority, it shall be lawful for the Chief Executive

Removal of encroachment from waqf property.

Officer to summarily abate or remove any such encroachment or cause any article whatsoever hawked or exposed for sale to be removed and the expenses incurred therein shall be leviable from the person in occupation of the waqf property encroached upon or used as aforesaid.

(2) The person responsible for such encroachment or who is in unauthorised occupation of the waqf property so encroached upon shall pay, if the waqf property encroached upon forms part of an assessed survey number, assessment for the entire survey number for the whole period of the encroachment, and if the waqf property has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar waqf property used for the same purpose.

(3) Such person as referred to in sub-section (2) shall pay in addition to the amount under sub-section (2), a fine which shall be not less than one thousand rupees but not more than ten thousand rupees if the encroached waqf property is used for an agricultural purpose, and if used for a purpose other than agriculture a fine not exceeding fifty thousand rupees:

Provided that if such person is caught hawking or selling any articles on the encroached waqf property, he shall be liable to pay fine of a sum not exceeding one thousand rupees as the Chief Executive Officer may determine.

(4) The Chief Executive Officer may, by notice duly served to the person responsible for encroachment, specifying the particulars of the encroachment, prohibit or require the abatement or removal of encroachments on any such waqf property, and shall fix in such notice a date, which shall be a reasonable time after such notice, on which the same shall take effect.

(5) Every person who makes, causes, permits or continues any encroachment on any waqf property referred to in a notice issued under sub-section (4), shall in addition to the penalties specified in sub-section (3), be liable at the discretion of the Chief Executive Officer to a fine not exceeding five hundred rupees in the case of encroachment for agricultural purposes and one thousand rupees in other cases for every day during any portion of which the encroachment continues after the date fixed for the notice to take effect.

(6) An order passed by the Chief Executive Officer under this section shall be subject to appeal before waqf Tribunal and revision before the State Government in accordance with the provisions of this Act.

(7) Nothing contained in sub-sections (1) to (5) shall prevent any person from establishing his rights in a Waqf Tribunal within a period of six months from the date of the final order under this Act.

(8) Nothing in this section shall prevent the Chief Executive Officer, if the person making the encroachment so desires, to charge the said person a sum not exceeding five percent of the value of the waqf property so encroached upon and to fix a rent not exceeding five times of the ordinary rent as per lease rules thereon and to allow the person on lease to the encroacher on such terms and conditions as the Chief Executive Officer may impose subject to rules made in this behalf.

(9) For the purposes of this section, the value of waqf property that has been encroached upon shall be fixed by the Chief Executive Officer according to the market value of similar land in the same neighbourhood at the time of such valuation and the annual revenue of such property shall be assessed at the same rate as the land revenue of similar property in the vicinity.

(10) The Chief Executive Officer's decision as to the value of waqf property shall be conclusive."

3. For section 55 of the principal Act, the following shall be substituted:

Substitution of section 55.

5 "55. (1) If in the opinion of the Chief Executive Officer, any person is unauthorisedly occupying or wrongfully in possession of any waqf property or is not entitled or has ceased to be entitled to continue the use, occupation or possession of any such property by reason of the expiry of the period of lease or termination of the lease or breach of any of the conditions annexed to the tenure, it shall be lawful for the Chief Executive Officer to evict such person.

Enforcement of orders made under section 54.

10 (2) Before evicting any such person, the Chief Executive Officer shall give him a reasonable opportunity or being heard and the Chief Executive Officer Waqf Board may make a summary enquiry, if necessary:

Provided that the Chief Executive Officer shall record his reasons, for arriving at any opinion.

15 (3) The Chief Executive Officer shall, on their finding as aforesaid, serve a notice on such person requiring them within such time as may appear reasonable after receipt of the said notice to vacate the waqf property and if such notice is not complied with, the Chief Executive Officer may remove them from such property.

20 (4) A person unauthorisedly occupying or wrongfully in possession of waqf property after they have ceased to be entitled to continue the use, occupation or possession by virtue of any of the reasons specified in sub-section (1), shall also be liable at the discretion of the Chief Executive Officer to pay a penalty not exceeding ten times the rent for the property, for the period of such unauthorised use or occupation.

25 (5) After summary eviction of any person under this section, any building or other construction erected on the waqf property or any crop raised in the property shall, if not removed by such person after such written notice as the Chief Executive Officer may deem reasonable, be liable to forfeiture or to summary removal.

(6) Forfeitures under this section shall be adjudged by the Chief Executive Officer and any property so forfeited shall be disposed of as the Chief Executive Officer may direct and the cost of the removal of any property under this section shall be recoverable as an arrear of land revenue."

30 4. Section 55A of the principal Act shall be omitted.

Omission of section 55A.

STATEMENT OF OBJECTS AND REASONS

In the last few decades, encroachments on Waqf properties has increased exponentially. This has created an undue obstruction of such properties through unauthorized means. It creates a barrier for easementary rights and goes against the right to unobstructed use of such land. While the Waqf Act, 1995 does have provisions to deal with such encroachments, it has been observed that provisions that deal with such removal of encroachments entail a multiplicity in the proceedings required, before such encroachments can be legally removed. Chapter II of the Act deals notification of properties listed as Waqf properties and includes a dispute resolution mechanism. Hence, it becomes pertinent to amend Sections 54 and 55, while omitting Section 55A, in order to remove multiplicity of proceedings. Additionally, the Supreme Court has time and again directed authorities to rigorously remove such encroachments. To enable this, the powers of the Chief Executive Officer of the Waqf Board need enhancement for summarily removing such obstructions. There is a need to improve the procedure for the removal of unauthorized encroachments upon such Waqf properties and safeguard the rights of the Waqf.

Hence this Bill.

DR. FAUZIA KHAN

ANNEXURE

EXTRACTS FROM THE WAQF ACT, 1995

(43 OF 1995)

* * * * *

54. (1) Whenever the Chief Executive Officer considers whether on receiving any complaint or on his own motion that there has been an encroachment on any land, building, space or other property which is waqf property and, which has been registered as such under this Act, he shall cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling upon him to show cause before a date to be specified in such notice, as to why an order requiring him to remove the encroachment before the date so specified should not be made and shall also send a copy of such notice to the concerned mutawalli.

Removal of encroachment from waqf property.

(2) The notice referred to in sub-section (1) shall be served in such manner as may be prescribed.

(3) If, after considering the objections, received during the period specified in the notice, and after conducting an inquiry in such manner as may be prescribed, the Chief Executive Officer is satisfied that the property in question is waqf property and that there has been an encroachment on any such waqf property, he may, make an application to the Tribunal for grant of order of eviction for removing such encroachment and deliver possession of the land, building, space or other property encroached upon to the mutawalli of the waqf.

(4) The Tribunal, upon receipt of such application from the Chief Executive Officer, for reasons to be recorded therein, make an order of eviction directing that the waqf property shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the waqf property:

Provided that the Tribunal may before making an order of eviction, give an opportunity of being heard to the person against whom the application for eviction has been made by the Chief Executive Officer.

(5) If any person refuses or fails to comply with the order of eviction within forty-five days from the date of affixture of the order under sub-section (2), the Chief Executive Officer or any other person duly authorised by him in this behalf may evict that person from, and take possession of, the waqf property.

* * * * *

55. Where the person, ordered under sub-section (4) of section 54 to remove any encroachment, omits or fails to remove such encroachment, within the time specified in the order or, as the case may be, fails to vacate the land, building, space or other property to which the order relates, within the time aforesaid, the Chief Executive Officer may refer the order of the Tribunal to the Executive Magistrate within the local limits of whose jurisdiction the land, building, space or other property, is situate for evicting the encroacher, and, thereupon, such Magistrate shall make an order directing the encroacher to remove the encroachment, or, as the case may be, vacate the land, building, space or other property and to deliver possession thereof to the concerned mutawalli and in default of compliance with the order, remove the encroachment or, as the case may be, evict the encroacher from the land, building, space or other property and may, for this purpose, take such police assistance as may be necessary.

Enforcement of orders made under section 54.

* * * * *

Disposal of property left on waqf property by unauthorised occupants.

55A. (1) Where any person has been evicted from any waqf property under sub-section (4) of section 54, the Chief Executive Officer may, after giving fourteen days' notice to the person from whom possession of the waqf property has been taken and after publishing the notice in at least one newspaper having circulation in the locality and after proclaiming the contents of the notice by placing it on conspicuous part of the waqf property, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

(2) Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses relating to removal, sale and such other expenses, the amount, if any, due to the State

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RAJYA SABHA

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BILL

further to amend the Waqf Act, 1995.

(Dr. Fauzia Khan, M.P.)

MGIPMRND—640RS(S3)—25-07-2022.

Bill No. 123-C of 2022

THE FAMILY COURTS (AMENDMENT) BILL, 2022

A

BILL

further to amend the Family Courts Act, 1984.

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

1. (1) This Act may be called the Family Courts (Amendment) Act, 2022.

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.

66 of 1984. 5

2. In the Family Courts Act, 1984 (hereinafter referred to as the principal Act), in section 1, in sub-section (3), the following proviso shall be inserted, namely:—

Amendment of section 1.

“Provided that it shall be deemed to have come into force in the State of Himachal Pradesh with effect from the 15th February, 2019 and in the State of Nagaland with effect from the 12th September, 2008.”.

Insertion of
new section 3A.

3. After section 3 of the principal Act, the following section shall be inserted, namely:—

Validation of
certain
actions.

“3A. (1) The establishment of Family Courts in the State of Himachal Pradesh with effect from the 15th February, 2019 and in the State of Nagaland with effect from the 12th September, 2008 shall be deemed to be valid and always to have been valid as if the notification for appointing the date for bringing this Act in force in the States of Himachal Pradesh and Nagaland, as required under sub-section (3) of section 1, had been issued by the Central Government with effect from such dates. 5

(2) Anything done, any action taken, any appointment made, any duty performed, any rules made, any notification issued or purported to have been done, taken, performed, made or issued under this Act in the States of Himachal Pradesh and Nagaland prior to the commencement of the Family Courts (Amendment) Act, 2022 shall be deemed to have been validly done, taken, performed, made or issued, as the case may be, under the provisions of this Act. 10

(3) Every order of appointment of a person as a Judge of a Family Court and every order of posting, promotion or transfer, as the case may be, made under this Act in the States of Himachal Pradesh and Nagaland prior to the commencement of the Family Courts (Amendment) Act, 2022 shall be deemed to be validly made under the provisions of this Act. 15

(4) Every power exercised and function performed, every matter dealt with, every proceeding undertaken, every order, judgment, decree or sentence passed and every other act done by the Family Courts in the States of Himachal Pradesh and Nagaland prior to the commencement of the Family Courts (Amendment) Act, 2022 shall be deemed to be validly exercised, performed, dealt with, undertaken, passed or done under the provisions of this Act.”. 20

LOK SABHA

A

BILL

further to amend the Family Courts Act, 1984.

(As passed by Lok Sabha)

MGIPMRND—677LS—26-07-2022.

Bill No. 176-C of 2022

THE CENTRAL UNIVERSITIES (AMENDMENT) BILL, 2022

A

BILL

further to amend the Central Universities Act, 2009.

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

1. (1) This Act may be called the Central Universities (Amendment) Act, 2022.

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.

25 of 2009.

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

Amendment of section 2.

‘(ja) “Gati Shakti Vishwavidyalaya” means the University established under section 3F;’

Insertion of
new section
3F.

3. After section 3E of the principal Act, the following section shall be inserted, namely:—

Establishment
of Gati Shakti
Vishwavidyalaya
in Gujarat.

“3F. (1) The National Rail and Transportation Institute, Vadodara, Gujarat, declared as a deemed to be University under section 3 of the University Grants Commission Act, 1956, shall be established as a body corporate under this Act by the name Gati Shakti Vishwavidyalaya. 5 3 of 1956.

(2) The territorial jurisdiction of Gati Shakti Vishwavidyalaya shall extend to the whole of India, as specified in the First Schedule to this Act.

(3) The Gati Shakti Vishwavidyalaya shall be sponsored and funded by the Central Government in the Ministry of Railways.”. 10

Amendment
of section 4.

4. In section 4 of the principal Act,—

(i) in clause (e), for the words “whichever is earlier; and”, the words “whichever is earlier;” shall be substituted;

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

“(g) any reference to the National Rail and Transportation Institute, Vadodara, in any contract or other instrument shall be deemed as a reference to Gati Shakti Vishwavidyalaya established under this Act; 15

(h) all properties, movable and immovable, of or belonging to the National Rail and Transportation Institute, Vadodara, shall vest in Gati Shakti Vishwavidyalaya established under this Act; 20

(i) all rights and liabilities of the National Rail and Transportation Institute, Vadodara, shall be transferred to, and be the rights and liabilities of Gati Shakti Vishwavidyalaya established under this Act;

(j) every person employed by the National Rail and Transportation Institute, Vadodara, immediately before the commencement of the Central Universities (Amendment) Act, 2022 shall hold his office or service in Gati Shakti Vishwavidyalaya established under this Act with the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if the Central Universities (Amendment) Act, 2022 had not been enacted and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes: 25 30

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the University in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment, to him by the University, of compensation equivalent to three months’ remuneration in case of permanent employees and one month’s remuneration in the case of other employees; 35

(k) any reference, by whatever form of words, to the Vice-Chancellor and Pro-Vice-Chancellor of the National Rail and Transportation Institute, Vadodara, in any law for the time being in force, or in any instrument or other document, shall be construed as reference to the Vice-Chancellor and Pro-Vice-Chancellor of Gati Shakti Vishwavidyalaya; and 40

(l) the incumbent Vice-Chancellor of the National Rail and Transportation Institute, Vadodara, shall hold office for a period of six months from the date of coming into force of the Central Universities (Amendment) Act, 2022 or till such time the first Vice-Chancellor of Gati Shakti Vishwavidyalaya is appointed under section 44, whichever is earlier.”. 45

5. In section 5 of the principal Act, after the proviso, the following proviso shall be inserted, namely:— Amendment
of section 5.

5 “Provided further that the Gati Shakti Vishwavidyalaya established as an University under section 3F shall take additional measures for providing high quality teaching, research and skill development in diverse disciplines related to transportation, technology and management including establishing centres in India and abroad, as may be required in the opinion of the said University.”

6. In the First Schedule to the principal Act, after serial number 5 and the entries relating thereto, the following serial number and entries shall be inserted, namely:— Amendment
of First
Schedule.

10 “5A. Gujarat Gati Shakti Vishwavidyalaya Whole of India.”.

LOK SABHA

A
BILL

further to amend the Central Universities Act, 2009.

(As passed by Lok Sabha)

MGIPMRND—800LS(S3)—03-08-2022.

AS INTRODUCED IN THE RAJYA SABHA
ON 5TH AUGUST, 2022

Bill No. XLIV of 2022

THE ALL-INDIA SERVICES (AMENDMENT) BILL, 2022

A

BILL

further to amend the All-India Services Act, 1951.

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

1. (1) This Act may be called the All-India Services (Amendment) Act, 2022.

Short title and
commencement.

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

Insertion of new sections 3A, 3B and 3C.

2. After section 3 of the All-India Services Act, 1951, the following sections shall be inserted, namely:— 61 of 1951.

Special responsibility and duty of a person appointed to an All-India Service to execute projects under his jurisdiction within scheduled time.

“3A.(1) It shall be the special responsibility and duty of a person appointed to an All-India Service to ensure that the plans or projects or any development work under his jurisdiction or charge or administrative control or for the execution or completion or carrying out of which he is responsible in any way, are executed or completed or carried out efficiently, economically and within the scheduled time. 5

(2) It shall be the responsibility and duty of a person appointed to an All-India Service to ensure that plans and projects recommended by the Members of Parliament or of the State Legislatures under any special scheme are executed within the schedule and such a person shall take special care to inform the Member of Parliament or of the State Legislature about the progress of the project from time to time. 10

Evaluation of performance of every person appointed to an All-India Service.

3B. Notwithstanding anything contained in this Act, at the end of every year, the performance of every person appointed to an All-India Service shall be evaluated, with particular reference to the execution or carrying out of the specific plans or projects or development works under his jurisdiction or in his charge or administrative control or for the execution or carrying out of which he is responsible in a way, and a performance report shall be prepared thereon, in such manner as may be prescribed. 15

Periodic review of persons appointed to the All-India Services on completion of five years.

3C. (1) Notwithstanding anything contained in section 3, the Central Government shall, in consultation with the State Government concerned and parent department or Ministry, as the case may be, ensure periodic review of persons appointed to an All-India Service on completion of five years of tenure through a procedure to be conducted by the Union Public Service Commission in such manner as may be prescribed: 20

Provided that if the periodic review has not been conducted after five years of service in respect of a person appointed to an All-India Service, such review may be conducted at any other time as the Central Government may deem fit. 25

Explanation.—For the purposes of this section, the term “periodic review” shall mean the review of the entire service record including the Annual Confidential Report (ACR) of the person appointed to an All-India Service regarding suitability or otherwise of such person for further retention in the Service, to be conducted regularly for each person appointed to such Services. 30

(2) The Central Government, after consultation with the Union Public Service Commission and on conclusion of the periodic review of persons appointed to an All-India Service as specified under sub-section (1), may recommend for the lowest fifteen per cent. of such persons from each batch of such Services. 35

(a) the dismissal or pre-mature retirement of five per cent. of lowest of such persons from each batch; or

(b) administrative training, for the ten per cent. of such persons who have achieved a higher rank than the lowest five per cent., which includes and is not limited to, sending such persons for a compulsory career training program for a period of at least six months at the Academy concerned, in such manner as may be prescribed. 40

5 (3) The Central Government after consultation with the Government of the State concerned, Union Public Service Commission and the parent department or the Ministry, as the case may be, by notification in the Official Gazette, make rules for regulating the manner and procedure for the conduct of periodic review of persons appointed to an All-India Service.

(4) The Central Government after consultation with the Director of Academy concerned and Union Public Service Commission frame guidelines on the method and evaluation of administrative training as provided under clause (b) of sub-section (2).”

STATEMENT OF OBJECTS AND REASONS

For creating smooth administrative machinery, there is a need of effective accountability standards. The persons appointed to the All-India Services are a vital cog in the wheel of development of India. They are selected through a rigorous method of examination and are entrusted with the responsibility of development at district, State, National as well as international level. The need is to weed out the deadwood in order to maintain a high standard of efficiency and initiative in the All-India Services. It is not necessary that a good officer may continue to be efficient for all times to come. It may be that there may be some officers who may possess a better initiative and higher standard of efficiency and if they are given chance, the work of the Government might show marked improvement.

There are a number of judicial pronouncements in support of total assessment of the performance of the persons appointed to the All-India Services. There have also been observations that have approved any measure by which the assessment by superiors, with an opportunity to watch the work and conduct of an officer, is taken into account while deciding about premature retirement. It is sometimes found that a few officers of the All-India Services do tend to become mere passengers in the post or at the level in which he is placed for the time being. They become either listless or do not exhibit any creativity or innovativeness and do not achieve the desired results. The need is to strike a just balance between the termination from the service of a tired employee and maintenance of top efficiency in the diverse activities of administration.

The Bill, therefore, seeks to amend the All-India Services Act, 1951 with a view to provide for periodic review of performance of persons appointed to the All-India Services on completion of five years of tenure. It also provides for dismissal or pre-mature retirement of bottom five per cent. of officers at the periodic review and compulsory training to the other bottom ten per cent. officers who have achieved a higher rank than the bottom five per cent. of such officers of All-India Services at Academy concerned.

Hence, this Bill.

DR. ASHOK KUMAR MITTAL

RAJYA SABHA

A

BILL

further to amend the All-India Services Act, 1951.

(Dr. Ashok Kumar Mittal, M.P.)

MGIPMRND—859RS(S3)—8-8-2022.

Bill No. XLVIII of 2022

THE BHAGAT SINGH NATIONAL URBAN EMPLOYMENT
GUARANTEE BILL, 2022

A

BILL

to provide for the enhancement of livelihood security of the households in urban areas of the country by formulation of the Bhagat Singh National Urban Employment Guarantee Scheme aimed at providing at least two hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled, semi-skilled and skilled work and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

5 **1.** (1) This Act may be called the Bhagat Singh National Urban Employment Guarantee Act, 2022.

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.

Definitions.

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

(a) "adult" means a person who has completed eighteenth year of age;

(b) "applicant" means the head of a household or any of its other adult members who has applied for employment under the scheme;

(c) "appropriate Government" means—

(i) in the case of a State, the Government of that State;

(ii) in the case of an Union Territory having its own legislature, the Government of that Union Territory; and

(iii) in other cases, the Central Government;

(d) "household" means the members of a family related to each other by blood, marriage or adoption and normally residing together and sharing meals or holding a common ration card;

(e) "minimum wage" means the minimum wage fixed by the appropriate Government under section 6 of the Code on Wages, 2019 for categories of unskilled/semi-skilled/skilled labourers as applicable in that area;

(f) "municipality" means an institution of self-Government constituted under article 243Q of the Constitution;

(g) "prescribed" means prescribed by the rules made under this Act;

(h) "notification" means a notification published in the Official Gazette;

(i) "scheme" means The Bhagat Singh Urban Employment Guarantee Scheme notified by the Central Government under sub-section (1) of Section 4;

(j) "semi skilled work" means work declared to be semi-skilled work by the appropriate Government;

(k) "skilled work" means any work which any adult person is capable of doing only with any skill or special training;

(l) "unskilled work" means any work which any adult person is capable of doing without any skill or special training;

(m) "urban area" means such area as provided under article 243Q of the Constitution regarding Constitution of Municipalities;

(n) "urban local body" means the principal authority responsible for administering this programme;

(o) "wage rate" means the wage rate referred to in section 6;

(p) "ward" means territorial constituencies in the municipal area; and

(q) "ward sabha" means a demarcated territorial constituency of all persons registered as voters in the electoral rolls.

CHAPTER II

GUARANTEE OF EMPLOYMENT IN URBAN AREAS

Guarantee of urban employment to households.

3. (1) **Save as otherwise provided, the appropriate Government shall, in such urban area as may be notified by it, provide to every household whose adult members volunteer to do unskilled, semi-skilled and skilled work not less than two hundred days of such work in a financial year in accordance with the scheme made under this Act.**

(2) The Existing schemes of the appropriate Government in this respect shall be modified to be in consonance with the provisions laid down by or under this Act and in the scheme.

(3) Every person who has done the work given to him under the scheme shall be entitled to receive wages at the wage rate for each day of work commensurate to their skills, qualifications and nature of work undertaken.

(4) Save as otherwise provided in this Act, the disbursement of daily wages shall be made directly to the beneficiary on a weekly basis or in any case not later than a fortnight after the date on which such work was done.

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CHAPTER III

EMPLOYMENT GUARANTEE SCHEMES AND UNEMPLOYMENT ALLOWANCE

4. (1) For the purposes of giving effect to the provisions of section 3, The Central Government shall, within six months from the date of commencement of this Act, by notification, formulate a scheme, namely the Bhagat Singh Urban Employment Guarantee Scheme, for providing not less than two hundred days of guaranteed employment in a financial year to every household in the urban areas covered under the scheme and whose adult members, by application, volunteer to do unskilled, semi- skilled and skilled work subject to the conditions laid down by or under this Act and in the Scheme.

Employment Guarantee Schemes for urban areas.

(2) The appropriate Government shall publish a summary of the scheme in at least two local newspapers, one of which shall be in a vernacular language circulating in the area or areas to which such scheme shall apply.

(3) The scheme made under sub-section (1) shall provide for the minimum features specified in the Schedule I.

(4) The appropriate Government may, within the limits of its economic capacity and development, make provisions for securing work to every adult member of a household under a scheme for any period beyond the period guaranteed, as may be expedited.

5. (1) The appropriate Government may, without prejudice to the conditions specified in the Schedule II, specify in the scheme the conditions for providing guaranteed employment under this Act.

Conditions for providing guaranteed employment.

(2) The persons employed under any scheme made under this Act shall be entitled to such facilities not less than the minimum facilities specified in the Schedule II.

29 of 2019.

6. (1) Notwithstanding anything contained in the Code on Wages, 2019, the appropriate Government may, by notification, specify the wage rate for the purposes of this Act:

Wage rate.

Provided that different rates of wages may be specified for different areas:

Provided further that the wage rate specified from time to time under any such notification shall not be less than rupees three hundred per day.

7. (1) If an eligible applicant for employment under the scheme is not provided such employment within fifteen days of receipt of his application seeking employment or from the date on which the employment has been sought in the case of an advance application, whichever is later, he shall be entitled to a daily unemployment allowance in accordance with this section.

Payment of unemployment allowance.

(2) Subject to such terms and conditions of eligibility as may be prescribed by the appropriate Government and subject to the provisions of this Act and the Scheme and the economic capacity of the appropriate Government, the unemployment allowance payable under sub-section (1) shall be paid to the applicants of a household subject to the entitlement of the household at such rate as may be specified by the appropriate Government.

(3) Every payment of unemployment allowance under sub-section (1) shall be made or offered not later than fifteen days from the date on which it became due for payment.

(4) The appropriate Government may prescribe the procedure for payment of unemployment allowance under this Act.

Non-entitlement to receive unemployment allowance in certain circumstances.

8. An applicant who—

(a) does not accept the employment provided to his household under a scheme;

(b) does not report for work, or communicate the reason thereof, within fifteen days of being notified by the implementing agency to report for the work; or

(c) continuously remains absent from work, without obtaining a permission from the concerned implementing agency for a period of more than one week or remains absent for a total period of more than one week in any month,

shall not be eligible to claim the unemployment allowance payable under this Act for a period of three months but shall be eligible to seek employment under the scheme at any time.

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CHAPTER IV

15

IMPLEMENTING AND MONITORING AUTHORITIES

Annual Action Plan by Urban Local Body.

9. (1) The relevant Urban Local Body, such as the Nagar Panchayat, Municipal Council, or Municipal Corporation, shall prepare an Annual Action Plan for a financial year in such manner as may be prescribed.

(2) While preparing the Annual Action Plan, the Urban Local Body shall ensure that it includes the following:

(a) the list of works that are relevant to the development of the area with break-up of labour and material component;

(b) the assessment of labour demand and details of individual works; and

(c) the detailed plan of action to provide employment in accordance with the labour demand including training.

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Urban Local Body Level Committee.

10. (1) There shall be a Urban Local Body Level Committee to discuss and finalise the Annual Action Plan received from each Ward:

Provided that while finalising the Annual Action Plan, the concerned field level official of the respective body may be consulted by the committee.

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(2) The respective Urban Local Body Level Committee shall undertake the following:

(a) planning of activities;

(b) receiving, verifying and registering the application for employment registration;

(c) receipt of job application and receipt of date;

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(d) disposing of application within fifteen days of receipt;

(e) ensuring timely administrative and technical clearance of projects;

(f) work execution;

(g) maintaining of records;

(h) organising ward councils for social audit;

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(i) planning, direction control and evaluation; and

(j) grievance redressal.

(3) The Urban Local Body Level Committee shall be constituted with the following members:

5 (a) The respective Additional Secretary in each Corporation or the Secretary in the Municipality as the Executing Officer of the Scheme;

(b) An officer as an assistant to assist the Executing Officer, appointed by the municipality;

(c) City Engineer or Municipal Engineer as the case may be;

(d) Health Officer;

10 (e) Child Development Project Officer;

(f) Nodal Community Organiser;

(g) City Mission Management Unit Manager; and

(h) such other officials as may be decided by the Executing Officer.

15 **11. (1)** The Annual Action Plans of the Urban Local Bodies as well as an Annual Report of all activities undertaken in each Urban Local Body shall be further submitted to the respective District Level Review and Monitoring Committee for vetting and approval.

District Level Review and Monitoring Committee.

(2) A District Level Review and Monitoring Committee under the chairmanship of the Assistant Collector shall be constituted, consisting of such other officers as may be prescribed, which shall perform following functions:—

20 (a) approve the Annual Report on the implementation of the scheme;

(b) ensure that all Urban Local Bodies in the district are implementing transparently and socially the scheme;

(c) distribute necessary funds for the implementation of the scheme to the Urban Local Bodies; and

25 (d) ensure complete functioning of the project.

12. (1) The Annual Action Plans of the Urban Local Bodies as well as the Annual Report of all activities undertaken in the respective district shall be further submitted to the respective State Level Review and Monitoring Committee by the District Level Review and Monitoring Committee for review, design and inspection.

State Level Review and Monitoring Committee.

30 (2) A State Level Review and Monitoring Committee under the chairmanship of the Additional Chief Secretary of the concerned State Government shall be constituted, consisting of such other officers, as may be prescribed, which shall perform following functions:—

35 (a) quarterly review of the scheme implementation for appropriate interventions to improve the implementation of the scheme and make policy decisions;

(b) decide on new types of activities that can be taken up under the scheme;

(c) provide necessary funds for the implementation of the project to the Urban Local Bodies;

40 (d) establish a network of professional agencies to provide technical assistance and ensure project execution quality; and

(e) ensure complete functioning of the scheme.

(3) The State Level Review Committee shall submit the reports to the appropriate Government for audit.

CHAPTER V

WORK EXECUTION

- Muster Roll. **13.** (1) Muster Roll shall be assisgend for the work before each action is initiated which shall be signed by the Scheme Executing Officer. 5
- (2) Each Muster Roll shall have a uniuque identification number.
- (3) Separate Muster Rolls shall be used for each week which includes six days.
- (4) Muster Rolls shall be available on the workplace and attendance shall be recorded in real time. 10
- (5) The Muster Rolls shall be kept by the Executing Officer as part of the municipal expenditure records and work file.
- (6) The details of the Muster Rolls to be issued shall be kept in the register of the Urban Local Body.
- (7) It shall be the responsibility of the concerned engineer or the person who oversees the work that only the work card holder shall be entitled to perform the work: 15
- Provided that no person below the age of eighteen and any other person without Work Card shall be allowed to work.
- Mate. **14.** (1) A Mate shall be designated from among the workers who shall be trained and assisgend by each Urban Local body to oversee the activites, record the attendance and organise the work. 20
- (2) Each Urban Local Body shall ensure that adequate Mates are identified and trained in each municipality so that they may be assigned work in rotation and the supervision of the training shall be done by the respective Executing Officers of the scheme in each Urban Local Body. 25
- (3) No Mate shall be allowed to work for more than a month continuously to avoid any issue at a later stage.
- (4) The ratio of Mate and workers of the work place shall be 1:40:
- Provided that if a work place has fewer than forty workers, one worker from them shall be assigned to perform the duty of Mate. 30
- (5) The records of the Muster Roll, without any corrections, shall be maintained by the Mate.
- (6) The minimum educational qualification for the Mate shall be eighth standard passed: 35
- Provided that persons belonging to the Scheduled Castes, Scheduled Tribes and widows, abandoned women and disabled women shall be given priority for designation as Mate.
- (7) The general duties of the Mate shall be, but not limited to, the following:—
- (a) divide the workers into cohesive groups of 5-10 people for easy execution of work and proper calculation of wages;
- (b) prepare and maintain the Muster Roll, ensuring the integrity of the information of the Muster Roll and the quality of the work; 40
- (c) ensure workplace amenities; and

(d) public supervision of work.

(8) The Mates are entitled to receive the full wages at the daily wage rate notified for the purpose of the scheme.

(9) If it is found that there has been any mismanagement on the part of the Mate, the Executing Officer shall immediately take action to remove such person after giving reasonable opportunity of being heard and if required, to appoint another Mate.

15. The following activities shall be undertaken before each work under the Scheme is commenced:

Work
Commencement.

(a) every work shall consist of an estimate report to be prepared by the Executing Officer or the person who oversees the work in the vernacular language including each work item, cost of preparation for the workplace, primary care kit, health and hygiene facilities, etc.

(b) The estimate report shall include the following:

- (i) human labour days and wages created for Unskilled workers;
- (ii) human labour days and wages for semi-skilled workers;
- (iii) human labour days and wages created for skilled workers; and
- (iv) quantity and cost of goods and its storage.

(c) A project initiation meeting shall be held with all the workers on the site to explain about the details of the work, the quantum of work to be carried out, notified wage rate, the system of payment of wages, etc.

(d) It shall be ensured that all workers have a bank or post office account.

(e) The Executing Officer or the person who oversees the work shall make the required tools available and calculate the rental cost of the equipment and record it in the bill.

16. (1) Each Urban Local Body shall be responsible for the provision of work and facilities which may include first-aid kit, clean drinking water, shade and creche, if more than five children under six years of age arrive at the workplace.

Work place
Facilities.

(2) In the case of a creche facility, a registered woman may be charged to look after the children and receive the same wage as the unskilled labourer and such costs may be calculated separately and made into part of the work expenditure.

(3) A redressal mechanism to expedite the grievances shall be set up in each Urban Local Body, in such manner as may be prescribed.

17. (1) The details of each work shall be recorded in a work register.

Project
Completion
Report.

(2) Upon completion of the work, the work completion report shall be prepared and kept in the work register and verified.

(3) The Executing Officer or the person who oversees the work shall be responsible for preparing and completing the work report:

Provided that photographs of each activity at the beginning, middle of the work and after completion shall be recorded in the work completion report.

(4) The Central Government may, in consultation with the Comptroller and Auditor General of India, prescribe appropriate arrangements for audits of the accounts of the schemes at all levels.

CHAPTER VI

FUNDS

Central Government to provide funds.

18. (1) The Central Government shall, after due appropriation made by Parliament by law on this behalf, provide adequate funds for carrying out the purpose of this Act.

CHAPTER VII

5

POWER TO MAKE RULES

Rule making Powers of Central Government and State Governments.

19. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Each State and Union Territory Government may, by notification, and subject to the conditions of previous publication, and consistent with this Act and the rules made by the Central Government, make rules to carry out the provisions of this Act. 10

(3) Every rule made by the Central Government under this section 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 both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 15 20

(4) Every rule made by the State or Union Territory Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature

THE SCHEDULE I

[See section 4(3)]

MINIMUM FEATURES OF AN URBAN EMPLOYMENT GUARANTEE SCHEME

1. It is scheme of the Central Government to provide employment opportunities to vulnerable families in urban areas where there is no employment or otherwise.
2. Ensure the social rights of urban poor.
3. Every family member registered in the Urban Local Body shall be given a job card within fifteen days.
4. After receiving the job card, each member whose name in the card may apply for employment in the municipality.
5. Women shall be given priority in providing employment as part of the scheme and fifty per cent. of the total employment opportunities will be for women.
6. Women and men are entitled to equal work and equal pay for homogeneous work in the scheme.
7. If the worker is injured or falls ill on the work place, such worker shall get free medical treatment.
8. In the case of hospitalisation due to a work accident, the worker shall be entitled to get a daily wage of not less than half the allowable wages under the scheme.
9. If a worker is permanently disabled or dies as part of this employment at the workplace, his or her legal heir shall be paid as *ex gratia* of rupees two lakh for accidental death or total disability and rupees one lakh for partial disability.
10. The children accompanied with workers shall be provided with a creche facility.
11. A grievance redressal mechanism shall be established to ensure accountability.
12. All documents and figures that are part of the project shall be public records.
13. Efficient implementation of the project shall be carried out with the help of Online Management information System.

THE SCHEDULE II

(See section 5)

CONDITIONS FOR GUARANTEED URBAN EMPLOYMENT UNDER THE SCHEME AND MINIMUM ENTITLEMENT OF LABOURERS

- 1.** The adult members of every household who—
 - (a) reside in any urban areas; and
 - (b) are willing to do unskilled, semi-skilled and skilled work,may submit their names, age and the address of the household to the Ward in the jurisdiction of which they reside for registration of their household for issuance of a job card.
- 2.** It shall be the duty of the Ward to register the household, after making such enquiry as it deems fit and issue a job card containing such details of adult members of the household affixing their photographs, as may be specified by the State Government in the scheme.
- 3.** The registration made under paragraph 2 shall be for such a period as may be laid in the Scheme, but in any case not less than five years, and may be renewed from time to time.
- 4.** The adult members of a registered household whose name appears in the job card shall be entitled to apply for skilled/semi-skilled/unskilled work under the Scheme.
- 5.** The registered persons belonging to a household shall be entitled to employment in accordance with the Scheme made under the provisions of this Act, for as many days as each applicant may request, subject to a maximum of two hundred and fifty days per household in a given financial year.
- 6.** The Executing Officer shall ensure that every applicant shall be provided work in accordance with the provisions of the Scheme within fifteen days of receipt of an application or from the date he seeks work in case of advance application, whichever is later:

Provided that priority shall be given to women in such a way that at least one-half of the beneficiaries shall be women who have registered and requested for work under this Act.
- 7.** Applications for work shall be for at least fourteen days of continuous work.
- 8.** There shall be a limit of two hundred and fifty days of employment for which a person may apply, or on the number of days of employment actually provided to him subject to the aggregate entitlement of the household.
- 9.** Applications for work may be submitted in writing either to the Executing Officer, as may be specified in the Scheme.
- 10.** The Executing Officer, as the case may be, shall be bound to accept valid applications and to issue a dated receipt to the applicant. Group applications may also be submitted.
- 11.** Applicants who are provided with work shall be so intimated in writing, by means of a letter sent to him at the address given in the job card and by a public notice displayed at the office of the respective Urban Local Bodies.
- 12.** As far as possible, employment shall be provided within a radius of five kilometers of the Urban Local Body where the applicant resides at the time of applying.
- 13.** A new work under the Scheme shall be commenced, only if at least ten labourers become available for such work.
- 14.** In cases the employment is provided outside such radius, it must be provided within the Ward, and the labourers shall be paid ten per cent. of the wage rate as extra wages to meet additional transportation and living expenses.

15. A period of employment shall ordinarily be at least fourteen days continuously with not more than six days in a week.

16. In all cases where unemployment allowance is paid, or due to be paid, the Executing Officer shall inform the District Level Committee in writing the reasons why it was not possible for him to provide employment or cause to provide employment to the applicants.

17. The District Committee shall, in its Annual Report to the State Level Committee, explain as to why employment could not be provided in cases where payment of unemployment allowance is involved.

18. Provision shall be made in the Scheme for advance applications, that is, applications which may be submitted in advance of the date from which employment is sought.

19. Provision shall be made in the Scheme for submission of multiple applications by the same person provided that the corresponding periods for which employment is sought do not overlap.

20. Each Ward shall prepare and maintain or cause to be prepared and maintained such registers, vouchers and other documents in such form and in such manner as may be specified in the Scheme containing particulars of job cards and passbooks issued, name, age and address of the head of the household and the adult members of the household registered with the Ward.

21. Each Ward shall send such a list or lists of the names and addresses of households and their adult members registered with it and supply such other information to the concerned Executing Officer at such periods and in such form as may be specified in the Scheme.

22. A list of persons who are provided with the work shall be displayed on the notice board of the Ward and at the office of the Executing Officer and at such other places as the Executing Officer may deem necessary and the list shall be open for inspection by the State Government and any person interested.

23. If the Ward is satisfied at any time that a person has registered with it by furnishing false information, it may direct the Programme Officer to direct his name to be struck off from the register and direct the applicant to return the job card:

Provided that no such action under this paragraph shall be directed unless the applicant has been given an opportunity of being heard in the presence of two independent persons.

24. If any personal injury is caused to any person employed under the Scheme by accident arising out of and in the course of his employment, he shall be entitled to, free of charge, such medical treatment as is admissible under the Scheme.

25. Where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance not less than half of the wage rate required to be paid had the injured been engaged in the work.

26. If a person employed under a Scheme dies or becomes permanently disabled by accident arising out of and in the course of employment, he shall be paid by the implementing agency an *ex gratia* payment at the rate of rupees two lakh for accidental death or total disability and rupees one lakh for partial disability or such amount as may be notified by the Central Government, and the amount shall be paid to the legal heirs of the deceased or the disabled, as the case may be.

27. The facilities of safe drinking water, shade for children and periods of rest, first-aid box with adequate material for emergency treatment for minor injuries and other health hazards connected with the work being performed shall be provided at the work site.

28. In case the number of children below the age of six years accompanying the women working at any site are five or more, provisions shall be made to depute one of such women workers to look after such children.

29. The person deputed under paragraph 28 shall be paid wage rate.

30. In case the payment of wages is not made within the period specified under the Scheme, the labourers shall be entitled to receive payment of compensation as per the provisions of the Code on Wages, 2019 (29 of 2019).

31. The wages under a Scheme may be paid either wholly in cash or in cash and kind provided that at least one-fourth of the wages shall be paid in cash only.

32. The State Government may prescribe that a portion of the wages in cash may be paid to the labourers on a daily basis during the period of employment.

33. If any personal injury is caused by accident to a child accompanying any person who is employed under a Scheme, such person shall be entitled to, free of charge, such medical treatment for the child as may be specified in the Scheme and in case of death or disablement, through an *ex gratia* payment as may be determined by the State Government.

34. In case of every employment under the Scheme, there shall be no discrimination solely on the ground of gender and the provisions of the Code on Wages, 2019 (29 of 2019), shall be complied with.

STATEMENT OF OBJECTS AND REASONS

There is a growing distress among India's urban poor which has remained largely unaddressed. The statistics show that the rate of unemployment has steadily risen over the past few years, which has been exacerbated due to COVID-19 pandemic. The Government's Periodic Labour Force Survey (PLFS) released by the National Statistical Office (NSO) released on March 14, 2022, reveals that India's urban unemployment rate jumped to 12.6 per cent. in the April-June quarter of 2021 from 9.3 per cent in January-March quarter. The number was much higher (20.8 per cent.) during the first wave of COVID-19 pandemic. Urban females suffered more than urban males- unemployment rate among females stood at 14.3 per cent. compared with 12.2 per cent. for males in April-June quarter 2021. In addition to this, urban poor continue to be affected by India's persistently high inflation, prevalence of low-wage, poor quality and informal work.

India has paved the way in the implementation of employment guarantee programmes with the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) that guarantees one hundred days of work to rural households every financial year. And yet, there is no equivalent of MGNREGA for urban areas despite India having a history of urban employment schemes. One of the most prominent central programmes in this regard was the Swarna Jayanti Shahri Rozgar Yojana (SJSRY) launched in 1997 which provided employment to the unemployed and underemployed urban poor through self-employment and wage employment. The Urban Wage Employment Programme component of SJSRY covered those living below the poverty line in Urban Local Bodies with less than five lakh population. The SJSRY was replaced by the National Urban Livelihoods Mission (NULM) in 2013. However, this programme and its subsequent version, laid more emphasis on self-employment and entrepreneurship, and were not employment "guarantee" schemes.

Recently, the demand for an urban job guarantee has been gaining prominence in political and policy debates in India. With each passing year, more and more State Governments have been introducing new urban employment schemes reinforcing the necessity of one of such in the national level. States such as Madhya Pradesh (Mukhyamantri Yuva Swabhiman Yojana), Kerala (Ayyankali Urban Employment Guarantee Scheme), Odisha (Unnati or Urban Wage Employment Initiative), Jharkhand (Mukhyamantri Shramik Yojana), Himachal Pradesh (Mukhya Mantri Shahri Ajeevika Guarantee Yojna), Rajasthan (Indira Gandhi Shahri Rozgar Guarantee Yojana) and Tamil Nadu (Tamil Nadu Urban Employment Scheme) have been running various schemes which guarantee specific number of days of wage-employment to urban households.

Further, the scheme envisages the 'Right to Life' enshrined under Article 21 of the Constitution of India. The Supreme Court of India has held in multiple cases that the 'Right to Life' also includes the 'right to livelihood' and the 'right to live with human dignity.' A national urban employment guarantee scheme has the potential to transform the structure of the economy as well as contribute significantly to an improved quality of life of millions of people.

Hence, this Bill.

BINOY VISWAM

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides guarantee of employment to every household whose adult members volunteer to do unskilled, semi-skilled and skilled work not less than one hundred days of such work in a financial year. Clause 7 of the Bill provides for payment of unemployment allowance to eligible applicant for employment under the scheme if he has not been provided within fifteen days of receipt of application seeking employment. Clause 18 provides that Central Government shall provide funds for carrying out the purposes of the Bill. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India and it is very difficult to estimate the expenditure at this juncture. A non-recurring expenditure is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

RAJYA SABHA

A

BILL

to provide for the enhancement of livelihood security of the households in urban areas of the country by formulation of the Bhagat Singh National Urban Employment Guarantee Scheme aimed at providing at least two hundred days of guaranteed wage employment in every financial year to every household whose adult members volunteer to do unskilled, semi-skilled and skilled work and for matters connected therewith or incidental thereto.

(Shri Binoy Viswam, M.P.)

MGIPMRND—857RS(S3)—08-08-2022.

Bill No. LV of 2022

THE CIGARETTES AND OTHER TOBACCO PRODUCTS
(PROHIBITION OF ADVERTISEMENT AND REGULATION OF
TRADE AND COMMERCE, PRODUCTION, SUPPLY
AND DISTRIBUTION) (AMENDMENT)
BILL, 2022

A

BILL

*further to amend the Cigarettes and Other Tobacco Products (Prohibition of
Advertisement and Regulation of Trade and Commerce, Production,
Supply and Distribution) Act, 2003.*

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

1. (1) This Act may be called the Cigarettes and Other Tobacco Products (Prohibition
of Advertisement and Regulation of Trade and Commerce, Production, Supply and
5 Distribution) Amendment Act, 2022. 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.

Substitution of Preamble.

2. In the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter referred to as the principal Act), for the preamble, the following shall be substituted, namely:—

"WHEREAS India is a signatory to the World Health Organization Framework Convention on Tobacco Control adopted in Geneva, Switzerland on 21st day of May, 2003 which came into force on the 27th day of February, 2005;

AND WHEREAS the objective of this Convention and its protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke;

AND WHEREAS, it is considered expedient to enact a comprehensive law to implement the WHO Framework Convention on Tobacco Control and its Guidelines;

AND WHEREAS, it is expedient to prohibit the consumption of cigarettes and other tobacco products which are injurious to health with a view to achieving improvement of public health in general as enjoined by article 47 of the Constitution;

AND WHEREAS, it is considered expedient to enact a comprehensive law on the use of tobacco products in the public interest and to protect the public health;

AND WHEREAS, it is expedient to prohibit the advertisement of, and to provide for regulation of trade and commerce, production, supply, and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto:"

Substitution of reference to certain expression by certain other expression.

3. Throughout the principal Act, for the words "nicotine and tar contents", wherever they occur, the words, "constituents and emissions" shall be substituted.

Amendment of section 3.

4. In section 3 of the principal Act,—

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

"(a) "advertisement" includes any visible representation by way of notice, circular, label, wrapper, pamphlet, brochure, programme, pricelist, or other document and in any form of commercial communication, recommendation, or action with the aim, effect, or likely effect of promoting cigarettes or any other tobacco products, or tobacco use, either directly or indirectly.";

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

(ha) "medium" includes, audio, audio-visual, print including newspapers or magazines whether domestic or international, pamphlets, leaflets, flyers, and letters, billboards, hoardings, posters, signs, non-tobacco products, tobacco accessories, buildings or other structures, vehicles, television, radio, films, music, games, live performances, the internet including over-the-top media services, social media platforms, mobile telephones, and other new technologies";

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

"(ka) "promotion" includes any form of commercial communication, recommendation or action with the aim, effect, or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;"

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

"(oa) "sponsorship" means any form of contribution to any event, activity or person with the aim, effect, or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;"

5 (e) after clause (p), the following clause shall be inserted, namely:—

"(pa) "trademark" means the whole or a part of a trademark that is registered under the Trade Marks Act, 1999 in respect of goods that are or include tobacco products, irrespective of whether the same or similar marks are also registered in respect of other goods or services."

47 of 1999

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

"4. No person shall use tobacco products in any public place.

Explanation—For the purpose of this section, the word "use" means smoking and spitting of tobacco."

Substitution of section 4.
Prohibition of smoking in a public place.

15 **6.** For section 5 of the principal Act, the following section shall be substituted, namely:—

"(1) No person shall initiate, produce, disseminate, or broadcast any advertisement or promotion of cigarette or any other tobacco product through any medium and no person shall directly or indirectly promote the use or consumption of cigarettes or any other tobacco products.

(2) No person, for any direct or indirect pecuniary benefit or otherwise, shall—

(a) display, cause to display, or permit or authorise to display any advertisement of cigarettes or any other tobacco product on any medium;
or

(b) supply or offer to supply free samples of a tobacco product, including in connection with marketing surveys or taste testing; or

(c) import, distribute, sell, or offer for sale any confectionery or other food product or any toy or any other article that is designed to resemble a tobacco product or the packaging of which is designed to resemble the packaging commonly associated with a tobacco product; or

(d) offer to sell any tobacco product at a discounted price; or

(e) provide gifts or discounted products with the purchase of any tobacco product; or

(f) offer or engage in any incentive promotions, loyalty schemes, or whether requiring the purchase of tobacco products or not; or

(g) offer to sell or expose to sell any tobacco product on the internet, whether for cash or on credit, or by way of exchange or by any other means;
or

(h) use a name, brand, mark, or trademark of a tobacco product on or in association with, or for marketing, promoting or advertising, any other product, service or event; or

(i) use particular colours, layouts or presentation that are associated with particular tobacco products for marketing, promoting or advertising, any other product, service or event; or

Substitution of section 5.

Prohibition of advertisement and production of cigarettes or any other tobacco product.

(j) market tobacco products with the aid of a name, mark or brand which is known as, or in use as, a name or brand for any other product, service, or event; or

(k) use tobacco products when advertising other goods and services; or

(l) promote or agree to promote whether directly or indirectly any mark, trademark or brand name of cigarettes or any other tobacco products; or

(m) promote through contribution or otherwise, or through an activity under corporate social responsibility, cigarettes or any other tobacco products.

(3) No person shall display, cause to display, or permit or authorize to display, cigarette or any other tobacco product, or their package, at the entrance or inside a warehouse or a shop where cigarettes or any other tobacco products are offered for distribution or sale.

(4) The owner or person in control of a warehouse or a shop where cigarettes or any other tobacco products are offered for distribution or sale, shall, ensure that cigarettes and other tobacco products are kept in a closed container or dispenser that is not accessible to any member of the public:

Provided that a board, listing the kind of cigarettes and other tobacco products available for sale, may be displayed in a manner as prescribed by rules made under this Act."

Explanation. —For the purpose of this section, "display" means, when cigarette or any other tobacco product or their package is visible to any member of the public in general and not during the course of a transaction for the sale of any specific tobacco product.

Substitution of section 6.

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

"6. No person shall—

(a) sell, offer for sale, or permit sale of, cigarette or any other tobacco product to any person who is under twenty-one years of age, or

(b) sell, offer for sale, or permit sale of, cigarettes or any other tobacco products in an area within a radius of one hundred meters of any educational institution."

Prohibition on sale of cigarette or other tobacco products to person below the age of twenty-one years.

Amendment of section 7.

8. In section 7 of the principal Act,—

(i) after sub-section (2), following proviso shall be inserted, namely: —

"Provided that the sale of cigarettes or any other tobacco products shall not be outside its package but in sealed, intact, original packaging of standard size, contents and weights, as may be prescribed."

(ii) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) No person shall directly or indirectly, produce, supply, or distribute cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him indicates thereon, or on its label, the constituents and emission contents on each cigarette or as the case may be on other tobacco products, in such manner as may be prescribed."

9. After Section 7 of the principal Act, the following section shall be inserted, namely:—

Insertion of new Section 7A.

"7A. (1) No person shall directly or indirectly, produce, supply, or distribute, import, sell, offer for sale, or permit sale of illicit cigarette or any other tobacco product.

Prohibition on production, supply, distribution, sale, etc. of illicit cigarettes or other tobacco products.

(2) The manner in which illicit cigarettes or any other tobacco product shall be identified, tracked or traced, be such as may be specified in the rules made under this Act.

Explanation.—For the purpose of this section, the expression, "illicit" means any practice or conduct prohibited by law and which relates to production, supply, distribution, import and sale, including any practice or conduct intended to facilitate such activity."

10. For section 23 of the principal Act, the following section shall be substituted, namely: —

Substitution of section 23.

"23. Where any person has been convicted for contravention of the provisions of this Act, the packages of cigarettes and other tobacco products or advertisement materials or any other materials may be forfeited to the Government and such packages or materials shall be disposed of in accordance with the provisions contained in the Code of Criminal Procedure, 1973."

Forfeiture of materials.

11. After section 24 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new section 24A.

"24A. (1) Any person who produces or manufactures or supplies or imports illicit cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one lakh rupees, or with both, and for the second or subsequent conviction, with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees.

Punishment for sale, supply, etc. of illicit cigarettes or other tobacco products.

(2) Any person who distributes, sell, offer for sale or permit sale of illicit cigarettes or any other tobacco products shall in the case of first conviction be punishable with imprisonment for a term, which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both, and, for the second or subsequent conviction, with imprisonment for a term which may extend to two years and with fine which may extend to one lakh rupees.

12. In section 31 of the principal Act, in sub-section (2),—

Amendment of section 31.

(i) for clause (b), the following clause shall be substituted, namely: —

"(b) specify the form and manner in which constituents and emissions shall be indicated on the packages of cigarettes or other tobacco products under sub-section (5) of section 7;"

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

"(dd) specify the manner in which the illicit cigarette or any other tobacco product shall be identified, tracked, or traced, under sub-section (2) of section 7A;"

13. After section 31 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 31A and 31B.

"31A. 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 prohibiting trade and commerce, production, supply and distribution of cigarettes and any other tobacco products.

Act to supplement other laws.

Act to have
overriding
effect.

31B. Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force."

STATEMENT OF OBJECTS AND REASONS

The use of tobacco is a prominent risk factor for six to eight leading causes of death, and almost 40 per cent. of the Non-Communicable Diseases (NCD) including cancer, cardio-vascular diseases and lung disorders are directly attributable to tobacco use. The Ministry of Family Welfare, Government of India advisory on "*COVID-19 Pandemic and Tobacco Use in India*" states that tobacco use is also a risk factor for infectious diseases — *Covid*, tuberculosis and lower respiratory infections — health burdens that afflict much of humanity. The use of tobacco is a risk factor for many respiratory infections and increases the severity of respiratory diseases. Tobacco smoke including second-hand smoke contains over 7000 chemicals out of which more than 69 chemicals are cancer causing.

As per the Global Adult Tobacco Survey-India (GATS -2016-2017) conducted in the age group of 15 years and above in India, almost 27 crore adults use tobacco in some form or the other. The number of deaths every year in India which is attributable to tobacco use is more than 13.5 lakhs.

As per the GATS -2016-2017, 25.7 per cent. of adults were exposed to Second Hand Smoke (SHS) at a public place. As per the Global Youth Tobacco Survey (GYTS 4, 2019), 21% of students (13 to 15 years old school going children) were exposed to tobacco smoke inside enclosed public places. The Supreme Court in *Murli Deora vs Union of India, 2001* (8) SCC 765, wherein it was held that subjecting a non-smoker to tobacco smoke is violation of his Fundamental right guaranteed under article 21 of the Constitution of India, that none shall be deprived of his life without due process of law.

The Government of India enacted a comprehensive tobacco control legislation, namely, the Cigarettes and other Tobacco products (Prohibition of Advertisement and Regulations of Trade and Commerce Production, Supply and Distribution) Act, 2003 (COTPA, 2003), with emphasis on protection of children and young people from being addicted to the use of tobacco and with a view to achieve improvement of public health in general as enshrined in article 47 of the Constitution of India. Section 4 of COTPA mandates a ban on smoking in public places but provides in hotels/restaurants having 30 or more rooms/seats and at airports a separate space/area for smoking, well known as 'Designated Smoking Area'(DSA). COTPA prohibits the promotion, advertisement, sponsorship of cigarettes and other tobacco products, however, the proviso to sub-section (2) of section 5 of the Act allows advertisement at point of sale. Further, chewing tobacco products like, *khaini, gutkha, paan, zarda* etc. increases the urge to spit. Spitting in public places increases health risks especially those of spreading the infectious and contagious diseases like, COVID-19, tuberculosis, swine flu, encephalitis, etc. Hence a comprehensive ban on tobacco use in public place is imperative by amending COTPA 2003.

It is scientifically established that if a person is kept away from tobacco for the first twenty-one years of his life, there is a very high probability that he will remain tobacco free for rest of his life. It is mostly the teenagers and young school or college going students who are most vulnerable to the addiction of tobacco. Thus, there is need to increase minimum legal age for sale of tobacco products to 21 years, ban sale of cigarettes and other tobacco products loose or outside its package and ban comprehensively direct and indirect advertisement, promotion and sponsorship of tobacco products including point of sale.

It is, therefore, considered necessary to amend the aforesaid Act of 2003. This Bill seeks to amend the said Act to achieve the stated objectives.

SUJEET KUMAR

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill proposes to amend section 31 of the principal Act to empower the Central Government to make rules for specifying the form and the manner in which the constituents and omissions shall indicated on packages of cigarettes etc. and also the manner in which illicit cigarettes or tobacco products shall be identified, tracked or traced. The rules to be made by the Government pertain to matters of administrative detail only. The delegation is, therefore, normal in character.

ANNEXURE

EXTRACTS FROM THE CIGARETTES AND OTHER TOBACCO PRODUCTS (PROHIBITION OF
ADVERTISEMENT AND REGULATION OF TRADE AND COMMERCE, PRODUCTION,
SUPPLY AND DISTRIBUTION) ACT, 2003

(34 OF 2003)

* * * * *

An Act to prohibit the advertisement of, and to provide for the regulation of trade, and commerce in, and production, supply and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto.

WHEREAS, the Resolution passed by the 39th World Health Assembly (WHO), in its Fourteenth Plenary meeting held on the 15th May, 1986 urged the member States of WHO which have not yet done so to implement the measures to ensure that effective protection is provided to non-smokers from involuntary exposure to tobacco smoke and to protect children and young people from being addicted to the use of tobacco;

AND WHEREAS, the 43rd World Health Assembly in its Fourteenth Plenary meeting held on the 17th May, 1990, reiterated the concerns expressed in the Resolution passed in the 39th World Health Assembly and urged Member States to consider in their tobacco control strategies plans for legislation and other effective measures for protecting their citizens with special attention to risk groups such as pregnant women and children from involuntary exposure to tobacco smoke, discourage the use of tobacco and impose progressive restrictions and take concerted action to eventually eliminate all direct and indirect advertising promotion and sponsorship concerning tobacco;

AND WHEREAS, it is considered expedient to enact a comprehensive law on tobacco in the public interest and to protect the public health;

AND WHEREAS, it is expedient to prohibit the consumption of cigarettes and other tobacco products which are injurious to health with a view to achieving improvement of public health in general as enjoined by article 47 of the Constitution;

AND WHEREAS, it is expedient to prohibit the advertisement of, and to provide for regulation of trade and commerce, production, supply and distribution of, cigarettes and other tobacco products and for matters connected therewith or incidental thereto:

* * * * *

Definitions.

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

(a) advertisement includes any visible representation by way of notice, circular, label, wrapper or other document and also includes any announcement made orally or by any means of producing or transmitting light, sound, smoke or gas;

* * * * *

(h) label means any written, marked, stamped, printed or graphic matter, affixed to, or appearing upon, any package;

* * * * *

(k) production, with its grammatical variations and cognate expressions, includes the making of cigarettes, cigars, cheroots, *beedis*, cigarette tobacco, pipe tobacco, *hookah tobacco*, chewing tobacco, *pan masala* or any chewing

material having tobacco as one of its ingredients (by whatever name called) or snuff and shall include—

- (i) packing, labelling or re-labelling, of containers;
- (ii) re-packing from bulk packages to retail packages; and
- (iii) the adoption of any other method to render the tobacco product marketable;

* * * * *

(o) specified warning means such warnings against the use of cigarettes or other tobacco products to be printed, painted or inscribed on packages of cigarettes or other tobacco products in such form and manner as may be prescribed by rules made under this Act;

(p) tobacco products means the products specified in the Schedule.

* * * * *

4. No person shall smoke in any public place.

Prohibition of smoking in a public place.

Provided that in a hotel having thirty rooms or a restaurant having seating capacity of thirty persons or more and in the airports, a separate provision for smoking area or space may be made.

* * * * *

5. (1) No person engaged in, or purported to be engaged in the production, supply or distribution of cigarettes or any other tobacco products shall advertise and no person having control over a medium shall cause to be advertised cigarettes or any other tobacco products through that medium and no person shall take part in any advertisement which directly or indirectly suggests or promotes the use or consumption of cigarettes or any other tobacco products.

Prohibition of advertisement of cigarettes and other tobacco products.

(2) No person, for any direct or indirect pecuniary benefit, shall—

- (a) display, cause to display, or permit or authorise to display any advertisement of cigarettes or any other tobacco product; or
- (b) sell or cause to sell, or permit or authorise to sell a film or video tape containing advertisement of cigarettes or any other tobacco product; or
- (c) distribute, cause to distribute, or permit or authorise to distribute to the public any leaflet, hand-bill or document which is or which contains an advertisement of cigarettes or any other tobacco product; or
- (d) erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame, post or structure or upon or in any vehicle or shall display in any manner whatsoever in any place any advertisement of cigarettes or any other tobacco product:

Provided that this sub-section shall not apply in relation to—

- (a) an advertisement of cigarettes or any other tobacco product in or on a package containing cigarettes or any other tobacco product;
- (b) advertisement of cigarettes or any other tobacco product which is displayed at the entrance or inside a warehouse or a shop where cigarettes and any other tobacco products are offered for distribution or sale.

(3) No person, shall, under a contract or otherwise promote or agree to promote the use or consumption of—

(a) cigarettes or any other tobacco product; or

(b) any trade mark or brand name of cigarettes or any other tobacco product in exchange for a sponsorship, gift, prize or scholarship given or agreed to be given by another person.

* * * * *

Prohibition on sale of cigarette or other tobacco products to a person below the age of eighteen years and in particular area.

6. No person shall sell, offer for sale, or permit sale of, cigarette or any other tobacco product—

(a) to any person who is under eighteen years of age, and

(b) in an area within a radius of one hundred yards of any educational institution.

* * * * *

Restrictions on trade and commerce in, and production, supply and distribution of cigarettes and other tobacco products.

7. (1) No person shall, directly or indirectly, produce, supply or distribute cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him bears thereon, or on its label such specified warning including a pictorial warning as may be prescribed.]

(2) No person shall carry on trade or commerce in cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products sold, supplied or distributed by him bears thereon, or on its label, the specified warning.

(3) No person shall import cigarettes or any other tobacco products for distribution or supply for a valuable consideration or for sale in India unless every package of cigarettes or any other tobacco products so imported by him bears thereon, or on its label, the specified warning.

(4) The specified warning shall appear on not less than one of the largest panels of the package in which cigarettes or any other tobacco products have been packed for distribution, sale or supply for a valuable consideration.

(5) No person shall, directly or indirectly, produce, supply or distribute cigarettes or any other tobacco products unless every package of cigarettes or any other tobacco products produced, supplied or distributed by him indicates thereon, or on its label, the nicotine and tar contents on each cigarette or as the case may be on other tobacco products along with the maximum permissible limits thereof:

Provided that the nicotine and tar contents shall not exceed the maximum permissible quantity thereof as may be prescribed by rules made under this Act.

* * * * *

Forfeiture of advertisement and advertisement material.

23. Where any person has been convicted under this Act for the contravention of the provision of section 5, the advertisement and the advertisement material for cigarettes and other tobacco products may be forfeited to the Government and such advertisement and advertisement material shall be disposed of in such manner as may be prescribed by rules made under this Act.

* * * * *

24. (1) Any person who contravenes the provisions of section 6 shall be guilty of an offence under this Act and shall be punishable with fine which may extend to two hundred rupees.

Punishment for sale of cigarettes or any other tobacco products in certain places or to persons below the age of eighteen years.

(2) All offences under this section shall be compoundable and shall be tried summarily in accordance with the procedure provided for summary trials in the Code of Criminal Procedure, 1973 (2 of 1974).

* * * * *

31. *

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*

Power of Central Government to make rules.

(b) specify the maximum permissible nicotine and tar contents in cigarettes or other tobacco products under the proviso to sub-section (5) of section 7;

* * * * *

(d) specify the height of the letter or figure or both to be used in specified warning or to indicate the nicotine and tar contents in cigarettes or other tobacco products under section 10;

* * * * *

RAJYA SABHA

A

BILL

further to amend the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.

(Shri Sujeet Kumar, M.P.)

MGIPMRND—855RS(S3)—08-08-2022.

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:—

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

Short title and commencement.

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

Substitution
of references
to certain
expressions
by certain
other
expressions.

Amendment
of section 2.

- 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, 1 of 1956.
the words and figures "the Companies Act, 2013" shall be substituted; 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. 5
- 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 10
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 15
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 relating to the sovereign functions of 20
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 25
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 30
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 18 of 2013.
State Financial Corporation, State Industrial Corporation or State Investment 35
Corporation;';
- (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 40
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 45
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;';

(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,
5 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.";

10 (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;

15 (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.";

20 (iv) in the *Explanation*,—

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

25 '(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;';

30 (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;

35 (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;

40 (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.".

45 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.

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: 5

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."; 10

(C) for the *Explanation*, the following *Explanation* shall be substituted, namely:— 15

'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 20

(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— 25

(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; 30

(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; 35 40

(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 45 18 of 2013. 50

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 5.¹.

7. In section 6 of the principal Act,—

Amendment
of section 6.

(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.¹;

(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:—

¹(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

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

(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). 10

(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: 15

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). 20

(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 25

(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. 30 35

(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. 40

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; 45 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;'. 50 15 of 1992.

8. After section 6 of the principal Act, the following section shall be inserted, namely:—	Insertion of a new section 6A.
<p>'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—</p>	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.	
<p><i>Explanation.</i>—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.'</p>	
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.
<p>"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—</p>	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:	
<p>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."</p>	
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.
<p>"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:</p>	Duties and functions of Commission.

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

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."

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

Amendment of section 21A.

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

5 (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."

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 22.

19. In section 26 of the principal Act,—

Amendment of section 26.

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

15 "(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.";

20 (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.

25 (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;

30 (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:—

35 "(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:

40 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."

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

Amendment of section 27.

(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

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

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

"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,

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.

5 (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:

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

23. In section 31 of the principal Act,—

Amendment
of section 31.

(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:—

20 "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.";

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

30 "(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.

35 (5) Where—

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

40 (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,

45 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.

(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: 5

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." 10

(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. 15

Amendment of section 35. **25.** Section 35 of the principal Act shall be numbered as sub-section (1) thereof,— 15

(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." 20

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:— 25

"(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 30

(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. 35

(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: 40

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: 45

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.

5 (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.

15 (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.

25 (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:

35 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.

40 (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:

45 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.

(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.";

(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.

32. In section 45 of the principal Act,—

Amendment
of section 45.

(a) in the marginal heading, for the word "offences", the word "contraventions" shall be substituted;

(b) in sub-section (1),—

5 (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.

10 33. For section 46 of the principal Act, the following section shall be substituted, namely:—

Substitution of
new section
for section 46.

"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

15 leviable under this Act or the rules or the regulations made under this Act:

Power to
impose lesser
penalty.

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:

20 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:

25 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,—

30 (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,

35 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.

40 (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.

45 (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,

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. 5

Substitution of
new sections
for section 48.
Contravention
by companies.

35. For section 48 of the principal Act, the following sections shall be substituted, namely:—

'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: 10 15

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. 20

(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: 25 30

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. 35

Explanation.—For the purposes of this section,—

(a) "company" means a body corporate and includes a firm or other association of individuals; 40

(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. 45

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.

(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.

5 (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.

10 (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.

15 (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.

20 (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.

25 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. Commitment.

30 (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.

35 (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.

40 (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.

45 (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.

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.'	5
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.	10
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.	15
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."	20
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 <i>Explanation</i> ,— (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.	25 30 35
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."	40
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. 45

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."

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

Amendment
of section 63.

5 (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;

10 (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:—

15 "(mg) the form of the publication of guidelines under sub-section (5) of section 64B;"

44. In section 64 of the principal Act, in sub-section (2),—

Amendment
of section 64.

(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;

20 (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;

25 (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:—

30 "(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;"

35 (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;

40 (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;

(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 28th July, 2022.

NIRMALA SITHARAMAN

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,

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 (1B) 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.

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 appellants 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 contravenes 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.

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 relating 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 Companies Act, 1956;

1 of 1956.

* * * * *

(p) "public financial institution" means a public financial institution specified under section 4A of the Companies Act, 1956 and includes a State Financial, Industrial or Investment Corporation;

1 of 1956.

* * * * *

(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;

(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

4. (1)* * * * *

Abuse of dominant position.

(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,

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—

* * * *

(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.

* * * * *

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:

Restriction on employment of Chairperson and other Members in certain cases.

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.

* * * * *

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.

Appointment of Director General, etc.

* * * * *

CHAPTER IV

DUTIES, POWERS AND FUNCTIONS 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:

Duties of Commission.

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.

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—

Inquiry into certain agreements and dominant position of enterprise.

(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;

* * * * *

(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.

* * * * *

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).

(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,

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.

* * * * *

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,

Acts taking place outside India but having an effect on competition in 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.

* * * * *

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.

Appearance before Commission.

Explanation.—For the purposes of this section,—

- 38 of 1949. (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;
- 56 of 1980. (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;
- 23 of 1959. (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;
- (d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

* * * * *

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.					
	<i>Explanation.</i> —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.					

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.

Power to impose penalty for non-furnishing of information on combinations.

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 making false statement or omission to furnish material information.

45. (I) 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,—

Penalty for offences in relation to furnishing of 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.

* * * * *

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:

Power to impose lesser penalty.

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.

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 VIII A

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)* * * *

(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;

* * * * *

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;

* * * *

LOK SABHA

A

BILL

further to amend the Competition Act, 2002.

(Smt. Nirmala Sitharaman, Minister of Finance and Corporate Affairs)

MGIPMRND—779LS(S3)—02-08-2022.

Bill No. XLIII of 2022

THE CONSTITUTION (AMENDMENT) BILL, 2022

A

BILL

further to amend the Constitution of India.

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

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

Short title
and
commencement.

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

2. In article 102 of the Constitution, after clause (2), the following proviso shall be inserted, namely:—

Amendment
of article
102.

10 "Provided that a member of either House of Parliament belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall continue to be disqualified for a further period of six years from the date of his disqualification."

Amendment
of article 191.

3. In article 191 of the Constitution, after clause (2), the following proviso shall be substituted:—

"Provided that a member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under paragraph 2 of the Tenth Schedule shall continue to be disqualified for a further period of six years from the date of his disqualification." 5

Amendment
of the Tenth
Schedule.

4. In Tenth Schedule to the Constitution—

(i) in paragraph 2 after clause (a) of sub-paragraph (1), the following shall be inserted, namely:— 10

"Provided that if a member of a House fails to present himself within seven days before the Chairman or Speaker of the House when such attendance is sought by the party whip, he shall be deemed to have voluntarily given up his membership of such political party."

(b) in clause (b) of sub-paragraph, after the words "if he votes or abstains from voting", the words "in a motion of a vote of confidence or no-confidence" shall be inserted. 15

(ii) for sub-paragraph (2) of paragraph 4, the following shall be substituted:—

"(2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than three-fourth of the members of the legislature party concerned have agreed to such merger." 20

(iii) in sub-paragraph (1) of paragraph 6, after the words, "the Speaker of such House", the following words shall be inserted, namely:—

"within a period of thirty days from the date on which the said question arises but not later than a period of three months"; 25

(iv) after paragraph 6, the following new paragraph shall be inserted, namely:—

"6A. If the question as to whether, a Member of a House has become subject to disqualification under this Schedule, is not decided by the Chairman or, as the case may be, the Speaker of such House, within the period stipulated in paragraph 6, the disqualification proceedings against the said Member of the House shall consider to be deemed to have been lapsed." 30

Lapse of
disqualification
proceedings.

STATEMENT OF OBJECTS AND REASONS

With the framing of Constitution, we adopted the Westminster System of representative democracy followed in Britain in the formation of our Legislatures. The leader who enjoys the majority support of the Legislature is chosen as the head of the Government. During late 1970s, our country witnessed nefarious floor crossing by legislators in total disregard of the democratic wishes of the electorate who returned them. The elections of 1967 were a water-shed moment in Indian political history, in that they led to the introduction of coalition Governments in India.

2. After the failure of an attempt in 1978, the Constitution (52nd Amendment) Act, 1985 came into being and with it came Tenth Schedule to the Constitution. The law has undergone many changes since then. Paragraph 3 of the Tenth Schedule originally recognised a 'split' if one-third members of the legislature party decided to form or join another political party. The 2003 amendment changed it to "at least two-thirds of the members" should agree for merger.

3. While the anti-defection law envisaged the prevention of horse-trading of the legislators of our country, even today, the problem is notoriously prevalent. The rampant misuse of Tenth Schedule and instances of it being bypassed are a blot on our democracy and the recent instances of resort politics, use of money and muscle power have initiated a debated over the efficacy of having a Tenth Schedule which prohibits individual defection but legalizes mass defection along with putting a limit on the freedom of expression of a legislator on the floor of the house. The concept of a blanket whip on every voting leads to low quality debates and inability of Members to speak their mind or express their reservations against the policy of the Government.

4. We are an evolving democracy and the law makers should be given freedom to express their views in the Parliament or Legislatures along with having an enforcement mechanism which doesn't defeat the mandate given by the public.

5. The Bill aims to strengthen our democracy and help our public representatives in becoming informed law makers rather than political party workers, who have to follow a direction for this purpose, the Bill seeks to amend Articles 102 and 191 of the Constitution to make it more stringent by adding a proviso which leads to a further disqualification of six years from the date a member is disqualified under Tenth Schedule and through the introduction of such a provision, the legislators who indulge in horse trading and dishonor the mandate of the electorate shall be debarred from contesting a by-election and getting re-elected for a period of six years.

6. The Bill also seeks to amend paragraph 2 of Tenth Schedule through a proviso which clearly lays down that where a member is unable to present himself within seven days before the Chairman or Speaker of the House when his attendance is sought by the party whip, it shall amount to voluntarily giving up the membership of such political party. Due to ambiguous interpretation of voluntary giving up of membership, there has been a steep increase in cases of resort politics on the expense of the tax-payer. This provision lays down clear criteria that will lead to disqualification, if a person doesn't reply to the notice of the Chairman or Speaker.

7. Further, the amendment to clause (b) of sub-paragraph (1) of paragraph 2, will act as a reformative measure whereby Members will be exempted from the whip system except in cases of Confidence Motion or No Confidence Motion. Our country has a freedom of expression for everyone except the elected representatives who are bound by the whip system for discussion on legislations concerning the common man. The amendment to paragraph 4 shall increase the existing threshold for merger from 2/3rd to 3/4th of members of

legislature party in order to avoid disqualification. This provision is necessitated due to growing instances of anti-defection in smaller States where the strength of the House ranges from 30 to 70.

8. The amendment to paragraph 6 is required due to its misuse by a party in power. The absence of a time limit to decide disqualification petition leads to political bias and at times the delay also extends till the House is dissolved. The time limit for the same has been proposed as thirty days, with an extension of maximum limit of three months. In addition to this, a new paragraph 6A is proposed to be added which renders a disqualification petition infructuous, if it is not decided or kept pending beyond three months.

Hence, this Bill.

RAGHAV CHADHA

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

*	*	*	*	*
102. (2) A person shall be disqualified for being a member of either House of Parliament if he is so disqualified under the Tenth Schedule.				Disqualifications for membership.
*	*	*	*	*
191. (2) A person shall be disqualified for being a member of the Legislative Assembly or Legislative Council of a State if he is so disqualified under the Tenth Schedule.				Disqualifications for membership.
*	*	*	*	*

TENTH SCHEDULE

[Articles 102(2) and 191 (2)]

Provisions as to disqualification on ground of defection

*	*	*	*	*
2. (1) Subject to the provisions of paragraphs 4 and 5, a member of a House belonging to any political party shall be disqualified for being a member of the House—				Disqualifications on ground of defection.
(a) if he has voluntarily given up his membership of such political party; or				
(b) if he votes or abstains from voting in such House contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.				
<i>Explanation.</i> —For the purposes of this sub-paragraph,—				
(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;				
(b) a nominated member of a House shall,—				
(i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party;				
(ii) in any other case, be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after complying with the requirements of article 99 or, as the case may be, article 188.				
*	*	*	*	*

4. (2) For the purposes of sub-paragraph (1) of this paragraph, the merger of the original political party of a member of a House shall be deemed to have taken place if, and only if, not less than two-thirds of the members of the legislature party concerned have agreed to such merger.				Disqualification on ground of defection not to apply in case of merger.
*	*	*	*	*

Decision on questions as to disqualification on ground of defection.

6. (I) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the Chairman or, as the case may be, the Speaker of such House and his decision shall be final:

Provided that where the question which has arisen is as to whether the Chairman or the Speaker of a House has become subject to such disqualification, the question shall be referred for the decision of such member of the House as the House may elect in this behalf and his decision shall be final.

* * * * *

RAJYA SABHA

A

BILL

further to amend the Constitution of India.

(Shri Raghav Chadha, M.P.)

MGIPMRND—873RS(S3)—08-08-2022.

Bill No. XXXVII of 2022

THE CONSTITUTION (AMENDMENT) BILL, 2022

A

BILL

further to amend the Constitution of India.

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

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

Short title and commencement.

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

2. After article 3 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 3A.

10 "3A. Notwithstanding anything in this Constitution or any law for the time being in force, the Legislature of a State shall have the power to make laws for establishing or changing one or more capitals of the State within its territory and for all matters supplemental, incidental or consequential thereto."

Power of Legislature of a State to establish or change one or more capitals of the State.

STATEMENT OF OBJECTS AND REASONS

As a matter of practice, the power to decide which territory or territories shall serve as the capital or capitals of a State has been exercised solely by that State. This common practice has emerged as a natural extension of the fundamental principle that all matters involving the internal governance of a State are vested in that State only. Hence over the Years, all existing and new States have used this power to determine their respective capitals without any external interference. However, most recently, this decision-making power of the States was diluted and weakened through judicial overreach. In the case of *Rajadhani Rythu Parirakshnana Samithi v. State of Andhra Pradesh*, it was held that the State of Andhra Pradesh has no legislative competence to change its capital or establish multiple capitals.

This judgment is in stark contrast to the prevailing customary practice whereby States have been implicitly empowered to determine or change their capital or establish multiple capitals. For instance, Gujarat changed its capital from Ahmedabad to Gandhinagar in 1970. Several States have also established more than one capital, including Maharashtra (Mumbai and Nagpur) and Himachal Pradesh (Shimla and Dharamshala). Hence, it is not unprecedented for States to change their capitals or establish multiple capitals. Nor has the higher judiciary interfered with such decisions of the States in the past.

The aforementioned judgment also states that only the Parliament has the competence to decide the capital of a newly formed State. However, when viewed from the lens of federalism, the role of the Parliament is merely to provide the new State with a basic model of governance from which the subsequently elected State legislature can take over. This is evident from the several State Reorganization Acts passed by the Parliament in the exercise of its powers under Articles 3 and 4 of the Constitution. None of the State Reorganization Acts passed to date mention the territory that would serve as the capital of the newly created state(s). The practice has been that a territory decided by the Parliaments serves as a temporary capital till the elected representatives of the State decide on the new permanent capital.

However, the legal status of this inherent power of the States has remained unclear as the Constitution is silent in this regard. Nonetheless, it has become common practice for States to decide on all matters regarding their capitals and States have continued to exercise this power unabated since independence.

Hence, in light of the foregoing, this Bill seeks to insert a new provision in Part I of the Constitution to provide legislative certainty to the implied power of States to establish or change one or more of their capitals. This amendment will provide much-needed clarity on this contentious issue, in line with the federal structure of our Constitution.

Hence, this Bill.

V. VIJAYASAI REDDY

RAJYA SABHA

A

BILL

further to amend the Constitution of India.

(Shri V. Vijayasai Reddy, M.P.)

MGIPMRND—885RS(S3)—08-08-2022.

Bill No. I of 2021

THE EPIDEMIC DISEASES (PREVENTION, PREPAREDNESS AND
MANAGEMENT) BILL, 2021

ARRANGEMENT OF CLAUSES

CLAUSES

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2. Definitions.

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4. Functions and Duties of National Epidemic Commission.
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AS INTRODUCED IN THE RAJYA SABHA
ON 5TH AUGUST, 2022

Bill No. 1 of 2021

THE EPIDEMIC DISEASES (PREVENTION, PREPAREDNESS AND
MANAGEMENT) BILL, 2021

A

BILL

*to provide for the effective prevention, preparedness and management of epidemics 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

5 **1.** (1) This Act may be called the Epidemic Diseases (Prevention, Preparedness and
Management) Act, 2021.

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 for different States, and any reference in any provision to the commencement of this Act in relation to any State shall be construed as a reference to the coming into force of that provision in that State. 5

Definitions.

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

(a) "appropriate authority" means the Ministry or Department of the Government of India having administrative control of public health management, or the Ministry or Department of the State Government having administrative control of public health management in the State; 10

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

(c) "district" means an administrative area as recognized by the Revenue Department of a State or Union Territory Government for the purposes of revenue administration and law and order purposes which is headed by a District Collector or a Deputy Commissioner; 15

(d) "district authority" includes the Deputy Commissioner or the District Collector or the District Magistrate or any other Revenue Officer or Executive Magistrate so empowered under the prevailing Revenue Law or the Code of Criminal Procedure, 1973 or as the case may be; 20 2 of 1974

(e) "epidemic" means the occurrence, in a community or region, of cases of an illness, specific health related behaviour, or other health related events in excess of normal expectancy;

(f) "infectious waste" means waste suspected to contain pathogens, such as laboratory cultures; waste from isolation wards; tissues (swabs), materials, or equipments that have been in contact with infected patients; excreta, etc; 25

(g) "isolation" means separation of ill or contaminated persons or affected baggage, containers, conveyances, goods or postal parcels from others in such a manner as to prevent the spread of infection or contamination; 30

(h) "National Epidemic Plan" means the National Epidemic Plan prepared under sub-section (1) of section 9;

(i) "outbreak" means epidemic limited to a localized increase in the incidence of a disease;

(j) "point of entry" means a passage for international entry or exit of travellers, baggage, cargo, containers, conveyances, goods and postal parcels as well as agencies and areas providing services to them on entry or exit; 35

(k) "quarantine" means the restriction of activities or separation of suspect persons from others who are not ill or of suspect baggage, containers, conveyances or goods in such a manner as to prevent the possible spread of infection or contamination; 40

(l) "State Epidemic Plan" means the State Epidemic Plan prepared under sub-section (1) of section 10;

(m) "State Government" means the Ministry or Department of the State Government having administrative control of public health management in the State;

(n) "National Commission" means the National Epidemic Commission constituted under sub-section (1) of section 3; 45

(o) "State Commission" means the State Epidemic Commission constituted under sub-section (1) of section 6.

CHAPTER II

NATIONAL AND STATE EPIDEMIC COMMISSIONS

5 **3.** (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be established for the purposes of this Act, an authority to be known as the National Epidemic Commission. Establishment of National Epidemic Commission.

(2) The National Commission shall consist of a Chairperson and other members representing each State, as follows:—

10 (a) the Union Health Minister who shall be the *ex-officio* Chairperson;

(b) an elected member from each State Commission.

(3) The Chairperson of the National Commission may designate one of the members to be the Vice-Chairperson of the National Commission.

15 (4) The term of office for each member shall be five years or till the attainment of sixty-five years of age, whichever is earlier.

(5) A member may choose to resign at any time by submitting the resignation letter to the Chairperson.

(6) the conditions of service and remuneration of members of the National Commission shall be such as may be prescribed by the Central Government.

20 (7) The vacancies among members of the National Commission and manner of filling such vacancies shall be such as may be prescribed.

4. (1) The National Commission shall perform and discharge the following functions and duties, namely:— Functions and duties of National Epidemic Commission.

25 (a) prepare a National Epidemic Plan for containing epidemics and execute it in case an epidemic is declared;

(b) advise the Central Government on preventive measures for an epidemic;

(c) monitor the implementation of the provisions of this Act;

(d) advise the Central Government on all matters concerning the implementation of this Act;

30 (e) review and monitor the outbreak or potential outbreak of epidemics in the country;

(f) commission research studies and surveys to suggest effective strategies to contain epidemics;

35 (g) prepare annual reports to be laid before both Houses of the Parliament on the status of the implementation of the Act in such manner as may be prescribed;

(h) advise the Prime Minister on the need to declare any health condition or disease as an epidemic;

(i) recommend necessary measures to the Prime Minister to deal with any epidemic including lockdown, barriers to point of entry, etc;

40 (j) such other duty or function as may be assigned to it by the Central Government.

(2) The National Epidemic Commission shall have the power to regulate its own procedures.

Meetings of National Epidemic Commission.	<p>5. (1) The National Commission shall meet as and when necessary but atleast twice in a year and at such time and place as the Chairperson may think fit.</p> <p>(2) The Chairperson of the National Commission shall preside over its meetings and in his absence, the Vice-Chairperson shall preside over the meetings.</p>	
Establishment of State Epidemic Commission.	<p>6. (1) With effect from such date as the State Governments may, by notification in the Official Gazette, appoint in this regard, there shall be established for the purposes of this Act, an authority to be known as the State Epidemic Commission.</p> <p>(2) A State Commission shall consist of the Chairperson and other members, as follows:—</p> <p>(a) the Minister of Health of the State, who shall be the <i>ex-officio</i> Chairperson;</p> <p>(b) the Secretary in charge of the Ministry of Health of the State;</p> <p>(c) two epidemiologists that the State Government shall appoint, with not less than fifteen years of experience in the field;</p> <p>(d) four members representing village institutions, worker organizations and disadvantaged groups;</p> <p>(e) at least one representative each from the National Human Rights Commission, the National Commission for Women, National Commission for Scheduled Castes, National Commission for Scheduled Tribes and the National Commission for Protection of Child Rights;</p> <p>(f) three eminent social workers from civil society with no less than fifteen years' of experience, working in fields including but not limited to disability policy, mental health policy, labour welfare;</p> <p>(3) The Chairperson of the State Commission may designate one of the members to be the Vice-Chairperson;</p> <p>(4) The term of office, the conditions of service and remuneration of members of the State Commission shall be such as may be prescribed by the State Government.</p> <p>(5) The vacancies among members of the State Commission and manner of filling such vacancies shall be such as may be prescribed.</p>	5 10 15 20 25
Functions and Duties of State Epidemic Commission.	<p>7. (1) The State Commission shall perform and discharge the following functions and duties, namely:—</p> <p>(a) prepare a State Epidemic plan for containing epidemics and execute it in case of declaration of an epidemic;</p> <p>(b) provide advice to the Central and/or the State Government regarding preventive measures in case of an epidemic;</p> <p>(c) monitor the implementation of this Act in the respective State;</p> <p>(d) advise the State Government on all matters concerning the implementation of this Bill;</p> <p>(e) review and monitor the outbreak or potential outbreak of epidemics in the State;</p> <p>(f) commission research studies and surveys to suggest effective strategies to contain epidemics;</p> <p>(g) prepare annual reports to be laid before the State Legislature on the status of the implementation of the Act in such manner as may be prescribed;</p>	30 35 40

(i) advise the Chief Minister of the State on the need to declare any health condition or disease as an epidemic;

(j) recommend necessary measures to the Chief Minister to deal with any epidemic including lockdown, barriers to point of entry, etc;

5 (k) such other duty or function as may be assigned to it by the State Government.

(2) The State Epidemic Commission shall have the power to regulate its own procedures.

8. (1) The State Commission shall meet as and when necessary but atleast twice in a year and at such time and place as the Chairperson may think fit.

Meeting of
State
Epidemic
Commission.

10 (2) The Chairperson of the State Commission shall preside over its meetings and in his absence, the Vice-Chairperson shall preside over the meetings.

CHAPTER III

NATIONAL AND STATE EPIDEMIC PLAN

15 9.(1) A National Epidemic Plan shall be prepared by the National Commission in consultation with the State Commissions and expert bodies or organisations in the field of epidemiology or public health policy within six months of the constitution of the National Commission and shall be reviewed, for modification or improvement every year.

National
Epidemic
Plan.

(2) The National Plan shall include but not limited to the following:—

20 (a) detailed provisions for measures concerning, safe disposal of infectious waste, safe disposal of human remains, control of health care supplies, compensation, destruction of property, protection of persons, medical examination and testing, vaccination and treatment, procedure for isolation and quarantine, and disclosure of protected health information, licensing and appointment of health personnel, dissemination of information, access to mental health support.

(b) provisions for strict compliance with the standards set under this Act.

25 (c) provisions to protect the vulnerable population during an epidemic, including but not limited to women, children, persons with disability, persons of scheduled castes and tribes, other backward castes, and the persons falling below poverty line;

(d) provisions for protecting the providers of essential services including healthcare personnel, police force, sanitation workers;

30 (e) provisions to ensure equitable access to resources including healthcare, education, food, water, safe living spaces.

35 10. (1) A State Epidemic Plan shall be prepared by each State Commission in consultation with the local self Governments and expert bodies or organisations in the field of epidemiology or public health policy within six months of the constitution of the State Commission and shall be reviewed for modification or improvement every year.

State
Epidemic
Plan.

(2) The State Epidemic Plan shall include but not limited to the following:—

40 (a) detailed provisions for measures concerning, safe disposal of infectious waste, safe disposal of human remains control of health care supplies, compensation, destruction of property, protection of persons, medical examination and testing, vaccination and treatment, procedure for isolation and quarantine, access to and disclosure of protected health information, licensing and appointment of health personnel, dissemination of information, access to mental health support and such other provisions as deemed fit.

(b) provisions for strict compliance with the standards set under this Act.

(c) provisions to protect the vulnerable population during an epidemic, including but not limited to women, children, persons with disability, persons of scheduled castes and tribes, other backward castes, and the persons falling below poverty line;

(d) provisions for protecting the providers of essential services including healthcare personnel, police force, sanitation workers; and 5

(e) provisions to ensure equitable access to resources including healthcare, education, food, water, safe living spaces.

CHAPTER IV

DECLARING AN EPIDEMIC

Declaration of Epidemic at National or State level. **11. (1)** The Prime Minister shall declare a disease as a national epidemic on the request of the Union Minister of Health and Family Welfare, in consultation with the National Commission. 10

(2) The Chief Minister shall declare a disease as a state epidemic on the request of Minister of Health of the respective State, in consultation with the State Commission.

(3) The declaration shall be done within twenty four hours after receipt of such a request by the Prime Minister or the Chief Minister, respectively as the case may be. 15

Content of Declaration. **12. (1)** The declaration of the epidemic shall contain the name of the epidemic; timeline, location and scope of occurrence of the epidemic; causes, ways of transmission, nature and danger of the epidemic; measures for preventing and controlling the epidemic and health establishments that shall admit and treat persons suffering from an epidemic disease. 20

(2) The content of declaration may vary according to the information available on the epidemic at the time of declaration.

Declaration of termination. **13. (1)** The Prime Minister at National level and the Chief Minister in States shall be responsible for declaration of the termination of an epidemic, in consultation with the respective Health Ministers. 25

(2) The termination of an epidemic shall be declared when:

(a) no new cases of infection are detected after a certain period of time and such other conditions are met for each epidemic as stipulated by the National Commission in case of declaration of a national epidemic or the State Commission in case declaration of a state epidemic, as the case may be; and 30

(b) anti-epidemic measures to the satisfaction of the National Commission or the State Commission as the case may be, have been taken.

Effect of Declaration. **14. (1)** In case of declaration of national epidemic, the National Commission shall execute the National Epidemic Plan with immediate effect.

(2) In case of declaration of state epidemic, the State Epidemic Commission shall execute the State Epidemic Plan with immediate effect. 35

(3) Mass media agencies shall carry accurate, prompt and truthful information after the declaration of an epidemic and declaration of the termination of an epidemic with proper details provided by competent agencies.

CHAPTER V

40

SPECIAL POWERS DURING DECLARATION OF AN EPIDEMIC

Powers regarding facilities and materials. **15.** The appropriate Government, in consultation with National or State Commissions may exercise, for such period as the epidemic exists, the following powers over facilities and materials:—

(i) to close, direct and compel the evacuation of, or to decontaminate or cause to be decontaminated any facility of which there is reasonable cause to believe that it may endanger public health; and

5 (ii) to decontaminate or cause to be decontaminated, or destroy any material of which there is reasonable cause to believe that it may endanger the health of the public.

16. The appropriate Government, in consultation with National or State Commissions may exercise, for such period as the epidemic exists, the following powers concerning facilities, materials, roads, or public areas —

Powers regarding access to and control of facilities and property.

10 (i) to procure, by eminent domain or otherwise, construct, lease, transport, store, maintain, renovate, or distribute materials and facilities as may be reasonable and necessary to contain the epidemic, with the right to take immediate possession thereof.

15 *Explanation,—for the purpose of this clause, materials and facilities include, but not limited to, communication devices, transport, real estate, fuels, food, and clothing.*

20 (ii) to require a health care facility to provide services or the use of its facility if such services or use are reasonable and necessary to contain the epidemic as a condition of licensure, authorization or the ability to continue doing business in the state as a health care facility including transferring the management and supervision of the health care facility to appropriate authority for a limited or unlimited period of time, but shall in no circumstance exceed the termination of the declaration of a state of public health emergency;

25 (iii) to inspect, control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or any other means, the use, sale, dispensing, distribution, or transportation of food, fuel, clothing and other commodities, as may be reasonable and necessary to contain the epidemic; and

(iv) control of roads and public areas:—

30 (a) to prescribe routes, modes of transportation, and destinations in connection with the evacuation of persons or the provision of essential services; and

(b) to control or limit ingress and egress to and from any stricken or threatened public area, the movement of persons within the area, and the occupancy of premises therein, if such measure is reasonable and necessary to contain the epidemic.

35 17. The appropriate Government, in consultation with National or State Commissions may exercise, for such period as the epidemic exists, the following powers regarding the safe disposal of infectious waste—

Safe Disposal of infectious waste.

40 (i) to lay down, adopt and enforce measures to provide for the safe disposal of infectious waste as may be reasonable and necessary to contain the epidemic including the collection, storage, handling, destruction, treatment, transportation, and disposal of infectious waste;

45 (ii) To require any business or facility authorized to collect, store, handle, destroy, treat, transport, and dispose of infectious waste under the laws of the State, and any landfill business or other such property, to accept infectious waste, or provide services or the use of the business, facility, or property if such measure is reasonable and necessary to contain the epidemic by condition of licensure, authorization, or the ability to continue doing business in the State as such a business or facility and the use of the business, facility, or property may include transferring the management and

supervision of such business, facility, or property to the appropriate authority for a limited or unlimited period of time, but shall not exceed the termination of the declaration of a national or state epidemic.

(iii) to procure, by eminent domain or otherwise, any business or facility authorized to collect, store, handle, destroy, treat, transport, and dispose of infectious waste under the appropriate laws and any landfill business or other such property as may be reasonable and necessary to contain the epidemic, with the right to take immediate possession thereof; and 5

(iv) to direct that all bags, boxes, or other containers for infectious waste shall be clearly identified as containing infectious waste, and if known, the type of infectious waste. 10

Safe dispose of human remains.

18. The appropriate Government, in consultation with National or State Commissions may exercise, for such period as the epidemic exists, the following powers regarding the safe disposal of human remains—

(i) to lay down adopt and enforce measures to provide for the safe disposal of human remains as may be reasonable and necessary to contain the epidemic including the embalming, burial, cremation, interment, disinterment, transportation, and disposal of human remains; 15

(ii) to take possession or control of any human remains;

(iii) to order the disposal of any human remains of a person who has died of a contagious disease through burial or cremation within twenty-four hours after death: 20

Provided that the religious, cultural, family, and individual beliefs of the deceased person or his or her family shall be considered when disposing of any human remains;

(iv) to require any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of human remains under the laws of the State to accept any human remains or provide the use of its business or facility if such steps are reasonable and necessary to contain the epidemic as a condition of licensure, authorization, or the ability to continue doing business in the State as such a business or facility including transferring the management and supervision of such business or facility to the appropriate authority for a limited or unlimited period of time, but shall not exceed the termination of the declaration of a state of public health emergency. 25 30

(v) to procure, by eminent domain or otherwise, any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of human remains under the laws of the State as may be reasonable and necessary to contain the epidemic, with the right to take immediate possession thereof. 35

(vi) to direct that each human remains prior to disposal shall be clearly labelled with all available information to identify the deceased and the circumstances of death and to require that any human remains of a deceased person with a contagious disease shall have an external, clearly visible tag indicating that the human remains is infected and, if known, the contagious disease. 40

(vii) to require every person in charge of disposing of any human remains to maintain a written or electronic record of each human remains and all such available information to identify the deceased and the circumstances of death and disposal:

Provided that human remains cannot be identified prior to disposal, a qualified person shall, to the extent possible, take fingerprints and photographs of the human remains, obtain identifying dental information, and collect a DNA specimen which shall be promptly forwarded to the appropriate authority, in such manner as may be prescribed. 45

19. (1) The appropriate Government, in consultation with National or State Commission, may purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies that it deems advisable in the interest of preparing for or controlling an epidemic. Control of health care supplies.
- 5 (2) If the epidemic results in a State-wide or regional shortage or threatened shortage of any product or, whether or not such product has been purchased by the appropriate authority, the appropriate Government, in consultation with National or State Commission, may control, restrict and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the public health, safety and welfare of the people.
- 10 (3) The appropriate Government may, during an epidemic, procure, store, or distribute any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the State as may be reasonable and necessary to contain the epidemic, with the right to take immediate possession thereof.
- 15 20. The appropriate Government shall pay fair compensation to the owner of any facilities or materials that are lawfully taken or appropriated by it for its temporary or permanent use under this Act, in such manner as may be prescribed. Compensation.
- 20 21. (1) To the extent consistent with the protection of public health, prior to the destruction of any property under this Act, the appropriate Government, in Consultation with National or State Commission, shall institute appropriate Civil proceedings against the property to be destroyed in accordance with the existing laws. Destruction of property.
- (2) Any property acquired by the appropriate Government through such proceedings shall, after entry of the decree, be disposed of by destruction as court may direct.
- 25 22. The appropriate Government may use every available means during an epidemic to prevent the transmission of infectious disease and to ensure that all cases of contagious disease are subject to proper control and treatment. Protection of persons.
- 30 23. (1) The appropriate Government may perform physical examinations and tests during an epidemic as is necessary for the diagnosis or treatment of individuals. Medical examination and testing.
- (2) The appropriate Government shall ensure that, —
- (i) Medical examinations or tests shall be performed by such qualified person authorized by the appropriate Government.
- (ii) Medical examinations or tests are not such as are reasonably likely to lead to serious harm to the affected individual.
- 35 (3) The appropriate Government may isolate or quarantine, any person whose refusal of medical examination or testing results in uncertainty regarding whether he or she has been exposed to or is infected with a contagious or possibly contagious disease or otherwise poses a danger to public health.
- 40 24. The appropriate Government may exercise the following emergency powers during an epidemic over persons as necessary to address the public health emergency— Vaccination and treatment.
- (1) to administer vaccination:—
- (a) vaccination shall be performed by any qualified person authorized to do so by the appropriate Government;
- (b) a vaccine to be administered shall not be such as is reasonably likely to lead to serious harm to the affected individual; and
- 45 (c) to prevent the spread of contagious or possibly contagious disease, the appropriate Government may isolate or quarantine, persons who are unable or unwilling

for reasons of health, choice or conscience to undergo vaccination pursuant to this Act.

(2) to treat persons exposed to or infected with disease,—

(a) treatment may be administered by any qualified person authorized to do so by the appropriate Government; 5

(b) treatment shall not be such as is reasonably likely to lead to serious harm to the affected individual; and

(c) to prevent the spread of contagious or possibly contagious disease, the appropriate Government may isolate or quarantine persons who are unable or unwilling for reasons of health, religion, or conscience to undergo treatment pursuant to this Act. 10

Procedure for isolation and quarantine.

25. (1) During an epidemic, the isolation and quarantine of individuals or groups shall be done by procedure established under this Act.

(2) The designated agencies may quarantine or isolate an individual or a group of individuals after obtaining a written directive from the concerned District Magistrate in such manner as may be prescribed. 15

(3) A notice, physically or electronically, shall be served to the individual or group of individuals identified to be isolated atleast twenty four hours before the isolation or quarantine is set to begin.

(4) The individual shall have the right to be heard by the District Magistrate. 20

(5) The hearing shall take place in such manner as may be prescribed.

(6) Notwithstanding anything in this section, the appropriate Government may temporarily quarantine or isolate a person without notice, if it has reasonable grounds to believe that such quarantine or isolation is in larger public interest:

Provided that a written record of such grounds shall be maintained with the appropriate Government and shall be made available to the person being subjected to quarantine or isolation. 25

Testing.

26. The appropriate Government may collect specimens and perform tests on living persons, deceased person, animal (living or deceased), and acquire any previsously collected specimen that are reasonable and necessary to respond to the epidemic. 30

Access to and disclosure of protected health information.

27. (1) The appropriate Government shall ensure privacy of persons at all stages including medical testing, treatment, vaccination, isolation, or quarantine.

(2) The access to non-identifiable protected health information of persons who have participated in medical testing, treatment, vaccination, isolation, or quarantine shall be provided to persons having a legitimate need to acquire or use the information: 35

Provided that legitimate need may include the treatment of the person who is the subject of health information; epidemiologic research; investigation into the causes of transmission or any other case as may be specified.

(3) Disclosure of protected information shall not be done to anyone without individual, written, specific and informed consent. 40

(4) Notwithstanding anything mentioned in this cause, disclosures may be made without consent:

(a) directly to the individual;

(b) to the individual's immediate family members or personal representative;

(c) in pursuance of any procedure established by law; 45

- (d) in pursuance of a court order or decree; and
- (e) to identify a deceased individual or to determine the manner or cause of death.

CHAPTER VI

DISSEMINATION OF INFORMATION

5

28. The appropriate Government shall inform the people when an epidemic has been declared or terminated, the measures to protect themselves during an epidemic, and the measures being taken to control the epidemic in such manner as may be prescribed. Dissemination of Information.

(1) The appropriate Government shall provide information by all available and reasonable means calculated to bring the information promptly to the attention of the general public including dissemination of information through more than two daily newspapers in English as well as local languages of the State, official websites of the appropriate Government updated at-least twice a day.

(2) The provision of information shall be made in a manner accessible to individuals with disabilities.

Explanation,— for the purpose of the section, information shall include but not limited to, number of cases recovered, total number of cases, number of casualties, number of people tested district wise, patient demographics, details of fatal cases, details on imported cases, or any such information as laid down by the National or State Commission and all the information shall be available in the archives digital as well as physically and shall be updated regularly on the digital medium.

CHAPTER VII

OFFENCES AND PENALTY

29. (1) Whoever knowingly obstructs the implementation of the provisions of this Act or aids and abets or incites said obstruction or restricts the scope of the provisions or performs any activity deemed to be an offence against elder persons under this Act or any other law shall be liable to be punished with imprisonment of not less than six months extendable upto two years or a fine of not less than rupees twenty thousand extendable upto rupees two lakh or both. Offences and penalty.

(2) Where any offence as described in sub-section (1) has been committed by an establishment, every person who, at the time the offence was committed, was the appointed head or was directly in charge of, and was responsible to the establishment for the conduct of its business, as well as the establishment, shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in sub-sections (1) and (2) shall render any such person liable to any punishment if they prove that the offence was committed without their knowledge or that all due diligence was exercised to prevent the commission of such offence.

CHAPTER VIII

MISCELLANEOUS

30. Any person authorized to take any measures under this Act or any order or rule made thereunder, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860. Public Servant.

31. No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or order made thereunder. Act done in good faith.

Act to have overriding effect.

32. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent there with contained in any other law for the time being in force.

Power to make rules.

33. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act: 5

Provided that the State Government may notify suitable amendments in the rules, in consultation with Central Government, as considered appropriate to the circumstances of each State.

Central Government to provide funds.

34. The Central Government shall, after due appropriation made by Parliament by law made in this behalf, provide funds for carrying out the purposes of this Act. 10

35. (1) The Epidemic Diseases Act, 1897 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any measure taken under the provisions of the aforesaid Act, shall, in so far as such thing or measure is not inconsistent with the provisions of this Act, be deemed to have been taken under the provisions of this Act as if the said provisions were in force when such thing was done or such measure was taken and shall continue in force accordingly until superseded by anything done or any measure taken under this Act. 15

STATEMENT OF OBJECTS AND REASONS

India has seen outbreaks of multiple epidemics since independence. Each time a makeshift system is used to tackle the disease by invoking various legislations. The current administration of health policy in India is scattered between multiple laws and bodies, at the Central and the State level. In times of an epidemic, the Government often has to invoke different Acts to cope with the mounting pressure on the already insufficient health infrastructure of the country.

The Epidemic Diseases Act of 1897 is a British era law which has several lacunae. The Act uses ambiguous language to give unqualified powers to the Government. It fails to establish a definition of the "dangerous epidemic diseases" it is meant to contain.

In case a person is isolated or quarantined, the Act fails to lay down any criteria for regulating the conditions of such isolation. It fails to take cognizance of a patient's rights during a pandemic. The Act has not accommodated changing factors such as frequent overseas travel through air, interstate or international migration for work, increase in population, especially in cities and the current state of medical knowledge and health infrastructure.

The Act has been identified as an obsolete piece of legislation by various commissions, including Law Commission of India vide 248th Interim Report in September 2014, and the Report of the P.C. Jain Commission on Review of Administrative Laws in September, 1998. There is a need to repeal the Act in its current form and re-enactment in view of today's socio-economic context.

The Disaster Management Act, 2005 which is the next best legislation that can be invoked, empowers the Ministry of Home Affairs to take actions whereas in case of a pandemic, only the Ministry of Health & Family Welfare has the expertise and should be given the mandate to coordinate the nationwide response.

Thus, there is a pressing need for a single legislation to deal with epidemics, which is the objective of this Bill.

The Bill lays down a comprehensive plan to provide a coordinated and appropriate response in the event of an epidemic. It facilitates the early detection of an epidemic by creating a robust reporting system and by alerting the authorities during the early outbreak of a disease. It allows for investigation by granting access to individual's health information under specific circumstances.

The Bill equips Central, State and local Government with powers over properties, materials and other facilities which can be exercised reasonably when necessary for the care, treatment, and housing of patients and prevention of spread of the disease. They are also empowered to provide care, testing and treatment, and vaccination to persons who are ill or who have been exposed to the disease, and to separate affected individuals from the population at large to reduce disease transmission.

The Bill recognizes the importance of respecting the rights, dignity and privacy of patients during an epidemic and places sufficient restraint on the power given to authorities. The Bill encourages scientific understanding of public health threats and disease transmission and makes provision for information dissemination in accessible forms. The Bill also provides for an epidemic plan that would be made to protect the vulnerable groups during an epidemic.

The Bill provides Central, State and Local officials with the ability to prevent, detect manage, and contain emergency health threats without unreasonably interfering with civil rights and liberties.

Hence, this Bill.

DEREK O' BRIEN

FINANCIAL MEMORANDUM

Clauses 3 and 6 of the Bill, *inter-alia* provide for establishment of a National Epidemic Commission and State Epidemic Commission respectively.

Chapter V empowers the appropriate Governments, in the consultation with the National and State Epidemic Commission, to take special measures for decontamination of facilities and materials, safe disposal of infectious waste and human remains and purchase and distribution of healthcare supplies.

Clause 20 provides that appropriate Government shall pay just compensation to the owner of any facilities or materials that are lawfully taken or appropriated by it for its temporary or permanent use under this Bill.

Clause 34 provides that the Central Government shall provide funds for carrying out the purposes of the Bill.

The Bill, if enacted will involve additional expenditure from the Consolidated Fund of India, either recurring or non-recurring. At this stage, it is difficult to make any estimate of the expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

1. Clause 33 of the Bill gives power to the Central Government to make rules for carrying out the provisions of the Bill. The State Government may make amendments in such rules in consultation with Central Government, as deemed appropriate to the circumstances of the State.

2. The matters in respect of which the rules may be made are matters of procedure and administrative detail only. The delegation of legislative power is, therefore, of a normal character.

RAJYA SABHA

A

BILL

to provide for the effective prevention, preparedness and management of epidemics and for matters connected therewith or incidental thereto.

(Shri Derek O'Brien, M.P.)

MGIPMRND—877RS(S3)—8-8-2022.

THE INDIAN INSTITUTE OF NUCLEAR MEDICINE BILL, 2022

ARRANGEMENT OF CLAUSES

CLAUSES

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PRELIMINARY

1. Short title and commencement.
2. Definitions.

CHAPTER II

THE INSTITUTE

3. Establishment and incorporation of Institute of Nuclear Medicine.
4. Composition of the Institute.
5. Terms of office of, and vacancies among, members.
6. President of the Institute.
7. Allowance of President and members.
8. Meetings of the Institute.
9. Governing Body and other committee of the Institute.
10. Staff of the Institute.
11. Objects of the Institute.
12. Functions of the Institute.
13. Payment to the Institute.
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15. Budget of the Institute.
16. Accounts and audit.
17. Annual report.
18. Pension and Provident funds.
19. Authentication of orders and instruments of the Institute.
20. Acts and proceedings not be invalidated by vacancies, etc.
21. Grant of Medical degrees, diplomas etc.
22. Control by Central Government.
23. Resolution of differences.
24. Returns and information.
25. Power to make rules.
26. Power to make regulations.
27. Rules and regulations to be laid before Parliament.

Bill No. LI of 2022

THE INDIAN INSTITUTE OF NUCLEAR MEDICINE BILL, 2022

A

BILL

*to provide for the establishment, development and management of an
Institute for the education and training of Nuclear Medicine in India
and for matters connected therewith and incidental thereto.*

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

CHAPTER I

PRELIMINARY

- 5 **1.** (1) This Act may be called the Indian Institute of Nuclear Medicine Act, 2022. 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.
- 2.** In this Act, unless otherwise required— Definitions.
- (a) “Director” means the Director of the Institute appointed under section 10;
- 10 (b) “Fund” means the Fund of the Institute referred to in section 14;

(c) "Governing Body" means the Governing Body of the Institute constituted under section 9;

(d) "Institute" means The Indian Institute of Nuclear Medicine established under section 3;

(e) "member" means a member of the institution; 5

(f) "Nuclear Medicine" means a specialized area of radiology that uses very small amounts of radioactive materials, or radiopharmaceuticals, to examine organ function and structure;

(g) "President" means the President of the Institute referred to in Section 7;

(h) "regulation" means the regulations made by the Institute under this Act; 10

(i) "rule" means the rules made by the Central Government under this Act;

(j) "teacher" includes a Professor, Associate Professor, Assistant Professor or any persons appointed under this Act for the conduct of teaching or research work or imparting medical education in the Institute.

CHAPTER II 15

THE INSTITUTE

Establishment
and
incorporation
of the
Institute of
Nuclear
Medicine.

3. (1) With effect from such date, as the Central Government may by notification in the Official Gazette appoint in this behalf, there shall be established for the purposes of this Act an institution to be called the Indian Institute of Nuclear Medicine.

(2) The Institute 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 said name sue and be sued. 20

(3) The Institute shall be located in the State of Punjab.

Composition
of the
Institute.

4. The Institute shall consist of the following members, namely:—

(a) the Cabinet Secretary to the Government of India, *ex officio*; 25

(b) the Director General of Health Services, Government of India, *ex officio*;

(c) the Director of the Institute, *ex officio*;

(d) the Director of Central Drug Research Institute, *ex officio*;

(e) the Chairman of the National Medical Commission of India, *ex officio*;

(f) the Director-General of the Council of Scientific and Industrial Research or his nominee, *ex officio*; 30

(g) the Secretaries to the Government of India in Department of Health and Family Welfare, and Department of Atomic Energy, *ex officio*;

(h) two representatives to be nominated by the Central Government, one each from the Ministry of Finance and the Ministry of Education; 35

(i) four representatives of the medical faculties of Indian Universities to be nominated by the Central Government in such manner as may be prescribed;

(j) three members of Parliament of whom two shall be elected from among themselves by the members of the House of the People and one from among themselves by the members of the Council of States; and 40

(k) three persons representing the Indian Medical Association to be nominated by the Central Government in such manner as may be prescribed.

5. (1) Save as otherwise provided in this section, the terms of a member other than an *ex-officio* member shall be five years from the date of nomination or election, as the case may be:

Term of office of, and vacancies among, members.

5 Provided that the term of office of a member elected under clause (j) of section 4 shall come to an end as soon as he becomes a Minister or Minister of State or Deputy Minister or, or the Speaker or the Deputy Speaker of the House of the People, or the Deputy Chairman of the Council of States or ceases to be a member of the House from which he was elected.

10 (2) The terms of the office of an *ex-officio* member shall continue so long as he holds the office by virtue of which he is such a member.

(3) The term of the office of such a member nominated or elected to fill a casual vacancy shall continue for the remainder of the term of such member in whose place he is nominated or elected.

15 (4) An outgoing member shall, unless the Central Government otherwise directs, continue in office until another person is nominated or elected as a member in his place.

(5) An outgoing member shall be eligible for re-election.

(6) A member may resign by writing under his hand addressed to the Central Government, but he shall continue in his office until his resignation is accepted by the Central Government.

20 (7) The manner of filling the vacancies among the members shall be such as may be prescribed.

6. (1) There shall be a President for every Institute who shall be nominated by the Central Government from among the members other than the Director of the Institute.

President of the Institute.

(2) The President shall exercise such powers and discharge such functions as are laid down in this Act or as may be prescribed.

25 **7. The President and members shall receive such allowances, if any, from the Institute as may be prescribed.**

Allowances of President and members.

30 8. The Institute shall hold its first meeting at such time and place as may be appointed by the Central Government and shall observe such rules of procedure in regard to the transaction of business at the first meeting as may be laid down by that Government, and thereafter at such times and places and observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by regulation.

Meetings of the Institute.

9. (1) There shall be a Governing Body for the Institute which shall be constituted by such Institute from among its members in such manner as may be prescribed by regulations.

Governing Body and other committees of the Institute.

35 (2) The Governing Body shall be the Executive Committee of the Institute and shall exercise such powers and discharge such functions as the Institute may, by regulations made in this behalf, confer or impose upon it.

(3) The President of the Institute shall be the Chairman of the Governing Body and as Chairman thereof shall exercise such powers and discharge such functions as may be prescribed by regulations.

40 (4) The procedure to be followed in the exercise of its powers and discharge of its functions by the Governing Body, and the term of office of, and the manner of filling vacancies among, the members of the Governing Body shall be such as may be prescribed by regulations.

45 (5) Subject to such control and restrictions as may be prescribed, the Institute may constitute as many standing committees and as many *ad hoc* committees as it thinks fit for exercising any power or discharging any functions of the Institute or for inquiring into, or reporting or advising upon, any matter which the Institute may refer to them.

(6) A standing committee shall consist exclusively of three members of the Institute and an *ad hoc* committee may include persons who are not members of the Institute but the number of such persons shall not exceed one-half of its total membership.

(7) The Chairman and members of the Governing Body and the Chairman and members of a standing committee or an *ad hoc* committee shall receive such allowances, if any, as may be prescribed by regulations. 5

Staff of the
Institute.

10. (1) There shall be a Chief Executive Officer of the Institute who shall be designated as the Director and shall, subject to such rules as may be made by the Central Government in this behalf, be appointed by the Institute.

(2) The Director shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier. 10

(3) The Director shall act as the Secretary to the Institute as well as the Governing Body.

(4) The Director shall exercise such powers and discharge such functions as may be prescribed by regulations or as may be delegated to him by the Institute or the President of the Institute or by the Governing Body or the Chairman of the Governing Body. 15

(5) Subject to such rules as may be made by the Central Government in this behalf, the Institute may appoint such number of other officers and employees as may be necessary for the exercise of its powers and discharge of its functions and may determine the designations and grades of such other officers and employees. 20

(6) The Director and other officers and employees of the Institute shall be entitled to such salary and allowances and shall be governed by such conditions of service in respect of leave, pension, provident fund and other matters as may be prescribed by regulations made in this behalf.

Objects of the
Institute.

11. The objects of the Institute shall be— 25

(a) to develop patterns of teaching in under-graduate and post-graduate medical education in Nuclear Medicine and all its branches so as to demonstrate a high standard of medical education to all medical colleges and other allied institutions in India;

(b) to bring together in one place educational facilities of the highest order for the training of personnel in all important branches of Nuclear Medicine; and 30

(c) to attain self-sufficiency in post-graduate medical education.

Functions of
the Institute.

12. With a view to promotion of the objects specified in section 11, the Institute may—

(a) provide for under-graduate and post-graduate teaching in Nuclear Medicine and other allied sciences, including physical and biological sciences; 35

(b) provide facilities for research in the various branches of Nuclear Medicine;

(c) conduct experiments in new methods of Nuclear Medicine, both under-graduate and post-graduate, in order to arrive at satisfactory standards of such education;

(d) prescribe courses and curricula for both under-graduate and post-graduate studies in Nuclear Medicine; 40

(e) notwithstanding anything contained in any other law for the time being in force, establish and maintain—

(i) one or more medical colleges with different departments, including a department of radiology, sufficiently staffed and equipped to undertake not only under-graduate medical education but also post-graduate medical education in different subjects; 45

(ii) one or more well-equipped hospitals;

(iii) a nursing college sufficiently staffed and equipped for the training of nurses;

5 (iv) rural and urban health organisations which will form centres for the field training of the students of the Institute as well as for research into community health problems; and

(v) other institutions for the training of different types of health workers;

(f) train teachers for the different medical colleges in India;

10 (g) hold examinations and grant such degrees, diplomas and other academic distinctions and titles in under-graduate and post-graduate medical education as may be laid down in the regulations;

(h) institute, and appoint persons to, professorships, readerships, lectureships and posts of any description in accordance with regulations;

15 (i) received grants from the Government and gifts, donations, benefactions, bequests and transfers of properties, both movable and immovable, from donors, benefactors, testators or transferors, as the case may be;

(j) deal with any property belonging to, or vested in, the Institute in any manner which is considered necessary for promoting the objects specified in section 11;

20 (k) demand and receive such fees and other charges as may be prescribed by regulations;

(l) construct quarters for its staff and allot such quarters to the staff in accordance with such regulations as may be made in this behalf;

(m) borrow money, with the prior approval of the Central Government, on the security of the property of the Institute.

25 **13. The Central Government may, under appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as may be considered necessary by that Government for the exercise of its powers and discharge of its functions under this Act.**

Payment to the Institute.

30 **14. (1)** The Institute shall maintain a Fund to which shall be credited—

Fund of the Institute.

(a) all moneys provided by the Central Government;

(b) all fees and other charges received by the Institute;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

35 (d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.

40 (3) The fund shall be utilised towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its functions under section 12.

15. The Institute shall prepare, in such form and at such time every year as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure of the Institute and shall forward to the Central Government such number of copies thereof, as may be prescribed.

Budget of the Institute.

Accounts and audit.	<p>16. (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in such form as the Central Government may by rules prescribe in consultation with the Comptroller and Auditor-General of India.</p> <p>(2) The accounts of the Institute 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 Institute to the Comptroller and Auditor General of India.</p> <p>(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute 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 Institute as well as of the institutions established and maintained by it.</p> <p>(4) The accounts of the Institute 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 that Government shall cause the same to be laid before both Houses of Parliament.</p>	5
Annual report.	<p>17. The Institute shall prepare for every year a report of its activities during that year and submit the report to the Central Government in such form and on or before such date as may be prescribed and a copy of this report shall be laid before both Houses of Parliament within one month of its receipt.</p>	20
Pension and Provident funds.	<p>18. The Institute shall constitute for the benefit of its officers, teachers and other employees, in such manner and subject to such conditions as may be prescribed by regulations, such pension and provident funds as it may deem fit.</p>	25
Authentication of the orders and instruments of the Institute.	<p>19. All orders and decisions of the Institute shall be authenticated by the signature of the President or any other member authorised by the Institute in this behalf and all other instruments shall be authenticated by the signature of the Director or any other officer of every Institute authorised by the Institute, as may be prescribed.</p>	
Acts and proceedings not to be invalidated by vacancies, etc.	<p>20. No act done or proceeding taken by the Institute, Governing Body or any standing or <i>ad hoc</i> committee under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Institute, Governing Body or such standing or <i>ad hoc</i> committee.</p>	30
Grant of medical degrees, diplomas etc. by the Institute.	<p>21. Notwithstanding anything contained in any other law for the time being in force, the Institute shall have power to grant medical, dental or nursing degrees, diplomas and other academic distinctions and title under this Act.</p>	35
Control by Central Government.	<p>22. The Institute shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.</p>	
Resolution of differences.	<p>23. If in, or in connection with, the exercise of its powers and discharge of its functions by the Institute under this Act, any dispute arises between the Institute and the Central Government, the decision of the Central Government on such dispute shall be final.</p>	40
Returns and information.	<p>24. The Institute shall furnish to the Central Government such reports, returns and other information as that Government may require from time to time.</p>	
Power to make rules.	<p>25. (1) The Central Government, after consultation with the Institute, may, by notification in the Official Gazette, make rules to carry out the purposes of this Act:</p> <p style="padding-left: 40px;">Provided that consultation with the Institute shall not be necessary on the first occasion of the making of rules under this section, but the Central Government</p>	45

shall take into consideration any suggestions which the Institute may make in relation to the amendment of such rules after they are made.

(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:—

- 5 (a) the manner of nomination of members under clause (i) of section 4;
- (b) the control and restrictions in relation to the constitution of standing and *ad hoc* committees under sub-section (5) of section 9;
- (c) the conditions of service of, the procedure to be followed by, and the manner of filling vacancies among, members of the Institute;
- 10 (d) the powers and functions to be exercised and discharged by the President of the Institute;
- (e) the allowances, if any, to be paid to the President and members of the Institute;
- (f) the number of officers and employees that may be appointed by the Institute and the manner of such appointment;
- 15 (g) the form in which and the time at which the budget and annual reports shall be prepared by the Institute and the number of copies thereof to be forwarded to the Central Government;
- (h) the form and manner in which returns and information are to be furnished by the Institute to the Central Government; and
- 20 (i) any other matter which has to be or may be prescribed by rules.

25 **26.** (1) The Institute with the previous approval of the Central Government, may, by notification in the Official Gazette make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act, and without prejudice to the generality of this power, such regulations may provide for—

Power to make regulations.

- (a) the summoning and holding of meetings other than the first meeting of the Institute, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of members necessary to form a quorum;
- 30 (b) the manner of constituting the Governing Body and standing and *ad hoc* committees, the term of office of, and the manner of filling vacancies among, the members of, the Governing Body and standing and *ad hoc* committees;
- (c) the powers and functions to be exercised and discharged by the President of the Institute and the Chairman of the Governing Body;
- 35 (d) the allowances, if any, to be paid to the Chairman and the members of the Governing Body and of standing and *ad hoc* committees;
- (e) the procedure to be followed by the Governing Body and standing and *ad hoc* committees in the conduct of their business, exercise of their powers and discharge of their functions;
- 40 (f) the tenure of office, salaries and allowances and other conditions of service of the Director and other officers and employees of the Institute including teachers appointed by the Institute;
- (g) the powers and duties of the Chairman of the Governing Body;
- (h) the powers and duties of the Director and other officers and employees of the Institute;
- 45 (i) the management of the properties of the Institute;

(j) the degrees, diplomas and other academic distinctions and titles which may be granted by the Institute;

(k) the professorships, readerships, lectureships and other posts which may be instituted and persons who may be appointed to such professorships, readerships, lectureships and other posts;

5

(l) the fees and other charges which may be demanded and received by the Institute;

(m) the manner in which, and the conditions subject to which, pension and provident funds may be constituted for the benefit of officers, teachers and other employees of the Institute; and

10

(n) any other matter for which under this Act provisions may be made by regulations.

(2) Until the Institute is established under this Act, any regulation which may be made under sub-section (1) may be made by the Central Government, and any regulation so made may be altered or rescinded by the Institute in exercise of its powers under sub-section (1).

15

Rules and regulations to be laid before Parliament.

27. Every 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, 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.

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STATEMENT OF OBJECTS AND REASONS

Mankind on every state of its existence and growth has always dealt with many adverse situations be it manmade or an act of God. Diseases like the ongoing Covid-19 have impacted the human civilisation a lot, many a times bringing it at a standstill. Humans from time to time, whilst facing hardships have taken out new methods and developed nuclear medicine technologies to tackle such diseases. The case of diseases like cancer, AIDS and HIV are not very different.

Humans till date have not been able to find a permanent cure to life threatening diseases like cancer which is now becoming a major cause of death amongst millions around the world. To treat such illnesses, non-conventional techniques like the use of nuclear medicine technology could be very useful. A technology, well-known for its ability to cause destruction is now being used to treat major terminal illnesses. However, the use and availability of these kinds of treatments still remain limited and not open to everyone.

Cancer cases in India increased at an average annual rate of 1.1 to 2 per cent. from 2010-2019, according to many reports. Deaths from cancer in the country also went up at an average rate of 0.1 to 1 per cent. in the same period. New cancer cases jumped to over 23 million in 2019 from 18.7 million in 2010. Cancer deaths reached 10 million in 2019 from 8.29 million in 2010. These figures represent an increase of 20.9 per cent. and 26.3 per cent. respectively. In 2019, cancer was the leading cause of deaths globally after cardiovascular diseases, the report showed. TBL cancer was the top cause of cancer deaths among males in 119 countries and territories and females in 27 countries and territories.

Nuclear medicine therapy is an approach to treating cancer that might be used with or after other treatment options, such as chemotherapy and surgery. It won't usually lead to a cure unless combined with other therapies. But for many people it will control symptoms and shrink and stabilize the tumours, sometimes for years. Nuclear medicine therapy is sometimes the best option for people who no longer respond to other treatments.

Nuclear medicine therapy, is also called peptide receptor radionuclide therapy (PRRT), targeted radiotherapy, radionuclide therapy therapeutic nuclear medicine and a theragnostic approach to treating cancer. Opening a university or institution to conduct research, making this technology could turn to be a revolutionary move that can make India a pioneer in the field of nuclear medicine technology.

The location for this Institute has been proposed in Punjab as the state of Punjab is heavily dependent on rural economy and agriculture, and even lacks basic healthcare facilities. Establishing an Institute like this would help and promote diversification of its economy. The move could lead to rapid development of local healthcare facilities and infrastructure that could lead to increase in life expectancy and other factors related to human development index, eventually improving the living standards to the local residents of the state.

Through this Institute India could collaborate with the global community to develop and evolve nuclear medicine technology into a widely used and a safer alternative. Nuclear medicine can not only treat cancer but other diseases related to heart and other vital organs.

Nuclear medicine can also be considered as a very accurate measure especially when it comes to treating and curing cancer. This type of medicine technology is used across the world through various world class bodies like the Pennsylvania College of Health Sciences in the United States or institutions like AIIMS in India. This Bill aims at creating an Institute that solely focuses on the development of Nuclear Medicine Technology. There has been little exploration in the development of nuclear technology and it would require a

lot of capital from both the government (at all levels) and also the thriving private industry of India. Institutions of such magnitude would require world class sophisticated equipment for study and research purposes.

The Bill has made provisions that bring the Institute under the supervision of the Department of Atomic Energy that will help in securing the safety of people working with the technology and maintaining the secrecy of its confidential information. The Institute would attract highly trained and educated professionals as its faculty members and employees, supported by the autonomy to formulate its own rules and policy and would have the opportunity to collaborate with other government institutions like DRDO and AIIMS.

Therefore establishing this Institute to conduct research in the field of nuclear medicine technology would be a revolutionary move, that could make India a pioneer in this field. Further, such research would also increase the use and awareness of this type of medical treatment by making it affordable for masses and guarding the technology to avoid misuse of the same.

Hence, this Bill.

DR. ASHOK KUMAR MITTAL

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to establish an Institute to be known as the Indian Institute of Nuclear Medicine. Clause 7 provides for allowance of President and members of the Institute. Clause 9 provides for allowances to the Chairman and members of the Standing or *ad hoc* Committees. Clause 13 requires for the Central Government to make payment to the Institute for exercise of its powers and discharge of its functions under this Act. The Bill, if enacted, would involve additional expenditure from the Consolidated Fund of India and it is difficult to estimate the expenditure at this juncture.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 25 and 26 of the Bill empower the Central Government to make rules and regulations for carrying out the purposes of this Bill. The rules and regulations will relate to matters of details only.

The delegation of legislative power is of normal character.

RAJYA SABHA

A

BILL

to provide for the establishment, development and management of an
Institute for the education and training of Nuclear Medicine in India
and for matters connected therewith and incidental thereto.

(Dr. Ashok Kumar Mittal, M.P.)

MGIPMRND—861RS(S3)—08.08.2022.

Bill No. XLIX of 2022

THE INDIAN PENAL CODE (AMENDMENT) BILL, 2022

A

BILL

further to amend the Indian Penal Code, 1860.

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

1. (1) This Act may be called the Indian Penal (Amendment) Act, 2022.

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.

45 of 1860. 5

2. In the Indian Penal Code, 1860 after section 295A, the following sections shall be inserted, namely:—

Insertion of new sections 295B & 295C.

10 **"295B.** Whoever willfully defiles, damages or desecrates copy of Srimad Bhagwad Gita, Sri Gurugranth Sahib, Holy Quran, Holy Bible or any holy scripture by whatever name called or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose or with the intentions to hurt the religious feelings of the people, shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine or with both.

Willfully defiling of Srimad Bhagwad Gita, Sri Gurugranth Sahib, Holy Quran and Holy Bible etc.

Use of impious
utterance or
action
concerning
God or sacred
things.

295C. Whoever, by words, either spoken or written or by visible representation or by any imputation, innuendo or insinuation directly or indirectly, defiles the sacred names concerning God or sacred things, shall be punishable with imprisonment for life and with fine."

STATEMENT OF OBJECTS AND REASONS

In India, secularism has been highlighted in Preamble and the Fundamental Rights in the Constitution of India. Articles 25, 26, 27 and 28 of the Constitution provide religious freedom to all citizens of India and articles 29 and 30 provide cultural and educational rights. However, these provisions do not imply separation of religion and State. Currently, around 25 per cent. of the countries in the world have defined punishments of criminal nature for the offence of blasphemy. In India, blasphemy is punishable under provisions of Indian Penal Code, 1860. Since, India is a secular State, all the religions and even different denominations thereof is protected under the blasphemy law.

Recently, a wave of religious fanaticism has engulfed the entire globe, its magnitude is no less in India, which has been witnessing the same trend. Religious sensitivities, once provoked can immediately lead to conflagration and get uncontrolled. Freedom of expression should not outrage the freedom and sensitivities of others. The proposed Bill implies that sacrilege and blasphemy are socially and culturally unacceptable. It is in time with recent events of intolerance and outrage against diverse religious sentiments.

The Bill aims to maintain peace and tranquillity among the citizens. It, proposes to further criminalise acts of blasphemy committed by way of defiling the holy books and scriptures and sacred names and things concerning God. The Bill is a symbol of cultural and religious affirmation and prohibits incitement of hatred in the name of religion or the actions or offence of speaking sacrilegiously.

Hence, this Bill.

DR. ASHOK BAJPAI

RAJYA SABHA

A

BILL

further to amend the Indian Penal Code, 1860.

(Dr. Ashok Bajpai, M.P.)

MGIPMRND—863RS—08-08-2022.

Bill No. XXX of 2022

THE INFORMATION TECHNOLOGY (AMENDMENT) BILL, 2022

A

BILL

further to amend the Information Technology Act, 2000.

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

1. (1) This Act may be called the Information Technology (Amendment) Act, 2022. Short title and commencement.

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

2. In section 2 of the Information Technology Act, 2000 (hereinafter referred to as the principal Act):— Amendment of section 2.

(i) after clause (tb), the following clauses shall be inserted, namely:—

(tc) "false information" includes information that is either verifiably false,
10 defamatory or of such a nature as to not be verifiable.

(tb) "family" includes any persons related by blood or marriage or adoption.

(ii) After clause (za), the following clause shall be inserted, namely:—

(zaa) "physical violence" includes assault, simple hurt, grievous hurt, kidnapping, abduction, attempt to murder and murder.

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

"(zfa) "sexual assault" means rape, molestation or any act which violates the bodily integrity of a woman;" 5

(iv) After clause (zg), the following clause shall be inserted, namely:—

"(zga) "threat" means any expression through word, sound, gesture or any audio-visual communication whatsoever of an intention to cause harm, alarm, intimidation or harassment or for incitement of harm, alarm, intimidation or harassment by any person;" 10

(v) After clause (zh), the following clause shall be inserted, namely:—

(zi) "woman" means any female regardless of age.

Insertion of new section 66G.

3. After section 66F of the principal Act, the following section shall be inserted, namely:— 15

Punishment for threatening a woman to express her opinion etc.

"66G. (1) The following acts shall be considered punishable offences, when committed against a woman, with the intention to intimidate or discredit her or force her to express a certain view, opinion or observation, or to force her to state any view, opinion or observation or to force her to refrain from expressing a certain view, opinion or observation:—

(a) threat of physical violence against a woman, her family or her property; 20

(b) threat of sexual assault;

(c) threat to reveal personal information including, but not limited to, her location, place of work and any other relevant detail which may be used to harm her physically or mentally;

(d) threat to spread false information about her; 25

(e) threat to question a person's citizenship or imputation of disloyalty to India;

(f) threat of false prosecution; and

(g) abuse based on religion, caste or sexuality.

(2) The offences referred to in section 66G (1) shall be cognizable and non-bailable and shall be punishable in the following manner:— 30

(i) For the first offence, the person shall be punishable with a maximum punishment of three years or with a fine of upto fifty thousand rupees.

(ii) For the second offence, the person shall be punishable with a maximum punishment of seven years and with a fine of upto four lakh rupees.

(iii) For the third and subsequent offences, the person shall be punishable with a maximum punishment of ten years and with a fine of upto ten lakh rupees: 35

Provided that the offence under section 66G shall be compoundable at the discretion of the victim.

(3) If any threat punishable under section 66G is carried out by the person making such threat or any other person incited by such person, the punishment shall be ten years imprisonment and with a fine of upto ten lakh rupees. 40

(4) Any amount imposed as fine under this section shall be paid to the victim as compensation."

Insertion of new section 67BA.

4. In the Principal Act, after section 67B, the following section shall be inserted, namely:— 45

67BA. (1) Any person who is the victim of any offence under sections 66E, 66G, 67, 67A or 67B of this Act or a police officer investigating the same, shall have the right to approach the jurisdictional Magistrate for grant of an injunction against the accused, or any other person, company, organisation or entity for deletion of the offensive text, image, audio, video or other format and for prohibition from storing, retransmitting or repeating the offensive text, image, audio, video or other format, as the case may be.

Grant of injunctions under section 66E, 66G, 67, 67A and 67B.

(2) The Magistrate shall grant the injunction without notice to the accused if he is satisfied that *prima facie*, a case of an offence under sections 66E, 66G, 67, 67A and 67B of this Act exists.

(3) The order of the Magistrate under sub-section (2) shall also be served upon any person, company, organisation or entity in conformity with the provisions of this Act and the rules made thereunder for compliance.

(4) Any application under sub-section (1) shall be decided on the same day:

Provided that for reasons to be recorded, the Magistrate may dispose of the application within seven days.

(5) The injunction under sub-section (2) may be granted at the instance of the victim or of the investigating officer.

(6) Any order passed under this section shall be subject to revision in accordance with section 397 of the Code of Criminal Procedure, 1973.

2 of 1974.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to ensure the physical, social, religious, cultural, psychological and economic safety and well-being of women, particularly women who are targeted for reason of their religion, caste, economic status, social status or occupation. Women's autonomy of free speech and action is often curtailed by threats, abuse and actions designed to make women feel insecure and uncomfortable in the public sphere, particularly on the internet. Those who would seek to silence women in this manner use their purported anonymity to further their nefarious intentions. This is driven, at least in part, by a misapprehension that the law will not catch up with them.

2. This Bill, while being mindful of the fact that freedom of speech is a fundamental right recognises that free speech amounting to abuse interferes with the fundamental right to freedom of speech for others. Persistent abuse and creation of insecurity causes actionable wrongs not only against the individual but leads to deterioration of public order. The need is to ensure that attempts to silence women are adequately punished. Further, an effective and easy mechanism has to be available to women to ensure that offensive material is scrubbed quickly and effectively from the internet. Mere punishment of the offender does not protect the victim who may be subject to distress due to the continued existence or transmission of abusive material against her. As such, the facility of obtaining an order of scrubbing such material from the internet is a very necessary one for women who are so targeted on the internet, social media or other digital fora.

3. Hence, this Bill.

DEREK O' BRIEN

RAJYA SABHA

A
BILL

further to amend the Information Technology Act, 2000.

(Shri Derek O' Brien, M.P.)

MGIPMRND—879RS(S3)—8-8-2022.

Bill No. LIV of 2022

THE NATIONAL EMPLOYMENT GUARANTEE BILL, 2022

A

BILL

to ensure minimum one hundred days of work to all citizens within the age of eighteen to forty years in accordance with their educational qualification or skill as the case may be, and to provide unemployment allowance to those persons, to whom the authority concerned failed to provide such minimum days of work and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the National Employment Guarantee Act, 2022.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint; and different dates may be appointed for different States or for different areas in a State 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 in such State or, as the case may be, in such area:

Provided that this Act shall be applicable to the whole of the territory to which it
10 extends within a period of three years from the date of its enactment.

Definitions.

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

(a) "adult" means a person who has completed his eighteenth year of age;

(b) "applicant" means an adult person who has not completed his fortieth year of age;

(c) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(d) "Fund" means the Employment Guarantee Fund established by the appropriate Government under section 9 of this Act;

(e) "minimum wage", in relation to any area, means the minimum wage fixed by the appropriate Government under the Code on Wages, 2019;

(f) "National Council" means the National Employment Registration Council constituted by the Central Government under sub-section (1) of section 5 of this Act;

(g) "prescribed" means prescribed by the rules made under this Act;

(h) "Scheme" means the Employment Guarantee Scheme made by the appropriate Government under section 4 of this Act;

(i) "State Council" means the State Employment Registration Council constituted by the State Government under sub-section (1) of section 6 of this Act.

Guarantee of minimum employment.

3. (1) Save as otherwise provided, the appropriate Government shall provide employment to every applicant, for not less than one hundred days in every financial year, in accordance with the Scheme made under this Act.

(2) Every person who has done the work given to him under the Scheme shall be entitled to receive the proportionate wages fixed under the Scheme.

(3) Save as otherwise provided in this Act, the disbursement of wages shall be made on weekly or monthly basis, as may be prescribed.

(4) The appropriate Government may within the limits of its financial capacity, make provisions for securing work or employment to the applicant for any period beyond the period guaranteed under sub-section (1).

Employment Guarantee Scheme.

4. (1) The appropriate Government shall notify a Scheme, namely, the Employment Guarantee Scheme to ensure minimum one hundred days of employment in a financial year under this Act.

(2) The appropriate Government shall furnish a report once in every year to the National Council or the State Council, as the case may be, the number of vacancies from various departments, corporations, Government bodies, semi-Government authorities, Boards and other authorities coming under such Government to accommodate the applicants under this Act, in such manner as may be prescribed.

(3) The appropriate Government shall categorize the vacancies as Grade-1, Grade-2, Grade -3, Skilled and Manual.

Explanation.—For the purposes of this sub-section,—

"Grade -1" means those vacancies that require a post-graduate degree or diploma or any other post-graduate qualification, from a recognised university;

"Grade -2" means those vacancies that require a graduate degree or diploma or any other graduate level qualification, from a recognised university;

"Grade -3" means those vacancies that require a Higher Secondary School Certificate from a recognised Board of Education;

"Skilled" means those vacancies that require a specific skill any particular area of employment; and

"Manual" means those vacancies that require physical work without any skill.

(4) The appropriate Government shall include in the Scheme, the mode of payment of unemployment allowance provided under section 10 of this Act.

5 **5. (1) The Central Government shall constitute a National Employment Registration Council within one year from the commencement of this Act.**

National
Employment
Registration
Council.

(2) The National Council shall consist of the following members, nominated by the Central Government, in such manner as may be prescribed:—

(a) a Chairperson;

(b) a Vice-Chairperson;

10 (c) a Secretary;

(d) Chairpersons of every State Council; and

(e) such members of representatives of youth organizations, as may be prescribed.

(3) The term of office of members of the National Council shall be five years.

15 (4) The terms and conditions and salaries and allowances of the Chairperson, Vice-Chairperson, Secretary, members, officers, staff etc., of the National Council shall be such as may be prescribed.

(5) The Central Government shall provide such officers and staff for the National Council as may be required.

20 **6. (1) Every State Governments shall constitute a State Employment Registration Council within one year from the commencement of this Act.**

State
Employment
Registration
Council.

(2) The State Council shall consist of the following members, nominated by the State Government, in such manner as may be prescribed:—

(a) a Chairperson;

25 (b) a Vice-Chairperson;

(c) a Secretary; and

(d) such number of representatives of youth organizations, as may be prescribed.

(3) The term of office of members of the State Council shall be five years.

30 (4) The terms and conditions and salaries and allowances of the Chairperson, Vice-Chairperson, Secretary, officers, staff etc., of the State Council shall be such as may be prescribed.

(5) The State Governments shall provide such officers and staff for the State Councils, as may be required.

35 **7. (1) The National Council shall perform and discharge the following functions and duties, namely:—**

Functions and
duties of
National
Council.

(a) ensure yearly reporting of vacancies by the Central Government, in such manner as may be prescribed;

(b) receive applications to the vacancies reported by the Central Government;

(c) publish the list of qualified applicants as per the category of vacancies;

40 (d) establish a central monitoring system;

(e) monitor the implementation of this Act;

(f) advice the Central Government on all matters concerning implementation of this Act; and

(g) any other function as may be assigned to it by the Central Government.

Functions and duties of State Council.

8. (1) The State Council shall perform and discharge the following functions and duties, namely:—

(a) ensure yearly reporting of vacancies by the State Government, in such manner as may be prescribed; 5

(b) receive applications to the vacancies reported by the State Government;

(c) publish the list of qualified applicants as per the category of vacancies;

(d) establish a state level monitoring system;

(e) monitor the implementation of this Act in the State;

(f) advice State Government on all matters concerning implementation of this Act; and 10

(g) any other function as may be assigned to it by the National Council or the State Government.

Employment Guarantee Fund.

9. (1) The appropriate Government shall, by notification, establish a Fund to be called the Employment Guarantee Fund for the purpose of this Act. 15

(2) The appropriate Government shall credit sufficient amount from the Consolidated Fund of such Government by way of grant or loan, in such manner as may be prescribed.

(3) The Fund shall be utilized in such manner and subject to such conditions and limitations as may be prescribed by the appropriate Government.

Payment of Unemployment Allowances.

10. (1) If an applicant for employment under the Scheme is not provided such employment within sixty days of receipt of his application, he shall be entitled to unemployment allowance in accordance with this Act. 20

(2) The quantum of unemployment allowance shall be fixed based on categories described under section 4 of this Act and proportionate amount so fixed shall be paid to the eligible applicants for each day the government fail to provide job in the prescribed manner. 25

Effect of non-reporting of vacancies.

11. (1) The appropriate Government shall notify the list of authorized officers who shall report vacancies under the Act.

(2) On failure of reporting vacancies by such authorized officer he shall be liable to disciplinary action under relevant conduct rules.

Savings.

12. The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 and any rules, regulations or scheme made thereunder, shall remain in force, to the extent they are not inconsistent with the provisions of this Act. 30 42 of 2005.

Act to have overriding effect.

13. The provisions of this Act, and rules made thereunder shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force. 35

Power to remove difficulties.

14. 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 provision not inconsistent with the provisions of this Act as may be appear to be necessary or expedient for the removal of the difficulties.

Power to make rules.

15. (1) The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act. 40

(2) The State Government may by notification in the State Gazette, consistent with this Act and the rules may be the Central Government, make rules for carrying out the purposes of this Act.

- (3) Every rule made by the Central Government under this section 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 both Houses agree that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
- 10 (4) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

STATEMENT OF OBJECTS AND REASONS

India has a very large working-age population, and yet it has been witnessing high rate of youth unemployment for a long time, which has been made worse by the COVID-19 pandemic. The Periodic Labour Force Survey (PLFS) of 2017-18, had reported a forty-five year high in India's open unemployment rate. The most alarming aspect of this statistics was high unemployment amongst the youth. The aggregate youth unemployment rate stood at 17.8 per cent. and has remained at above fifteen per cent. in the period from 2017 to 2020. The inability of young adults to secure jobs as per their skill and education is not only demotivating and discouraging for them but can also lead to a scarring effect on their career. Recently, the World Economic Forum had warned that, the high unemployment rate among the college educated in India may lead to "widespread youth disillusionment," and can threaten India's economic stability. India has witnessed the most recent manifestation of disillusionment among educated youth. More than twelve million people had applied for thirty-five thousand clerical jobs at Indian Railways which is one of the world's largest employers. This clearly reflects the grave crisis of jobless growth that we are undergoing.

In this scenario, eradication of unemployment in the country is the most important goal to be achieved to sustain economic growth and social justice. Although the Mahatma Gandhi National Rural Employment Guarantee Scheme guarantees hundred days of wage employment in a financial year to at least one member of every household, the scope of the Scheme is limited to rural areas alone. Under the existing Scheme, we cannot effectively address the joblessness among urban youth as well as educated and skilled youth across the country.

Hence, there is an urgent need for a comprehensive employment guarantee programme that can ensure minimum days of decent work without any differentiation on the basis of rural or urban areas. Apart from that, it is important to ensure job opportunity for all citizens based on their educational qualification and skill, as the case may be. It is high time that we recognise minimum as well as decent job opportunity as the part of the "Fundamental Right to Life" provided in the Constitution of India. Lastly, any such guarantee will be meaningful only if the Government ensures to provide unemployment allowance to those persons, to whom the authority concerned failed to provide such minimum days of work.

Hence, this Bill.

SANDOSH KUMAR P.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for constitution of National Employment Registration Council and Clause 6 also provides the constitution of the State Employment Registration Councils. Clause 9 of the Bill provides for the establishment of an Employment Guarantee Fund. Clause 10 stipulates the provision for unemployment allowance if the state fails to provide employment within sixty days of application.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund which cannot be estimated at present as the same would depend upon the number of job seekers and persons who would be paid unemployment allowance. Recurring expenditure is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

RAJYA SABHA

A

BILL

to ensure minimum one hundred days of work to all citizens within the age of eighteen to forty years in accordance with their educational qualification or skill as the case may be, and to provide unemployment allowance to those persons, to whom the authority concerned failed to provide such minimum days of work and for matters connected therewith or incidental thereto.

(Shri Sandosh Kumar P., M.P.)

MGIPMRND—883RS—08-08-2022.

Bill No. XLVII of 2022

THE PRESS COUNCIL (AMENDMENT) BILL, 2022

A

BILL

further to amend the Press Council Act, 1978.

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

1. (1) This Act may be called the Press Council (Amendment) Act, 2022.

Short title
and
commencement.

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

37 of 1978.

2. In long title of the Press Council of India Act, 1978 (hereinafter referred to as the principal Act) for the words "newspapers and news agencies", the words "newspapers, news agencies and news channels" shall be substituted.

Amendment
of long title.

10 3. Throughout the principal Act, for the words "newspaper, news agency", "newspapers, news agencies", "newspapers and news agencies", "newspaper or news agency" and "the newspaper, the news agency", wherever they occur, the words "newspaper, news agency, news channel", "newspapers, news agencies, news channels", "newspapers,

Substitution of
references to
certain
expression by
certain other
expression.

news agencies and news channels", "newspaper, news agency or news channel" and "the newspaper, the news agency, the news channel", shall respectively, subject to such changes as the rules of grammar require, be substituted.

Amendment
of Section 2.

4. In section 2 of the principal Act,—

(i) after clause (b), the following clause shall be inserted, namely:— 5

"(ba) "fake news" means publication, knowingly or intentionally, of false, misleading or distorted information purporting to be news that:

(i) defames, undermines or benefits a person or entity;

(ii) causes fear or alarm among people;

(iii) incites violence, hatred or enmity towards a group of people; or 10

(iv) threatens the security, sovereignty, unity, integrity or public order of or within India.";

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

"(ca) "news" includes newly received or noteworthy information or analysis thereof, especially about recent events primarily of sociopolitical, economic or cultural nature and shall also include any news that is digitally transmitted over the internet or computer network; 15

(cb) "news channel" means a television channel which predominantly telecasts news programmes through cable television network or digital addressable systems, etc.; 20

(cc) "newspaper" means any printed periodical work containing news and current affairs content and shall include digitised version of the newspaper transmitted over the Internet or computer network;"

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

"(da) "press" includes newspapers, news channels, news agencies or such other entity, by whatever name called;" 25

(iv) in clause (e), for the words "expressions "editor" and "newspaper" have the meanings respectively assigned to them", the words "expression "editor" has the meaning assigned to it" shall be substituted.

Amendment
of Section 5.

5. In section 5 of the principal Act, in sub-section (3),— 30

(i) for clause (b), the following clause shall be substituted, namely:—

"(b) six shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of newspapers and news channels, so, however, that there shall be one representative each from the categories of big newspapers, medium newspapers, small newspapers, big news channels, medium news channels and small news channels;" 35

(ii) in clause (e) for the Explanation, the following shall be substituted, namely:—

"*Explanation* —For the purpose of clause (b)—

(i) a 'newspaper' shall be deemed to be categorized as big, medium or small newspaper on the basis of its circulation per issue, as the Central Government may, by notification in the Official Gazette, notify from time to time; and 40

(ii) a 'news channel' shall be deemed to be categorized as big, medium or small news channel on the basis of its viewership, as the Central 45

Government may, by notification in the Official Gazette, notify from time to time.".

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

5 "(IA) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper, news agency, news channel or journalist has been found to be responsible for spreading fake news, such persons or entity shall be liable for the following penalties—

10 (i) in the event of first violation, suspension of accreditation, registration, licence, or permission, as the case may be, to operate for up to thirty days;

 (ii) in the event of second violation, suspension of accreditation, registration, licence, or permission, as the case may be, to operate for up to ninety days; and

15 (iii) in the event of third violation, suspension of accreditation, registration, licence or permission, as the case may be, to operate for up to one-hundred and eighty days:

20 Provided that in the event of failure to comply with any of the penalties imposed, the accreditation, registration, licence, or permission, as the case may be, shall be revoked for the remaining period of its validity, and the newspaper, news agency, news channel or journalist shall also be disqualified for fresh application or renewal for up to five years.".

STATEMENT OF OBJECT AND REASONS

As the fourth pillar of our democracy, the press owes a duty to the public to adhere to the highest ethical standards and to strive towards bringing the truth to the fore. In many ways, the press is the bloodstream of representative democracy as it enables the disclosure of information for the benefit of the masses and fosters the formation of informed public opinion.

However, the role of the press as a conduit for transparency and accountability in our governance system has been severely compromised over time. Ulterior motives, political propaganda and anti-social elements have impacted the independence and neutrality of our press and have fuelled a drastic increase in the incidence of fake news. As per the latest data by the National Crime Records Bureau (NCRB), a total of 1,527 cases of fake news were recorded in 2020, which is a 214% increase as compared to the 486 cases registered in 2019.

Although the Indian Penal Code imposes criminal punishment on any person who makes statements that conduce to public mischief, it neither provides a regulatory and procedural framework for governing the instances of fake news that are perpetuated by the press nor imposes any meaningful sanction on the news organisations that knowingly or intentionally facilitate such fake news.

To place a greater responsibility on the Press to put forth accurate facts and information before the public, this Bill seeks to amend the Press Council Act, 1978 to impose graded penalties for spreading fake news. At the same time, the Bill also brings television news channels under the ambit of the Press Council Act, 1978, considering that they are a major constituent of the Press and exert great influence in shaping public opinion. This will ensure that the malpractices and wrongdoings of the television news channels are brought under the control of the Press Council. Lastly, the Bill inserts a definition for 'news', which includes any news that is digitally transmitted over the internet or computer network. The Bill bring all forms of digital news within the purview of the Press Council.

Hence, this Bill.

V. VIJAYASAI REDDY

ANNEXURE

EXTRACTS FROM THE PRESS COUNCIL ACT, 1978

[ACT NO. 37 OF 1978]

*	*	*	*	*
An Act to establish a Press Council for the purpose of preserving the freedom of the Press and of maintaining and improving the standards of newspapers and news agencies in India				Long title.
*	*	*	*	*
2. In this Act, unless the context otherwise requires,—				Definitions.
*	*	*	*	*
(e) the expressions "editor" and "newspaper" have the meanings respectively assigned to them in the Press and Registration of Books Act, 1867, and the expression "working journalist" has the meaning assigned to it in the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955.				25 of 1867. 45 of 1955.
*	*	*	*	*
5. (3) Of the other members—				Composition of the Council.
*	*	*	*	*
(b) six shall be nominated in accordance with such procedure as may be prescribed from among persons who own or carry on the business of management of newspapers, so, however, that there shall be two representatives from each of the categories of big newspapers, medium newspapers and small newspapers;				
*	*	*	*	*
<i>Explanation.</i> —For the purposes of clause (b), a "newspaper" shall be deemed to be categorised as big, medium or small newspaper on the basis of its circulation per issue, as the Central Government may, by notification in the Official Gazette, notify from time to time.				
*	*	*	*	*

RAJYA SABHA

A

BILL

further to amend the Press Council Act, 1978.

(Shri V. Vijayasai Reddy, M.P.)

MGIPMRND—869RS(S3)—08-08-2022.

Bill No. LIII of 2022

THE PROTECTION OF THE STATE RESOURCES BILL, 2022

A

BILL

to provide for protecting the interests of the State when State land is given for free or for a price or by alienation, for public purposes or otherwise to the Central Government, and that such land shall not be handed over to a third party without the concurrence of the donor State and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Protection of the State Resources Act, 2022.

Short title and commencement.

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

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

Definitions.

(i) “land” means the soil and any buildings, parts of buildings, or similar structures, anything permanently attached to the soil, rights under the land, rights above the land to such a height as is necessary for the ordinary use and enjoyment of the land and the
10 structures upon it and easements.

(ii) “donor State” refers to the Government of the State or Union Territory which has provided land for the setting up of a Central Public Sector Undertakings, for free, by alienation or for a price.

Applicability.	<p>3. The provisions of the Act shall be applicable in all cases where the partial or full control of a Central Public Sector Undertaking situated on the land provided by the donor State is transferred to a third party other than the Government of India or the donor State.</p>	5
Concurrence of donor State.	<p>4. The land handed over to the Central Government by the State or Union Territory for free or for a price or by alienation, for public purposes or otherwise, shall not be handed over to a third party without the express concurrence of the donor State, failing which, it shall be void <i>ab initio</i>.</p>	10
Right to participate in bidding by the donor State.	<p>5. If any land has been provided for setting up a Central Public Sector Undertaking and in case the Central Public Sector Undertaking is in the process of privatization, the donor State shall have the right to participate in the bidding process for acquiring the full or partial control of the Central Public Sector Undertaking, as the case may be:</p> <p style="padding-left: 40px;">Provided that if the donor State is participating in the bidding process, the price of the land provided by the donor State, shall be added to the bidding amount offered by the donor State.</p>	15
Compensation.	<p>6. If the majority stake in the Central Public Sector Undertaking is handed over to a third party other than the donor State, by bidding or otherwise, the Central Government shall provide compensation to the donor State for the cost of the land it has given free or for a price or by alienation, and the rate of compensation shall be decided by the donor State as per the prevailing market rates and other relevant factors.</p>	20
Jurisdiction of High Court.	<p>7. A donor State may move to the respective High Court for protecting the right to fair compensation and right to participate in the bidding as provided by the Act.</p>	
Act to have overriding effects.	<p>8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p>	25

STATEMENT OF OBJECTS AND REASONS

Ever since the neoliberal reforms were undertaken in the country, increasing pace of privatization has seen a number of Public Sector Undertakings in the country going for sale. The process of disinvestment involves selling of the assets of the Public Sector Undertakings to the bidders who are private players.

Many of the Public Sector Undertakings have been the result of the whole hearted support and cooperation of the respective States in which they are functioning. The States of India have always reacted enthusiastically to the prospect of having a Central Public Sector Undertakings established in their respective States.

As a result, the States have willingly shared their resources for the establishment of these Public Sector Undertakings and the primary contribution has been in the form of land. States have offered huge chunks of land for the setting up public sector institutions, factories, plants and laboratories, etc. under the ownership of Government of India.

These contributions were made in the good faith, by virtue of the presence of these Public Sector Undertakings, the people of the State will have avenues to secure employment. Such prospects are not made when the privatization of Central Public Sector Undertakings takes place.

There are instances in which the State which has allotted its precious land to the Central Public Sector Undertakings, is unable to participate in the bidding process. The terms and conditions are set in such a way that makes State Governments ineligible to participate in auction. This practice needs to be immediately addressed.

If the Central Government finds it impossible to run the Public Sector Undertakings effectively, then the state government should be given an opportunity to take up that Public Sector Undertakings or set up new industrial units in such lands. There have been several other objections posed by various States. Thus a law is necessary for protecting the interests of the State when Public Sector Undertakings are privatized.

In some cases, the land has been sold at a very nominal price with the good faith that the institution will serve the cause of the State. But when the institution is handed over to a third party, that implicit promise remains unfulfilled. Hence the States need legal protection even if the land has been sold to the Central Government for the said purpose.

Hence, this Bill.

DR. V. SIVADASAN

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides compensation to the donor State for the cost of the land by the Central Government for the purpose of the Act. The Bill, therefore, if enacted, would involve both non-recurring and recurring expenditure from the Consolidated Fund of India. However, at this juncture, it is difficult to estimate the amount required as it would depend upon the number of Public Sector Undertaking going for sale.

RAJYA SABHA

A

BILL

to provide for protecting the interests of the State when State land is given for free or for a price or by alienation, for public purposes or otherwise to the Central Government, and that such land shall not be handed over to a third party without the concurrence of the donor State and for matters connected therewith or incidental thereto.

(Dr. V. Sivadasan, M.P.)

MGIPMRND—871RS—08-08-2022.

Bill No. XLV of 2022

THE REPRESENTATION OF THE PEOPLE (AMENDMENT)
BILL, 2022

A

BILL

further to amend the Representation of the People Act, 1951.

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

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2022.

Short title and commencement.

5 **2.** In section 62 of the Representation of the People Act, 1951, after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment of section 62.

10 "(5A) Notwithstanding anything contained in sub-section (5), where any member of Parliament or any member of the Legislative Assembly or the Legislative Council of a State has been arrested or detained during the pendency of investigation, inquiry or trial for an offence but not convicted for that offence, he shall be given mandatory bail for:

(a) participating in the proceedings of either House of Parliament, or the Legislative Assembly or the Legislative Council of a State;

(b) voting in the business of the either House of Parliament, or the Legislative Assembly or the Legislative Council of a State; or

(c) voting in the elections for the President, Vice-President or any other position or office for which the member of Parliament or member of the Legislative Assembly or the Legislative Council of a State is otherwise entitled to vote by virtue of being such a member: 5

Provided that the arresting or detaining authority shall take all necessary measures to ensure the safe transportation of such arrested or detained member to and from the premises of either House of Parliament, or the Legislative Assembly or the Legislative Council of a State, as the case may be, for the purpose of this sub-section.” 10

STATEMENT OF OBJECTS AND REASONS

A member of Parliament or a member of the Legislative Assembly or the Legislative Council of a State performs an important public function in our democratic system. They play an instrumental role in representing the will and protecting the interests of their respective constituency/regions. Their active participation in the proceedings of the House of which they are members is absolutely essential for upholding the principles of representative democracy. Their right to vote in the business of their respective House and in all elections in which they are otherwise entitled to vote is also equally significant in the discharge of their duties.

The current framework under our electoral laws is such that a person is barred from voting at any election if he is confined in a prison or is in the lawful custody of the police. The only exception in this provision is for cases involving preventive detention. The blanket application of this provision across all categories of persons inevitably prevents public functionaries such as members of Parliament and members of the Legislative Assembly and the Legislative Council of States from discharging their duties in case of arrest or detention. This is applicable even in cases where such members are arrested or detained during the pendency of investigation, inquiry or trial for an offence but have not been convicted for that offence.

Our criminal system follows the cardinal principle of “innocent until proven guilty”. Barring an accused public representative who has not been convicted from voting in any election weakens our legal and democratic principles. There is a need to carve out an exception in our electoral laws to ensure that members of Parliament and members of the Legislative Assembly and the Legislative Council of States are not hindered in discharging their public duties in case of arrest or detention.

Therefore, this Bill seeks to amend the Representation of the People Act, 1951 to allow such members to receive mandatory bail in cases where they have been arrested or detained during the pendency of investigation, inquiry or trial for an offence but not convicted for that offence. The bail shall be granted only for the purpose of enabling these members to participate in the proceedings and vote in the business of the House and vote in the elections for the President, Vice-President or any other position or office for which the member is otherwise entitled to vote by virtue of being such a member.

For this purpose, the Bill also requires the arresting or detaining authority to take all necessary measures for ensuring the safe transportation of the arrested or detained member to and from the premises of the House of Parliament, or the Legislative Assembly or the Legislative Council of a State, as the case may be.

Hence, this Bill.

V. VIJAYASAI REDDY

ANNEXURE

EXTRACTS FROM THE REPRESENTATION OF THE PEOPLE ACT, 1951

(43 of 1951)

* * * * *

Right to Vote.

62. (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of by any constituency shall be entitled to vote in that constituency.

(2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950. 43 of 1950.

(3) No person shall vote at a general election in more than one constituency of the same class, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

(5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

(6) Nothing contained in sub-sections (3) and (4) shall apply to a person who has been authorised to vote as proxy for an elector under this Act in so far as he votes as a proxy for such elector.

* * * * *

RAJYA SABHA

A
BILL

further to amend the Representation of the People Act, 1951.

(Shri V. Vijayasai Reddy, M.P.)

MGIPMRND—867RS(S3)—08.08.2022.

Bill No. XLII of 2022

THE RESERVE BANK OF INDIA (AMENDMENT) BILL, 2022

A

BILL

further to amend the Reserve Bank of India Act, 1934.

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

1. (1) This Act may be called the Reserve Bank of India (Amendment) Act, 2022.

Short title and commencement.

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

2 of 1934.

2. In the Reserve Bank of India Act, 1934, sub-section (3) of section 31, shall be omitted.

Amendment of section 31.

STATEMENT OF OBJECTS AND REASONS

The insertion of sub-section (3) in section 31 of the Reserve Bank of India Act, 1934 through the Finance Act, 2017 introduced a new scheme called the Electoral Bond Scheme, which was notified on January 2, 2018. The Electoral Bond Scheme allows individuals (who are citizens of India) and domestic companies to donate electoral bonds — issued in multiples of Rs. 1,000, Rs. 10,000, Rs. 1 lakh, Rs. 10 lakhs and Rs. 1 crore — to political parties of their choice, which have to redeem them within fifteen days. A person being an individual can buy bonds, either singly or jointly with other individuals. No limit exists on the number of electoral bonds that a person (including corporate entities) can purchase. Only the Political Parties registered under Section 29A of the Representation of the People Act, 1951 (43 of 1951) and which secured not less than one per cent. of the votes polled in the last General Election to the House of the People or the Legislative Assembly of the State, shall be eligible to receive the Electoral Bonds. Under the Electoral Bond Scheme, 2018, the section 29C of The Representation of the People Act, 1951 has been amended to remove the obligation of political parties to keep a record of the identity of donors who give any sum of money through Electoral Bonds or report the same to the Election Commission of India (ECI) annually.

2. The amendment of the Reserve Bank of India Act, 1934 by the insertion of sub-section (3) in section 31 of the said Act, have made changes in our electoral system. First of all, previously, all political parties had to maintain a record of all donations above rupees twenty thousand including the name and address of the donor (Section 13A, Income Tax Act). But, the Electoral Bond Scheme, created as a result of this amendment, is an exception to this for donations greater than rupees twenty thousand which are made through electoral bonds. These are not only tax-exempt, but the political parties don't need to record the details of the donor anymore. Secondly, before the introduction of the amendment, there was a ceiling on the amount of money that a company could donate i.e. 7.5% of its average net profits during the previous three financial years (Section 182(1) of the Companies Act, 2013). This was meant to prevent shell companies from being set up to pump money into political parties. The electoral bond scheme that emerged out of the amendment of the Reserve Bank of India Act, 1934 has removed this ceiling. Thirdly, before the adoption of the electoral bond scheme, companies needed to disclose the amount of money donated and the names of the political parties to which they donated money in their profit and loss accounts (Section 182(3) of the Companies Act, 2013). However this provision for mandatory disclosure is removed now. Fourthly, the Foreign Contribution Regulation Act (FCRA), 2010 has also been amended, to allow foreign companies with subsidiaries in India to fund political parties in India.

3. In the present form, the said amendment in the Reserve Bank of India Act, 1934 and the resultant introduction of the Electoral Bond Scheme is non-transparent. More importantly, it violates the citizen's 'right to know'. The Indian Constitution derives its supreme power and authority from the people. One of the fundamental pillars of popular sovereignty and the democratic process in our country is the process of a free and fair election. The Electoral Bond Scheme seriously erodes the functioning of democracy because it has led to an enormous increase in anonymous donations to political parties. The principle of anonymity in donation leads to unlimited corporate donations to political parties of their choice. Apart from that, Electoral Bond Scheme allows the foreign corporates having subsidiaries in India to fund the election expense of political parties. This will create serious consequences because anonymous foreign funding can expose the democratic process to the whims and fancies of foreign corporate interests and lobbyists. It is against the very spirit of independent and impartial election.

4. Therefore, it is important to discontinue the scheme urgently by repealing the amendment made in the Reserve Bank of India Act, 1934 via the Finance Act, 2017. It should be mandatory for all political parties to declare the amount and source of donations that they receive in the given financial year, along with the details of the donors. There should be a standardised procedure to ensure transparency. Details of all donors should be made available for public scrutiny under the RTI Act.

5. Given the above, the aforesaid amendment in the Reserve Bank of India Act, 1934 by the insertion of sub-section (3) in section 31 is proposed to be repealed.

Hence, this Bill.

SANDOSH KUMAR P.

RAJYA SABHA

A

BILL

further to amend the Reserve Bank of India Act, 1934.

(Shri Sandosh Kumar P., M.P.)

MGIPMRND—881RS(S3)—08.08.2022.

Bill No. XXXVIII of 2022

THE SAL LEAVES COLLECTORS AND TRADERS' WELFARE
BILL, 2022

A

BILL

to provide for setting up of Sal Leaves Collectors and Traders' Welfare Fund and a Board that shall administer the Fund for the welfare of sal leaves collectors and traders and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Sal Leaves Collectors and Traders' Welfare Act, 2022.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

5 (3) It shall come into force at once.

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

Definitions.

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

(b) "Board" means the Sal Leaves Collectors and Traders Welfare Board established under section 4.

(c) "Fund" means Sal Leaves Collectors and Traders' Welfare Fund set up under section 3;

(d) "prescribed" means prescribed by rules made under the Act. 5

(e) "sal leaves collector" means any person who is engaged in the work of collecting Sal leaves, a minor forest produce, twice a year and includes a person engaged on contractual or temporary basis; and

(f) "sal leaves trader" means any person who is engaged in the business of trading or processing sal leaves or products derived out of it and also includes a person transporting Sal leaves' or its products for the purpose of directly selling them in the market. 10

Sal Leaves
Collectors and
Traders'
Welfare Fund.

3. (1) The Central Government shall by notification in the Official Gazette set up a Fund to be known as the Sal Leaves Collectors and Traders' Welfare Fund.

(2) The Fund shall consist of contributions from Central Government and the State Governments in such ratio as may be prescribed. 15

Sal Leaves
Collectors and
Traders
Welfare Board.

4. (1) The Fund shall be administered by a Board to be called the Sal Leaves Collectors and Traders Welfare Board, consisting of—

(a) a Chairperson to be appointed by the Central Government;

(b) one representative from each State Government where sal leaves collection and trading is a major occupation; and 20

(c) two representatives of sal leaves collectors and sal leaves traders to be nominated in such manner as may be prescribed.

(2) The salary and allowances payable to, and other terms and conditions of the service of Chairperson and other members of the Board shall be such as may be prescribed. 25

Functions of
the Board.

5. (1) The Board shall determine the purposes for which the Fund shall be utilized.

(2) Notwithstanding anything in sub-section (1), the Fund shall be utilized for the following purposes:—

(i) payment of old-age pension at the rate of rupees five thousand per month after the sal leaves collector or trader has attained the age of sixty years and is incapable of performing his job on account of physical illness, infirmity or incapacity; 30

(ii) free healthcare facilities for the sal leaves collectors and traders and their dependent family members at the designated Government and other hospitals;

(iii) free insurance cover to sal leaves collectors and traders; and

(iv) free housing facilities for sal leaves collectors and traders. 35

Collectors and
Traders' to be
assured
minimum
wage.

6. Every sal leaves collector and trader shall be entitled to such assured minimum wage as may be fixed by the appropriate Government, irrespective of the number of leaves collected or traded by him.

Penalty.

7. Any person who does not comply with the provisions of Section 5, shall be punished with a fine which may extend to rupees thirty thousand. 40

Central
Government
to provide
adequate funds.

8. The Central Government shall after due appropriation made by Parliament by Law in this behalf, provide adequate funds to the Board for the effective implementation of the provisions of the Act.

Act to be not
in derogation
of other laws.

9. The provisions of this Act shall be addition to and not in derogation of any other law providing for matters dealt with in this Act. 45

10. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Power to
make rules.

(2) Every rule made under this section 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
5 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 both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be
10 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.

STATEMENT OF OBJECTS AND REASONS

Over 25 million people, mostly from Particularly Vulnerable Tribal Groups (PVTGs), are engaged in collecting and trading Sal leaves and its derivatives like Sal leaves plates which are widely used for, *inter alia*, marriage ceremonies, birth ceremonies, death ceremonies etc.

The conditions of sal leave collectors and traders are worsening day by day. The collectors are mostly tribal women in sal trees dominated States like Odisha. The leaves are stitched into plates and bowls to be sold in the market. There are no provisions as to a minimum wage, housing facilities, health insurance or any sort of medical treatment free of cost. A lot of sal collectors die of diseases or bodily infirmities, which are easily avoidable with basic medical intervention.

With the increasing awareness amongst people of non-usage of plastic and thermocol for plates and bowls sal leaves *thalis* and bowls' demand is bound to increase. In such a scenario, there is a need to incentivize the people engaged in the activity of collecting and trading Sal leaves and its products to keep continuing the task. Also, in old age these sal leaves collectors and traders have no social security or access to any welfare measures which is the need of the hour.

Hence, this Bill.

DR. SASMIT PATRA

FINANCIAL MEMORANDUM

Clause 3 provides for setting up of a Sal Leaves Collectors and Traders' Welfare Fund for welfare of Sal leaves collectors and traders. Clause 4 provides for constitution of a Board for administration of the Sal Leaves Collectors and Traders' Welfare Fund. Clause 8 provides that the Central Government shall provide adequate Fund to the Board for effective implementation of the provisions of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India.

It is estimated that a sum of rupees three hundred crore is likely to be involved out of the Consolidated Fund of India per annum.

A non-recurring expenditure of Rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

RAJYA SABHA

A

BILL

to provide for setting up of Sal Leaves Collectors and Traders' Welfare Fund and a Board that shall administer the Fund for the welfare of sal leave collectors and traders and for matters connected therewith or incidental thereto.

(Dr. Sasmit Patra, M.P.)

MGIPMRND—865RS(S3)—08-08-2022.

Bill No. XL of 2022

THE STATES REORGANIZATION COMMISSION BILL, 2022

A

BILL

to provide for the establishment of a Commission for reorganization of States within the geographical boundaries of the Union of India with an objective to preserve and strengthen the unity of the India keeping into consideration, the linguistic, cultural, financial, economic and administrative viability of reorganization of a State corresponding to the safety and welfare of the citizens of the State as well as of the citizens of the nation.

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

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the States Reorganization Commission Bill, 2022.
 (2) It shall extend to whole of India.
 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Definitions.

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

(i) "Chairperson" means the Chairperson of the Commission;

(ii) "Commission" means the States Reorganization Commission established under section 3;

(iii) "Deputy Chairperson" means the Deputy Chairperson of the Commission; 5

(iv) "dissolution" means the action of formally discontinuing the existence of the Commission after the Commission has formally discharged its functions as assigned to it under section 8 of this Act;

(v) "Members" means the Members of the Commission; and

(vi) "prescribed" means prescribed by the rules as made under this Act. 10

CHAPTER II

THE STATES REORGANIZATION COMMISSION

Constitution of States Reorganization Commission.

3. (1) **The Central Government shall constitute a Commission, to be known as the States Reorganization Commission, to exercise the power conferred upon, and to perform the functions assigned to it, under this Act.** 15

(2) **The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, and shall by the said name sue and 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:—** 20

(a) a Chairperson;

(b) a Deputy Chairperson;

(c) the following persons as Members, namely:—

(i) two representatives from Ministry of Home Affairs, not below the rank of Additional Secretary to the Government of India; 25

(ii) three representatives from All India Services, preferably from Indian Administrative Services and Indian Police Services not below the rank of Joint Secretary or equivalent; and

(iii) a retired Judge of the Supreme Court or the High Court.

(2) **The Central Government may also appoint temporary or part-time Members to the Commission, as may be prescribed, who shall be selected from amongst persons who:—** 30

(a) have special knowledge of the finances and accounts of the Government; or

(b) have considerable experience in matters of State administration; or

(c) have special knowledge of linguistics and culture of the concerned State; or

(d) are members of State services of the concerned State; or 35

(e) are, or have been qualified to be appointed as Judge of High Court.

(3) **The Chairperson, Deputy Chairperson and other members of the Commission shall be persons of outstanding ability and eminence, proven capacity for institution building and governance with high levels of integrity; with not less than experience of ten years in handling matters of public affairs.** 40

5. (1) The Chairperson, Deputy Chairperson/Members and part-time Members shall hold office for such period, beginning from the date of appointment by the Central Government, till the date of dissolution of the Commission after the Commission discharges the purposes mentioned as per this Act:

Term of Office and conditions of service of Chairperson, Deputy Chairperson and Members.

5 Provided that Chairperson, Deputy Chairperson and Members shall cease to hold office on attaining the age of seventy years or earlier on resignation, by letter addressed to the President of India.

10 (2) Where a Member is absent from three consecutive ordinary meetings of the Commission and the cause of such absence is not attributable to any valid reason in the opinion of Commission, such Member shall be deemed to have vacated the seat.

(3) A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination by the Central Government.

15 **(4) The salary and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson, Members part time Members and officers and staff of the Commission shall be such as may be prescribed.**

6. (1) The Central Government may, by order, remove from office, the Chairperson, Deputy Chairperson or any Member, who —

Removal of Chairperson and Members of Commission.

(a) has been adjudged an insolvent; or

20 (b) has been convicted with an offence which, in the opinion of Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of continuing in office; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) has acquired such financial or other interests as is likely to affect prejudicially his functions; or

25 (f) has so abused his position as to render his continuance in office prejudicial to public interest.

(2) No person 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.

30 7. (1) The Commission shall meet at least once every quarter at such time and place as may be appointed by the Chairperson.

Meetings of the Commission.

(2) The Chairperson shall preside over the meeting of the Commission and if, for any reason, the Chairperson is unable to attend a meeting of the Commission, the Deputy Chairperson, shall preside over the meeting.

35 (3) The Commission shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations made under this Act.

(4) The general superintendence, direction and control of the administration of the Commission shall vest in the Chairperson.

40 8. (1) The Commission shall perform such functions with regard to the reorganization of the State as may be assigned to it by the Central Government.

Functions of the Commission.

(2) Without prejudice to the generality of the foregoing provision, the Commission shall ensure the following for the preservation of unity of the nation as well as safety and welfare of the citizens of the State:—

(a) allocate land within the geographical boundary of the Union of India;

(b) allocate water and other natural resources after reorganization;

(c) in conformity to the All India Services Act of 1951, allocate All India Services officers after reorganization;

(d) in consultation with the State Government, allocate State Government employees after reorganization;

(e) in consultation with the Election Commission of India and, delimit constituencies for the elections to the House of the People and State Legislative Assemblies; and

(f) allocation of financial assets after reorganization.

Powers of
Commission.

9. (1) The Commission shall be entrusted with such powers as may be prescribed by the Central Government to ensure proper fulfillment of the function under this Act.

(2) The Commission shall have the power to:—

(a) order any person to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under the consideration of the Commission; and

(b) secure the assistance of any office or agency under the administrative control of the State undergoing reorganization, for carrying out the functions of the Commission assigned under this Act.

CHAPTER III

MISCELLANEOUS

Powers of
Central
Government
to issue
directions to
the
Commission.

10. (1) In performance of its functions under this Act, the Commission shall be bound by such directions on questions of policy of reorganization as the Central Government may issue from time to time:

Provided that the Commission shall be duly given an opportunity to communicate and express its views before any direction is given to it.

(2) The decision of the Central Government, whether the concern expressed by the Commission is one of policy of reorganization or not, shall be final.

Report of the
Commission.

11. (1) The Commission shall submit its report on the reorganization of States to the Central Government within a period of one year of the date of first sitting of the Commission:

Provided that the Central Government, may, on a special request made by the Commission, extend the time of submission of such report by not more than six months as it may deem appropriate.

(2) The Commission shall furnish any information related to the process of reorganization, as sought by the Central Government from time to time:

Provided that the Commission shall duly be given time to collect and collate the sought information as deemed appropriate by the Central Government.

(3) The report as stated in sub-section (1) and information as stated in sub-section (2), after critical observation by the Central Government, be published in a downloadable format on a Central Government Website:

Provided that the report shall be published within not more than fifteen days from the date of submission to the Central Government and any other information shall be published within not more than seven days from the submission of information to the Central Government.

12. (1) The Commission shall have its own funds and all the receipts of the Commission shall be credited thereto and all payments made by the Commission shall be made therefrom.

Finance and accounts of the Commission.

(2) The Central Government shall after due appropriation made by Parliament by law in this behalf, grant such sums of money to the Commission to carry out its functions, as it may consider necessary.

(3) The Commission may spend such sums as it thinks fit for the performance of its functions under this Act and such sums shall be treated as an expenditure payable out of the fund of the Commission.

(4) The Funds belonging to the Commission shall be kept in such bank as may be prescribed by the Central Government for the purpose or invested in securities authorized by the Indian Trusts Act, 1882, at the discretion of the Commission.

(5) If any sum granted by the Central Government remains wholly or partly unspent after the dissolution of Commission, such sum may, at the direction of Central Government, may be used for other official purposes as deemed fit by the Central Government.

13. If any difficulty arises in giving effect to the provisions of this act, the Central Government may make such an order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty so arisen:

Powers of Central Government to remove difficulty.

Provided that no such order or direction shall be given after the process of reorganization of State or dissolution of the Commission, whichever is earlier, has been completed.

14. (1) The Central Government may, by notification published in the Official Gazette, make rules for carrying out the purposes of this act.

Power of Central Government to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may comprise of one session or two or more successive sessions. If before the expiry of the session, immediately following the session or the successive sessions aforesaid, both the Houses are in agreement of any applicable modification in the rule(s) or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may so be. However, that any such modification or annulment shall be, without prejudice, to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The States Reorganization Commission was formed in 1953 to receive recommendations for fair partition of the States of the Union of India after Independence. The Commission's primary purpose then was to re-organize India which could be said to be a result of accidents and circumstances attending to the growth of British power. Now, after 72 years of Independence, a new Commission is required which would focus upon the reorganization of the States and districts from other modern viewpoints, specific to the financial, economic and administrative viability corresponding to the present day India and needs of the State seeking any such reorganization.

Hence, this Bill.

Dr. SASMIT PATRA

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the salary and allowances payable to and other terms and conditions of service of the Chairperson, Deputy Chairperson, Members, part-time Members and officers and staff of the Commission. Clause 12 of this Bill provides for the grants of sums of money to the Commission to carry out its functions as prescribed. Therefore recurring expenditure is involved from the Consolidated Fund of India which cannot be estimated at present. No non-recurring expenditure is likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Act. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

RAJYA SABHA

A

BILL

to provide for the establishment of a Commission for reorganization of States within the geographical boundaries of the Union of India with an objective to preserve and strengthen the unity of the India keeping into consideration, the linguistic, cultural, financial, economic and administrative viability of reorganization of a State corresponding to the safety and welfare of the citizens of the State as well as of the citizens of the nation.

(Dr. Sasmit Patra, M.P.)

MGIPMRND—853RS—08-08-2022.

Bill No. XLVI of 2022

THE TRAFFICKING OF PERSONS (PREVENTION, PROTECTION
AND REHABILITATION) BILL, 2022

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58. Sections 193, 195, 199 and 203 of Indian Penal Code to apply.
59. Act not in derogation of any other law.

Bill No. XLVI of 2022

THE TRAFFICKING OF PERSONS (PREVENTION, PROTECTION
AND REHABILITATION) BILL, 2022

A

BILL

*to prevent trafficking of persons, especially women and children and to provide care,
protection and rehabilitation to the victims of trafficking, to prosecute offenders
and to create a legal, economic and social environment for the victims and
for matters connected therewith or incidental thereto.*

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

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Trafficking of Persons (Prevention, Protection and Rehabilitation) Act, 2022.

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 appoint; and different dates may be appointed for different States and any reference in any
10 of the provisions to the commencement of this Act shall be construed in relation to any State as a reference to the coming into force of that provision in that State.

Definitions.

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

(a) "Anti-Trafficking Police Officer" means a police officer referred to in section 9;

(b) "Anti-Trafficking Unit" means a unit set up in the Districts by the appropriate Government under section 10;

(c) "appropriate Government" means, in respect of matters relating to,— 5

(i) a Union territory without legislature, the Central Government;

(ii) the Union territories with legislature, the Government of the National Capital Territory of Delhi or, as the case may be, the Government of Union territory of Puducherry;

(iii) a State, the State Government; 10

(d) "Bureau" means the National Anti-Trafficking Bureau established by the Central Government under sub-section (1) of section 3;

(e) "child" means a person who has not completed the age of eighteen years;

(f) "Child Welfare Committee" shall have the meaning assigned to it in section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015; 15 2 of 2016

(g) "designated court" means a court designated under section 46;

(h) "District Anti-Trafficking Committee" means a committee constituted by the appropriate Government under section 13;

(i) "District Police Nodal Officer" means a police officer referred to in section 8;

(j) "Magistrate" means a District Magistrate or Additional District Magistrate or a Sub-Divisional Magistrate; 20

(k) "narcotic drugs" and "psychotropic substances" shall have the meanings, respectively assigned to them in the Narcotic Drugs and Psychotropic Substances Act, 1985; 61 of 1985

(l) "National Anti-Trafficking Relief and Rehabilitation Committee" means a committee established by the Central Government under sub-section (1) of section 11; 25

(m) "notification" means a notification published in the Official Gazette and the term notify shall be construed accordingly;

(n) "premises" means any building, conveyance, land, location, place, structure or any part thereof and includes any source, transit or destination of trafficking; 30

(o) "prescribed" means prescribed by rules made by the appropriate Government under this Act;

(p) "Protection Home" means the Protection Home referred to in sub-section (1) of section 21;

(q) "rehabilitation" means all measures and processes of physical, psychological and social well-being of a person who is trafficked and includes access to education, skill development, health care including psychological and physiological support, medical services, economic empowerment, legal aid and assistance, safe and secure accommodation; 35

(r) "Rehabilitation Fund" means the fund established under sub-section (1) of section 30; 40

(s) "Rehabilitation Home" means the Rehabilitation Home, referred to in sub-section (1) of section 22;

(t) "State Nodal Officer" means an officer appointed by the State Government under sub-section (I) of section 6;

(u) "State Anti-Trafficking Committee" means a Committee established by the appropriate Government under sub-section (I) of section 12;

5 (v) "State Police Nodal Officer" means a police officer appointed by the State Government under sub-section (I) of section 7;

45 of 1860. (w) "trafficking of person" shall have the meaning assigned to it in sub-section (I) of section 370 of the Indian Penal Code;

10 (x) "victim" means any person on whom an offence of trafficking has been committed or attempted by any other person or persons:

Provided that for the purpose of receiving compensation or relief under this Act, any dependent or legal heir, as the case may be, of a deceased victim, shall also be construed as a victim.

45 of 1860. 15 (2) The words and expressions used but not defined in this Act but defined in the Indian Penal Code, the Code of Criminal Procedure, 1973, the Information Technology Act, 2000 and the Juvenile Justice (Care and Protection of Children) Act, 2015 shall have the meanings respectively assigned to them in those Acts.
2 of 1974.
21 of 2000.
2 of 2016.

CHAPTER II

NATIONAL ANTI-TRAFFICKING BUREAU

20 **3.** (1) The Central Government shall, by notification, establish a Bureau to be called the National Anti-Trafficking Bureau for exercising the powers and discharging its functions under this Act. National Anti-Trafficking Bureau.

(2) The Bureau shall have police officers and other officers of such appropriate ranks, as may be necessary, for the discharge of its functions.

25 (3) The manner of selection, deputation, functioning and reporting of the officers and employees of the Bureau shall be in such as may be prescribed.

4. The Bureau shall perform the following functions in relation to trafficking of persons, namely:— Functions of Bureau.

30 (i) co-ordinate and monitor surveillance and preventive efforts along with the known or probable routes;

(ii) facilitate surveillance, enforcement and preventive steps at source, transit and destination points;

(iii) maintain co-ordination between various law enforcement agencies and non-Governmental organisations and other stakeholders;

35 (iv) strengthen the intelligence apparatus to improve the collection, collation, analysis and dissemination of operational intelligence;

(v) increase international co-operation and co-ordination with concerned authorities in foreign countries and international organisations, in operational and long term intelligence in investigation, mutual legal assistance, to facilitate universal action for prevention and suppression and to implement any obligation under the various international conventions and protocols that are in force in respect of counter measures;

40

(vi) co-ordinate actions and enforcement by various bodies or authorities established under this Act;

- (vii) co-ordinate actions taken by the concerned Ministries, Departments organisations of the Government, especially linking the source of transit to destination and connecting all stakeholders;
- (viii) review measures for combating, preventing and formulating co-ordinated strategy of action by various law enforcement agencies; 5
- (ix) make sustained efforts for capacity building and training of agencies;
- (x) bring out resource material including education curriculum for children, Panchayat Raj institutions, enforcement agencies, judicial officers and other stakeholders;
- (xi) co-ordinate investigating activities among the Districts, States and with other countries in case of cross-border trafficking of persons; 10
- (xii) co-ordinate the investigation, where international ramifications are reported or suspected;
- (xiii) co-ordinate investigation, where inter-State ramifications are reported or suspected across two or more States or Union territory Administrations; 15
- (xiv) undertake and facilitate other investigators for investigating offences from the organised crime perspective;
- (xv) develop and monitor a database on every crime under this Act;
- (xvi) co-ordinate with any national or international investigating or law enforcement agencies and civil society organisations; 20
- (xvii) facilitate inter-State and international transfer of evidence in investigation as well as video conferencing in judicial proceedings;
- (xviii) facilitate frequent meetings of the State Police Nodal Officers to facilitate, 20 monitor and evaluate the establishment and functioning of Anti-Trafficking Units;
- (xix) provide necessary support for investigation by the Anti- Trafficking Units, where such requests are made; 25
- (xx) undertake steps to enhance the professional skills of Anti-Trafficking Police Officers, Anti-Trafficking Units and all concerned with the investigation and prosecution of cases;
- (xxi) facilitate inter-State and trans-border transfer of evidence and materials, witnesses and others for expediting prosecution; 30
- (xxii) protection of witnesses, where referred by any State Government, victims, complainants and affected families, as the case may be;
- (xxiii) undertake steps for timely and effective action on post-rescue care and protection of any person who is trafficked, including steps towards rehabilitation by the concerned agencies, so that their rights are ensured, and that they are not re-trafficked; 35
- (xxiv) monitor and facilitate victim and witness protection protocols, rules and procedures including video conferencing during trial of offences which have ramifications across States and beyond borders; and 40
- (xxv) develop minimum standards of care and advice for all concerned, in matters of compliance.

Investigation
by Bureau.

5. (I) The Bureau may take over investigation of any offence under this Act, where referred to it by two or more States.

(2) Where an offence is referred to the Bureau under sub-section (1), the State Government shall not proceed with the investigation of the offence and shall forthwith transmit the relevant documents and records to the Bureau.

5 (3) For the removal of doubts, it is hereby declared that till the Bureau takes up the investigation of the case, it shall be the duty of the officer-in-charge of the police station to continue the investigation of an offence under this Act.

(4) While investigating any offence under this Act, the Bureau, having regard to the gravity of the offence and other relevant factors, may—

10 (a) if it is expedient to do so, request the State Government to associate with the investigation; or

(b) with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence.

15 (5) While investigating any offence under this Act, the Bureau may also investigate any other offence under any law for the time being in force, which the accused is alleged to have committed, if the offence is connected with such other offence.

(6) The State Government shall extend assistance and co-operation to the Bureau for investigation of an offence under this Act.

20 (7) Save as otherwise provided in this Act, nothing contained in this Act shall affect the powers of the State Government to investigate and prosecute any offence under this Act or other offences under any other law for the time being in force.

CHAPTER III

STATE ANTI-TRAFFICKING OFFICERS

6. (1) The State Government shall appoint a State Nodal Officer, not below the rank of Director in the State Government.

State Nodal Officer.

25 (2) The State Nodal Officer shall be responsible for follow up action under this Act, as per the directions of the State Anti-Trafficking Committee and co-ordinate with other Government agencies and civil society organizations.

30 (3) The State Nodal Officer shall provide relief and rehabilitation services through District Anti-Trafficking Unit and other Government agencies as well as civil society organisations.

(4) The State Nodal Officer shall liaison with the State Police Nodal Officer and the National Anti-Trafficking Relief and Rehabilitation Committee, for all matters relating to relief and rehabilitation.

35 7. (1) The State Government shall appoint a State Police Nodal Officer of such rank as may be specified by that Government.

State Police Nodal Officer.

(2) The State Police Nodal Officer shall be responsible for all the activities in the prevention and combating of trafficking of persons in the State and shall also monitor the functioning of Anti-Trafficking Police Officers and Anti-Trafficking Units in the State.

40 (3) The State Police Nodal Officer shall also co-ordinate and monitor inter-State and trans-border transfer of persons rescued, witnesses, evidence and offenders under this Act.

(4) The State Police Nodal Officer shall liaison with State Nodal Officer and shall perform such other functions as may be prescribed.

45 8. (1) The State Government shall designate one police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned and perform such other functions as may be prescribed.

District Police Nodal Officer.

(2) The District Police Nodal Officer shall be the convener of the District Anti-Trafficking Committee and shall report to the State Police Nodal Officer in every matter relating to an offence of trafficking of persons including rescue, investigation and inter-State transfer of a person who is trafficked and the offenders.

(3) The District Police Nodal Officer shall monitor the functioning of Anti-Trafficking Unit and provide necessary assistance to them for the effective discharge of their duties. 5

Anti-Trafficking Police Officers.

9. (1) The State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

(2) The State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution. 10

Anti-Trafficking Unit.

10. (1) The appropriate Government shall set up for each District or a group of Districts, such number of Anti-Trafficking Units, for dealing with all matters of prevention, rescue, protection and care of victims and witnesses and of investigation and prosecution of any offence under this Act. 15

(2) Every local police station shall, where Anti-Trafficking Unit is not functional, undertake every activity in matters of rescue, investigation, prevention and protection of persons trafficked under this Act.

(3) The State Government shall appoint for every Anti-Trafficking Unit such number of subordinate police officers including women police officers as it deems necessary for the discharge of the functions of the Anti-Trafficking Unit and vest in them with all the powers to investigate any offence committed within its local jurisdiction under this Act: 20

Provided that the officer-in-charge of a police station after registering the First Information Report under section 154 of the Code of Criminal Procedure, 1973, shall take all necessary steps for immediate rescue and protection and then transfer the case to the Anti-Trafficking Unit. 25 2 of 1974.

CHAPTER IV

RELIEF AND REHABILITATION AUTHORITIES

National Anti-Trafficking Relief and Rehabilitation Committee.

11. (1) The Central Government shall establish a National Anti-Trafficking Relief and Rehabilitation Committee, by notification for providing relief and rehabilitation services to the victims. 30

(2) The composition of the National Anti-Trafficking Relief and Rehabilitation Committee shall be as follows, namely:—

(i) Secretary, Ministry of Women and Child Development — Chairperson; 35

(ii) Representative, Ministry of Home Affairs — Member;

(iii) Representative, Ministry of External Affairs — Member;

(iv) Representative, Ministry of Labour and Employment — Member;

(v) Representative, Ministry of Social Justice and Empowerment — Member;

(vi) Representative, Ministry of Panchayati Raj — Member; 40

(vii) Representative, Ministry of Health and Family Welfare — Member;

(viii) Representative, Legislative Department — Member;

(ix) Four representatives from registered civil society organisations active in the prevention, rescue and rehabilitation of victims — Members;

(x) such other representatives of the Ministries or Departments or experts representing different States, as may be prescribed — Members; and

(xi) Head, National Anti-Trafficking Bureau — Member Secretary.

(3) The National Anti-Trafficking Relief and Rehabilitation Committee shall perform the following functions, namely:—

(i) facilitate and ensure rehabilitation and relief services including compensation, repatriation, re-integration to the victims through concerned 45 Ministries, Departments and statutory bodies;

(ii) provide for Protection Homes and Rehabilitation Homes to enable the immediate and long term sustainable rehabilitation of victims;

(iii) ensure the effective co-ordination between the concerned authorities both within the country as well as with other countries for the repatriation of victims;

(iv) seek reports from appropriate Government, State Anti-Trafficking Committee, District Anti-Trafficking Committee, on the quality of services and the functioning of the Protection Homes and Rehabilitation Homes;

(v) maintain and monitor the Rehabilitation Fund established under section 30; and

(vi) perform such other functions as may be prescribed.

12. (1) The appropriate Government shall establish a State Anti-Trafficking Committee to oversee the implementation of this Act and advise the State Government and District Anti-Trafficking Committees on matters relating to prevention of trafficking, protection, repatriation and rehabilitation of victims.

State Anti-Trafficking Committee.

(2) The State Anti-Trafficking Committee shall consist of the following, namely:—

(i) Chief Secretary — Chairperson;

(ii) Director General of Police — Member;

(iii) Secretary, Department of Women and Child — Member;

(iv) Secretary, Home Department — Member;

(v) Secretary, Labour Department — Member;

(vi) Secretary, Health Department — Member;

(vii) Secretary, State Legal Services Authority — Member;

(viii) Secretary, Law Department — Member;

(ix) Protector of Emigrants, Ministry of External Affairs — Member;

(x) State Police Nodal Officer — Member;

(xi) Two social workers out of which one shall be a woman — Member;

(xii) such other persons as may be prescribed — Members; and

(xiii) State Nodal Officer — Member Secretary.

(3) The State Anti-Trafficking Committee shall perform the following functions, namely:—

(i) identify the roles and responsibilities of each Department at State or District level for effective implementation of the Act and the rules made thereunder;

(ii) arrange for appropriate training and sensitisation of functionaries of all personnel including Governmental and non-Governmental;

(iii) develop effective networking and linkages with local non-Governmental organisations for specialised services and technical assistance like vocational training, education, healthcare, nutrition, mental health intervention, drug de-addiction and legal aid services;

(iv) review and monitor the functioning of the District Anti-Trafficking Committee;

(v) make necessary funds available to the District Anti-Trafficking Committee for providing or setting up of required facilities for the implementation of the Act; and

(vi) perform such other functions and duties as may be prescribed.

(4) The State Anti-Trafficking Committee shall co-ordinate with Bureau and National Anti-Trafficking Relief and Rehabilitation Committee to provide all necessary assistance and inputs as may be required to prevent offences of trafficking of persons especially, those that have inter-State and international ramifications and have features of an organised crime.

District Anti-Trafficking Committee.

13. (1) The appropriate Government shall, by notification, constitute for every District, a District Anti-Trafficking Committee for exercising the powers and performing such functions and duties in relation to prevention, rescue, protection, medical care, psychological assistance and need-based rehabilitation of victims.

(2) The District Anti-Trafficking Committee shall consist of the following, namely:—

(i) District Magistrate or Additional District Magistrate — Chairperson;

(ii) District Officer for Women and Child Development — Member;

(iii) Representative, District Legal Services Authority — Member;

(iv) Representative, Child Welfare Committee — Member;

(v) Two Civil Society Organisations or Non-Governmental Organisations working in the field of prevention of trafficking and related issues — Members;

(vi) such other members as may be prescribed — Members; and

(vii) District Police Nodal Officer — Member Secretary.

(3) The District Anti-Trafficking Committee shall perform the following functions, namely:—

(i) direct and facilitate the person in-charge of the Protection Home or Rehabilitation Home, as the case may be, to submit an individual care plan to it;

(ii) ensure care, protection, appropriate rehabilitation or restoration of all victims, based on each victims' individual care plan by passing necessary directions to Protection Homes and Rehabilitation Homes;

(iii) co-ordinate with other State Departments and Panchayati Raj institutions, to keep a check on the children who drop out from schools and those children who are covered by various schemes and have stopped accessing the benefits of those schemes and inform such cases to the State Anti-Trafficking Committee and take appropriate actions;

(iv) facilitate in a time bound manner or in the manner as may be prescribed, the inter-State repatriation of victims or persons subjected to bonded labour;

(v) facilitate survey of the areas and vulnerable population to identify source, transit and destination areas of trafficking of persons and based on the information received, draw up an action plan for the prevention and protection of people who are vulnerable to trafficking and implementation of the action plan;

(vi) create programmes for awareness generation, community mobilisation and empowerment of vulnerable social groups against trafficking of persons;

(vii) assist the Anti-Trafficking Police Officer, the Anti-Trafficking Unit or the local police, as the case may be, in conducting rescue operation, transferring victims to the nearest Protection Home, in connection with prevention of trafficking of persons, protection of victims and their rehabilitation, etc.; and

(viii) such other functions as may be prescribed.

(4) The appropriate Government shall provide adequate resources to the District Anti-Trafficking Committee for carrying out prevention, protection and rescue procedures.

(5) The District Anti-Trafficking Committee shall furnish a report to the State Anti-Trafficking Committee on quarterly basis.

2 of 2016. 15 **14.** The District Anti-Trafficking Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the victims under this Act and in case of child victim, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply. Powers of District Anti-Trafficking Committee.

CHAPTER V

SEARCH, RESCUE AND POST-RESCUE ACTIVITIES

2 of 1974. **15.** The provisions of the Code of Criminal Procedure, 1973 shall *mutatis mutandis* apply in relation to a search and seizure in respect of an offence under this Act. Search and seizure.

20 **16.** (1) Where a police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit has reason to believe that it is necessary to rescue a person without undue delay due to the imminent danger that may cause to his life and person, he or it may remove such person from any place or premises and produce him before the Magistrate or Child Welfare Committee, as the case may be, and shall take all necessary steps for the medical examination of such person for the purposes of determination as to the age, the assessment or detection of trauma, injury or illnesses incidental thereto. Rescue and medical examination of persons.

2 of 1974.
32 of 2012. (2) The provisions of section 164A of the Code of Criminal Procedure, 1973 and section 27 of the Protection of Children from Sexual Offences Act, 2012 shall *mutatis mutandis* apply in relation to a medical examination of any person under this section.

30 (3) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or the Police Officer, as the case may be, shall inform the District Anti-Trafficking Committee about the rescue conducted under this section and the said Committee shall take appropriate actions for providing interim relief and further rehabilitation services to the person rescued.

35 **17.** (1) The District Anti-Trafficking Committee shall assist the Anti-Trafficking Police Officer or the Anti-Trafficking Unit or any police officer, as the case may be, in rescue operation and transferring any person to the nearest Protection Home or any other suitable institution, as deemed fit. Safety, care and protection of person rescued.

40 (2) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall produce the person rescued before the Magistrate or the Child Welfare Committee, as the case may be, without any delay but within twenty-four hours of the rescue.

(3) The Magistrate may, after making an inquiry as to the age of the person rescued and if it is found that the person is a child, pass such orders as he deems necessary for the care and protection of the person.

45 (4) Where the Magistrate is satisfied, after making an inquiry as to the age of the victim and it is found that the victim is not a child, the Magistrate may, make an order that the victim be placed, for such reasonable period, in a Rehabilitation Home:

Provided that, if the victim or any person rescued is not a child and he voluntarily makes an application supported by an affidavit for his release and if the Magistrate is of the opinion that such application has not been made voluntarily, the Magistrate may reject such application after recording his reasons in writing.

(5) In discharging the functions under this section, a Magistrate may summon a mental healthcare professional, or psycho social counsellor, or clinical psychologist, or psychotherapist, as the case may be, to assist him and may, for this purpose, in consultation with the District Anti-Trafficking Committee and District Legal Services Authority, maintain a list of experienced social workers. 5

Investigation
and evidence.

18. (1) The Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall ensure that investigation including search and seizure must be conducted in accordance with the provisions of the Code of Criminal Procedure, 1973, and any other law for the time being in force. 10

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Anti-Trafficking Police Officer or the officer-in-charge of the police station, as the case may be, shall forward the report on completion of investigation to the court having jurisdiction within ninety days from the date of registration of first information report. 15 2 of 1974.

(3) The investigating officer, while forwarding the report on completion of investigation of an offence under this Act, punishable with imprisonment of more than two years, has reason to believe that any amount suspected to have been obtained by the accused by way of commission of the offence and held by him in any bank account, the investigating officer may submit an application before the designated court for freezing of such amount. 20

(4) The designated court, on satisfaction, after an inquiry made in this behalf, may freeze such amount in any such bank account and may, upon conviction, order that such amount lying in such bank account, shall be remitted to the Rehabilitation Fund. 25

Presumption
as to offences.

19. Where a person is prosecuted for committing or abetting or attempting to commit any offence under this Act in respect of a child or a woman or a person suffering from physical or mental disability, unless it is specified, the designated court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved. 30

CHAPTER VI

PREVENTIVE MEASURES

Preventive
measures by
State and
District Anti-
Trafficking
Committees.

20. (1) The State and the District Anti-Trafficking Committees shall undertake all measures and recommend strategies and plans to protect and prevent vulnerable persons from being trafficked. 35

(2) The measures referred to in sub-section (1) shall include—

(i) co-ordinating the implementation of all the programmes, schemes and plans relating to the prevention of trafficking of persons with any statutory bodies, organisations or agencies as well as Panchayati Raj Institutions;

(ii) facilitating the implementation of livelihood and educational programmes for vulnerable communities; 40

(iii) facilitating the implementation of programmes and schemes sponsored by various Ministries and Departments of the appropriate Government;

(iv) co-ordinating with corporate sector to implement various schemes, programmes for the prevention of trafficking of persons; 45

(v) ensuring accountability of the concerned agencies, by regular review and appropriate action;

(vi) developing appropriate law and order framework to ensure prevention of trafficking of persons;

(vii) undertaking vulnerability mapping of the State and give focus and attention to the challenging areas;

5 (viii) commissioning independent research on various aspects of trafficking and ensure follow up action;

(ix) organising interface between law enforcement agencies, other Government Departments and agencies with the voluntary organisations or non-Governmental organisations in matters of prevention of trafficking of persons;

10 (x) preparing an annual report on trafficking of persons in the State;

(xi) co-ordinating with the Bureau and other State Anti-Trafficking Committees, especially with those States where source-transit-destination linkages exist, and undertake all activities for joint action programmes by bringing in common policies and programmes;

15 (xii) linking with the Bureau and the Central Government and other concerned agencies, in case of trans-border trafficking of persons and ensure appropriate action.

CHAPTER VII

PROTECTION AND REHABILITATION OF VICTIMS

20 **21. (1)** The appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued. Protection Homes.

25 (2) The Protection Homes shall provide for shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

22. (1) The appropriate Government, as it deems fit, shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation of victims or any person rescued. Rehabilitation Homes.

30 (2) The appropriate Government may also utilise any existing shelter home for the purposes of rehabilitation under sub-section (1).

23. (1) Notwithstanding anything contained in any other law for the time being in force, a Protection Home and Rehabilitation Home shall be registered under this Act in such manner as may be prescribed by the appropriate Government. Registration.

35 (2) If any person in-charge of Protection Home and Rehabilitation Home providing shelter and rehabilitation to victims or any person rescued contravenes any of the provisions of sub-section (1), he shall be punished with imprisonment which may extend to one year or with fine which shall not be less than one lakh rupees, or with both.

40 **24. (1)** A victim or any person rescued on behalf of him may make an application to the Magistrate within the local limits of whose jurisdiction the victim or such other person is trafficked or suspected to be trafficked for an order that he may be kept in a protection: Application for providing care and protection.

2 of 2016. Provided that in case the victim or any person rescued is a child, the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

45 (2) The Magistrate may, pending inquiry under sub-section (3) or sub-section (4) of section 17 having regard to the circumstances of the case direct that the victim or any person rescued to be kept in such care and protection as he may consider proper.

(3) The Magistrate shall consult the District Anti-Trafficking Committee before taking a final decision with respect to the rehabilitation of the victim or such other person.

Rehabilitation not to be contingent on criminal proceedings.

25. Where the person rescued is a victim, the District Anti-Trafficking Committee shall ensure that the rehabilitation of the person is not contingent upon criminal proceedings being initiated against the accused or the outcome thereof.

5

CHAPTER VIII

REPATRIATION

Repatriation of victims.

26. (1) The District Anti-Trafficking Committee or the Child Welfare Committee, as the case may be, shall be responsible for the repatriation of victims by co-ordinating with their counterparts in any other District.

10

(2) Where the State Anti-Trafficking Committee is of the opinion that a victim from a foreign country needs to be repatriated to the country of origin, it may deal with the matter under any law for the time being in force.

(3) The State Nodal Officer shall obtain informed written consent from the victim for repatriation purposes, and where needed, shall make arrangements for the counselling of the victim by trained psycho-social professionals.

15

(4) The repatriation of the victims shall be completed within three months for inter-State repatriation, and within six months in case of cross border repatriation, from the date of rescue by the District Anti-Trafficking Committee, or the Child Welfare Committee, or State Police Nodal Officer, as the case may be:

20

Provided that any delay in repatriation shall be recorded for reasons in writing and shall be reported to the National Anti-Trafficking Relief and Rehabilitation Committee and the Bureau forthwith.

CHAPTER IX

MONETARY RELIEF AND COMPENSATION

25

Interim relief.

27. (1) Upon application for interim relief by the victim, the District Anti-Trafficking Committee or Child Welfare Committee, as the case may be, shall take immediate steps to award interim relief to the victim as deemed appropriate not later than thirty days, taking into consideration all aspects, including physical, mental trauma and the other requirements of the victim.

30

(2) The appropriate Government shall provide adequate funds at the disposal of the District Anti-Trafficking Committee for the purposes under sub-section (1), within a period of one month from the date of commencement of this Act.

Relief.

28. (1) The District Anti-Trafficking Committee shall take steps to ensure that appropriate relief is provided to the victim, within sixty days from the date of filing of charge-sheet.

35

(2) The relief amount shall be in addition to any other compensation including any amount or benefit payable by way of any scheme of the appropriate Government or pursuant to any order of the court under any law for the time being in force.

CHAPTER X

40

FORFEITURE AND ATTACHMENT OF PROPERTY

Forfeiture and attachment of property.

29. (1) Where any property is, or is likely to be, used for the commission of an offence under this Act and the property is concealed, transferred or dealt with, in any manner which may result in frustrating any proceedings under this Act, the designated court may attach such property:

45

Provided that the designated court shall give an opportunity to be heard to the person who is the owner or occupier of the property.

(2) Where a person has been convicted of any offence under this Act, the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-section (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

CHAPTER XI

REHABILITATION FUND

30. (1) There shall be constituted a fund by the Central Government to be called the Rehabilitation Fund for the welfare and rehabilitation of the victims under this Act and there shall be credited thereto—

Rehabilitation
Fund.

(a) any grants and loans made by the appropriate Government;

(b) any voluntary donations, contributions or subscriptions, whether or not for any specific purpose as may be decided upon by the Central Government;

(c) any fine recovered for the commission of an offence under this Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973;

(d) the amount seized from any bank account frozen under sub-section (4) of section 18; and

(e) any other sums as may be received.

(2) The State Government may supplement the Rehabilitation Fund.

(3) The Rehabilitation Fund shall be utilised under this Act by the appropriate Government for —

(i) the establishment and administration of Protection Homes and Rehabilitation Homes;

(ii) supporting innovative programmes for the welfare and rehabilitation of the victims;

(iii) strengthening legal assistance and support;

(iv) providing entrepreneurial support, skill development training or vocational training;

(v) providing aftercare facilities for capital and infrastructure to the victims who are ready to integrate into mainstream society by setting up small business or profession;

(vi) providing victim and witness protection;

(vii) awareness generation programmes for the prevention of trafficking of persons;

(viii) creating community-based programmes to identify, report and prevent trafficking of persons;

(ix) providing specialised professional services, counsellors, translators, interpreters, social workers, mental health care professionals, vocational trainers or such other specialised professionals for the victims; and

(x) any other activity which may be required for effective implementation of this Act.

(4) The Rehabilitation Fund shall be maintained and monitored by the National Anti-Trafficking Relief and Rehabilitation Committee.

(5) The Rehabilitation Fund shall be made available to the State and District Anti-Trafficking Committees towards prevention, protection and prosecution of matters relating to trafficking of persons. 5

(6) Any fine recovered for the commission of an offence under this Act shall also be remitted to the Rehabilitation Fund which includes recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973. 2 of 1974.

(7) The generation, dissemination and utilisation of Fund shall be regulated in the manner as may be prescribed by the Central Government. 10

CHAPTER XII

OFFENCES AND PENALTIES

Aggravated form of trafficking of persons.

31. Notwithstanding anything contained in any other law for the time being in force, whoever commits an offence of trafficking of person—

(i) for the purpose of forced labour or bonded labour by using violence, intimidation, inducement, promise of payment of money, deception or coercion or by subtle means including, allegations of accumulated debt by the person, retention of any identity paper, threats of denunciation to authorities; or 15

(ii) for the purpose of bearing child, either naturally or through assisted reproductive techniques; or 20

(iii) by administering any narcotic drug or psychotropic substance or alcohol on a person for the purpose of trafficking or forcing him to remain in exploitative condition; or

(iv) by administering any chemical substance or hormones on a person for the purpose of early sexual maturity; or 25

(v) for the purpose of marriage or under the pretext of marriage trafficks a woman or child after marriage; or

(vi) by causing serious injury resulting in grievous hurt or death of any person, including death as a result of suicide as a consequence of trafficking of person; or

(vii) who is a pregnant woman or the offence results in pregnancy of the person; or 30

(viii) by causing or exposing the person to a life-threatening illness including acquired immuno deficiency syndrome or human immuno deficiency virus; or

(ix) for the purpose of begging; or

(x) who is a mentally ill person as defined in clause (l) of section 2 of the Mental Health Act, 1987 or a person with disability as defined in clause (s) of section 2 of the Rights of Persons with Disabilities Act, 2016, or as a consequence of trafficking, the person becomes mentally ill or disabled; or 35 14 of 1987. 49 of 2016.

(xi) by encouraging or abetting any person to migrate illegally into India or Indians in to some other country,

is said to commit an offence of aggravated form of trafficking of the person. 40

Punishment for aggravated form of trafficking of persons.

32. Whoever commits the offence of aggravated form of trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than one lakh rupees.

33. Whoever is convicted of the offence of trafficking on more than one occasion shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine which shall not be less than two lakh rupees.

Trafficking of persons on more than one occasion.

5 34. (1) Whoever keeps or manages, or acts or assists in the keeping or management of a premises to be used as a place for trafficking of any person shall be punished with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years and with fine which may extend to two lakh rupees.

Punishment for keeping or allowing premises to be used as place for trafficking of persons.

(2) Whoever—

(i) being a tenant, lessee, occupier or person in-charge of any premises, uses, or knowingly allows any other person to use, the premises or any part thereof as a place for trafficking of persons; or

15 (ii) being the owner, lessor or landlord of any premises, or the agent of such owner, lessor, or landlord, lets out the same, or any part thereof with the knowledge that the same or any part thereof is intended to be used as a place of exploitation of the victim, or is wilfully a party to the use of the premises or any part thereof as a place for trafficking of persons,

20 shall be punished on first conviction with imprisonment for a term which may extend to three years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and with fine which may extend to two lakh rupees.

25 *Explanation.*—For the purposes of sub-section (2), it shall be presumed until the contrary is proved that any person referred to in clause (i) or clause (ii) of that sub-section has not exercised due diligence in allowing to use or letting out the premises or in allowing the premises or any part thereof to be used as a place of exploitation or, as the case may be, and has knowledge that the premises or any part thereof was being used as a place of exploitation of the victim.

30 (3) Notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in clause (i) or clause (ii) of sub-section (2) of any offence under this Act in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or held or occupied at the time of the commission of the offence, shall become void with effect from the date of the said conviction.

35 35. (1) Notwithstanding anything contained in any other law for the time being in force, the Magistrate shall, on receipt of information from the police or otherwise, that any premises or any part thereof is being used for the purpose of trafficking of persons, issue notice to the owner, lessor or landlord of the premises or part thereof, or the agent of the owner, lessor or landlord, or on the tenant, lessee, occupier of, or any other person in charge of such premises or part thereof, to show cause within seven days of the receipt of the notice why the same should not be sealed or attached for improper use thereof; and, after hearing the person concerned, if the Magistrate is satisfied that the premises or part thereof is being used for trafficking of persons, then, the Magistrate may pass an order—

Closure of premises and eviction of offenders from premises.

45 (i) directing eviction of the occupier or any person from the premises, within seven days of the passing of the order;

(ii) directing that the owner, lessor, or landlord, or the agent of the owner, before letting out the premises or any part thereof, which, during the rescue or search has been found to be used for the purpose of trafficking, shall obtain the previous permission of the Magistrate and the Magistrate shall pass appropriate orders within thirty days

from the date of order and where no permission is granted within such period, the permission shall be deemed to have been granted.

(2) If the Magistrate, after the notice issued under sub-section (1), finds that the premises or any part thereof was used for trafficking of any person, the owner, lessor, landlord the agent of the owner, lessor, landlord exercised due diligence in letting out premises or any part thereof, then, the same shall be restored to the owner, lessor or landlord, or the agent of the owner or lessor or landlord as the case may be, with an undertaking that the premises or any part thereof shall not be leased out, or otherwise given possession of, or for the benefit of the person who was allowing the improper use therein, within two months from the date of issuing the notice by the Magistrate.

(3) If the Magistrate is satisfied that the premises or part thereof was not used for trafficking of any person, he shall cause the same to be restored to the owner, lessor or landlord, or the agent of the owner, lessor, landlord, tenant, lessee, occupier or any other person in-charge of the premises or part thereof within two months of the issuance of the notice.

(4) When an owner, lessor or landlord, or the agent of the owner, lessor or landlord fails to comply with a direction given under clause (ii) of sub-section (1), he shall be punished with fine which may extend to one lakh rupees.

Punishment for promoting or facilitating trafficking of person.

36. (1) A person is said to promote, procure or facilitate the commission of trafficking of person, if that person—

(i) produces, prints, issues or distributes unissued, tampered or fake certificates, registration or stickers as proof of compliance with Government requirements; or

(ii) advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing or broadcast or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner; or

(iii) assists in the conduct of misrepresentation or fraud for the purposes of procuring or facilitating the acquisition of clearances and necessary documents from Government agencies for the purpose of trafficking of any person.

(2) Whoever commits an offence under sub-section (1) shall be punished with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.

Punishment for abetment.

37. Whoever abets any person to commit any offence under this Act and if the act abetted is in consequence of the abetment, shall be punished with the punishment provided for that offence.

Punishment for omission of duty.

38. Notwithstanding anything contained in any other law for the time being in force, whoever knowingly or having reason to believe that a person has been trafficked, fails to perform a duty, which he is entrusted under this Act for providing care, protection and rehabilitation to a victim or performs duty but knowingly causes physical or mental injury or hardship or trauma to the victim shall be punished with fine which shall not be less than fifty thousand rupees and in the event of a second or subsequent offence with rigorous imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees.

Buying or selling of any person.

39. (1) Whoever buys or sells any person for a consideration, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees.

(2) Whoever solicits or publicises electronically, taking or distributing obscene photographs or videos or providing materials or soliciting or guiding tourists or using

agents or any other form which may lead to the trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than five years but may extend to ten years, and shall also be liable to fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees.

- 5 **40.** Whoever hires or otherwise obtains possession, or lets to hire, or in any manner disposes of a person, for the purpose of trafficking of person, shall be punished with imprisonment of either description for a term which shall not be less than three years but may extend to five years and shall also be liable to fine which shall not be less than one lakh rupees. Hiring or obtaining possession, etc. for trafficking of person.
- 10 **41.** (1) Whoever commits trafficking of a person with the aid of media, including, but not limited to print, internet, digital or electronic media, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees. Offences related to media.
- 15 (2) Whoever distributes, or sells or stores, in any form in any electronic or printed form showing incidence of sexual exploitation, sexual assault, or rape for the purpose of extortion or for coercion of the victim or his family members, or for unlawful gain shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.
- 20 **42.** (1) No report or newspaper or magazine or news-sheet or audio-visual media or any other form of communication regarding any inquiry or investigation or judicial proceedings at any stage shall disclose the name, address or any other particulars, which lead to the identification of a victim or witness of trafficking of person under this Act shall be published: Punishment for disclosure of identity.
- 25 Provided that for reasons to be recorded in writing, the designated court may permit such disclosure, if in its opinion, such disclosure is in the best interest of the victim.
- (2) Any person who contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both:
- 30 Provided that in case, the victim is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.
- 2 of 2016.
- 35 **43.** (1) Where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in any such law, the person found guilty of such offence, shall be liable to punishment under such law which provides for punishment which is greater in degree. Applicability of punishment.
- (2) A designated court convicting a person of any offence under this Act may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund.
- 40 (3) When an occupier or any other person fails to comply with a direction given under clause (i) of sub-section (1) of section 35, he shall be deemed to have committed an offence under section 34 and shall be punished accordingly.
- 45 **44.** Whoever attempts to commit an offence punishable by this Act with imprisonment or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both. Punishment for attempt to commit offence under this Act.

Act committed by victim under coercion, compulsion, etc.	<p>45. Nothing is an offence which is committed or attempted to have been committed by a victim, punishable with death or imprisonment for life or for imprisonment for ten years, if the offence is committed or attempted to have been committed, under coercion or compulsion or intimidation or threat or undue influence by any person and where, at the time of committing the offence, the victim is subjected to reasonable apprehension of his death, grievous hurt or any other injury to him or to any other person whom he is interested in.</p>	5
<p>CHAPTER XIII DESIGNATED COURTS</p>		
Designated courts.	<p>46. For the purposes of providing speedy trial of any offence under this Act, the State Government shall, in consultation with the Chief Justice of the High Court, by notification, within two months from the date of commencement of this Act, designate in each district, the court of session as a Designated Court.</p>	10
Special Public Prosecutors.	<p>47. (1) The appropriate Government may, by notification, appoint Special Public Prosecutors for every designated court for conducting cases under this Act.</p> <p>(2) Every person appointed as a Special Public Prosecutor under sub-section (1) shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and provisions of that Code shall have effect accordingly.</p> <p>(3) Subject to the provisions contained in section 301 of the Code of Criminal Procedure, 1973, the victim shall be entitled to the assistance of a legal counsel of his choice for any offence under this Act:</p> <p>Provided that if the victim is unable to afford a legal counsel, the Legal Services Authority shall provide a counsel to him.</p>	15 2 of 1974. 2 of 1974. 20
Period and manner for recording of evidence of person who is trafficked and disposal of cases.	<p>48. (1) The designated court shall complete the trial, as far as possible, within a period of one year from the date of taking into cognizance of any offence under this Act.</p> <p>(2) The designated court may record the statement of any victim through video conferencing in any case, where the victim is unable to appear before the court for the reasons of safety or confidentiality.</p> <p>(3) In all matters of trans-border and inter-State crimes where the victim has been repatriated to any other State or country is unable to attend the court proceedings, the court may order video conferencing to record his statement.</p> <p>(4) Notwithstanding anything contained in this Act, the inquiry and trial of offences under this Act, may be conducted in camera, if an application is made in this regard by the victim.</p>	25 30
Payment to the victim.	<p>49. (1) The designated court may order, where applicable, any backwages of the victim to be paid to him.</p> <p>(2) The designated court shall on its own motion or on an application filed by or on behalf of the victim, award compensation under section 357A of the Code of Criminal Procedure, 1973, or under any other law for the time being in force or otherwise at any stage of the proceedings.</p> <p>(3) The appropriate Government shall ensure that the relief ordered by the designated court is paid within sixty days from the date of receipt of the order.</p>	35 2 of 1974. 40
Appeal.	<p>50. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of the designated court to the High Court.</p> <p>(2) Every appeal under this section shall be preferred within a period of sixty days from the date of judgment, sentence or order appealed against:</p>	2 of 1974. 45

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

CHAPTER XIV

5 PROTECTION OF VICTIM, WITNESS AND COMPLAINANT

51. (1) The designated court, if on an application made by a victim, witness or a complainant in any proceeding before it or by the Special Public Prosecutor in relation to such victim, witness or a complainant or on its own motion, is satisfied that the life of such victim, witness or a complainant is in danger, it may, for reasons to be recorded in writing, take such measures to protect such victim, witness and the complainant.

Protection of
victim,
witness and
complainant.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the measures which a designated court may take under that sub-section may include—

- (a) the holding of the proceedings at a place to be decided by the designated court;
- 15 (b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;
- (c) the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and
- (d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

Period and manner for recording of evidence of person who is trafficked and disposal of cases.

CHAPTER XV

MISCELLANEOUS

25 **52.** (1) All offences under this Act shall be cognizable and non-bailable.

Cognizance of
offences.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973—

- (a) nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act with imprisonment of more than two years.
- 30 (b) no person accused of committing an offence under this Act shall be released on bail or on his own bond unless—
 - (i) the Special Public Prosecutor has been given an opportunity to oppose the application for such release;
 - (ii) where the Special Public Prosecutor opposes the application, the court
- 35 is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail; and
- (c) the victim shall have a right to be heard in all bail matters.

2 of 1974. 40 (3) The conditions for granting of bail specified in clause (b) of sub-section (2) shall be in addition to the conditions provided under the Code of Criminal Procedure, 1973.

53. No suit, prosecution, or other legal proceeding shall lie against the Central Government or the State Government or any person acting under the directions of the Central Government or the State Government as the case may be, acting in good faith, or intended to be done in pursuance of this Act, or of any rules made thereunder.

Protection of
action taken
in good faith.

Power of Central Government to make rules.	<p>54. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.</p> <p>(2) Every rule made under this section 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 both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p>	5 10
Power of State Government to make rules.	<p>55. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.</p> <p>(2) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.</p>	15
Power to remove difficulty.	<p>56. (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 removal of the difficulty:</p> <p>Provided, that no such order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.</p> <p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p>	20
Section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 not to apply.	<p>57. The provisions of section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person who is found guilty of having committed an offence under this Act.</p>	2 of 1974. 25 20 of 1958.
Sections 193, 195, 199 and 203 of Indian Penal Code to apply.	<p>58. The provisions of section 193, 195, 199 and 203 of the Indian Penal Code shall apply to any person who is guilty of having committed an offence under this Act.</p>	45 of 1860.
Act not in derogation of any other law.	<p>59. 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 and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.</p>	30

STATEMENT OF OBJECTS AND REASONS

Trafficking in human beings is one of the largest organised crime violating basic human rights. Trafficking in human beings may be for sexual and physical exploitation and also for other forms of exploitation like forced labour, etc. This is primarily fueled by poverty, illiteracy and lack of livelihood options. Majority of the Trafficking is within the country. However, there are instances where large number of persons are trafficked from neighboring countries and to other countries especially Middle East.

2. Presently, the subject matter of trafficking of persons is dealt with under the provisions of the Indian Penal Code, 1860 and the Immoral Traffic (Prevention) Act, 1956. Section 370 of Indian Penal Code, 1860 only defines and penalises the offence of trafficking of persons and, whereas, the provisions of the Immoral Traffic (Prevention) Act, 1956 deals with trafficking of persons for the purpose of commercial sexual exploitation and it does not recognise trafficking of persons for the purpose of physical and other forms of exploitation.

3. Keeping in view of the above deficiencies in the existing legislations and after considering the issues relating to prevention, rescue and rehabilitation of victims of trafficking, it has been considered necessary to bring a comprehensive legislation, namely, the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2019 covering all related aspects of trafficking of persons.

4. The salient features of the Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2019, *inter alia*, are as follows:—

(a) it aims to prevent the trafficking of persons, to prosecute offenders and to provide care, protection and rehabilitation to the victims of trafficking;

(b) it creates a conducive legal, economic and social environment for the victims of trafficking and also addresses the transnational nature of the crimes;

(c) provides for dedicated institutional mechanism at District, State and National level for prevention, protection, investigation and rehabilitation aspects relating to trafficking;

(d) it provides for new offences with stringent punishment and fine, which are aggravated in nature and not addressed in existing laws;

(e) it provides for timely disposal of cases and repatriation of the victims;

(f) it provides for the confidentiality of victims, witnesses and complainants by not disclosing their identity. The confidentiality of the victims is maintained by recording their statement through video conferencing and by in camera proceedings.

(g) it also provides for Rehabilitation Fund for the welfare and rehabilitation of victims to ensure timely relief to the victims and also addresses their physical, mental trauma etc.;

(h) in order to break the organised nexus, both at national and international level, the Bill proposes for attachment and forfeiture of property and to remit the proceeds of crime in the Rehabilitation Fund;

(i) it also provides for immunity to victims for certain criminal actions against them; and

(j) it is also proposed to designate a Sessions Court in each district for speedy disposal of the cases under the proposed legislation and for this purposes provides for appointment of Special Public Prosecutors to deal with such cases in a time bound manner.

5. The Bill seeks to achieve the above objectives.

DR. SASMIT PATRA

Notes on clauses

Clause 2 of the Bill defines various expressions used in the Bill and provides that words and expressions used but not defined in the proposed Bill and defined in the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, the Information Technology Act, 2000 and the Juvenile Justice (Care and Protection of Children) Act, 2015, shall have the meanings respectively assigned to them in those Acts.

Clause 3 of the Bill seeks to provide for the establishment of the National Anti-Trafficking Bureau by the Central Government, by notification, having police officers and other officers of such appropriate ranks as may be necessary for the discharge of its functions. Sub-clause (3) further provides that the manner of selection, deputation, functioning and reporting of the officers and employees of the Bureau, shall be in the manner as may be prescribed.

Clause 4 of the Bill seeks to provide for the functions of the Bureau including the function to co-ordinate and monitor surveillance and preventive efforts alongwith the known or probable routes; facilitate surveillance, enforcement and preventive steps at source, transit and destination points; maintain co-ordination between various law enforcement agencies and non-Governmental organisations and other stakeholders; strengthen the intelligence apparatus to improve the collection, collation, analysis and dissemination of operational intelligence; increase international co-operation and co-ordination with concerned authorities in foreign countries and international organisations, in operational and long-term intelligence in investigation, mutual legal assistance, to facilitate universal action for prevention and suppression and to implement any obligation under various international conventions and protocols that are in force in respect of counter measures; co-ordinate actions and enforcement by various bodies or authorities established under the Act; co-ordinate actions taken by the concerned Ministries, Departments or organisations of the Government, especially linking the source of transit to destination and connecting all stakeholders; review measures for combating, preventing and formulating co-ordinated strategy of action by various law enforcement agencies; make sustained efforts for capacity building and training of agencies; bring out resource material including education curriculum for children, Panchayat Raj institutions, enforcement agencies, judicial officers and other stakeholders; co-ordinate investigating activities among the Districts, States and with other countries in case of cross-border trafficking of persons; co-ordinate the investigation, where international ramifications are reported or suspected; co-ordinate investigation, where inter-State ramifications are reported or suspected across two or more States or Union-territory Administrations; undertake and facilitate other investigators for investigating offences from the organised crime perspective; develop and monitor a database on every crime under this Act; co-ordinate with any national or international investigating or law enforcement agencies and civil society organisations; facilitate inter-State and international transfer of evidence in investigation as well as video conferencing in judicial proceedings; facilitate frequent meetings of the State Police Nodal Officers to facilitate, monitor and evaluate the establishment and functioning of Anti-Trafficking Units; provide necessary support for investigation by the Anti-Trafficking Units, where such requests are made; undertake steps to enhance the professional skills of Anti-Trafficking Police Officers, Anti-Trafficking Units and all concerned with the investigation and prosecution of cases; facilitate inter-State and trans-border transfer of evidence and materials, witnesses and others for expediting prosecution; protection of witnesses, victims, complainants and affected families, as the case may be; undertake steps for timely and effective action on post-rescue care and protection of any person who is trafficked, including steps towards rehabilitation by the concerned agencies, so that their rights are ensured, and that they are not re-trafficked; monitor and facilitate victim and witness protection protocols, rules and procedures including video conferencing during trial of offences which have ramifications across States and beyond borders; and develop minimum standards of care and advice for all concerned, in matters of compliance.

Clause 5 of the Bill seeks to provide for the investigation by the Bureau which includes that the Bureau may take over investigation of any offence under this Act, referred to it by two or more States; sub-clause (2) provides that where an offence is referred to the Bureau under sub-clause (1) of clause 5, the State Government shall not proceed with the investigation of the offence and shall forthwith transmit the relevant documents and records to the Bureau; till the Bureau takes up the investigation of the case, it shall be the duty of the officer-in-charge of the police station to continue the investigation of an offence under this Act. Sub-clause (4) provides that while investigating any offence under this Act, the Bureau, having regard to the gravity of the offence and other relevant factors, may if it is expedient to do so, request the State Government to associate with the investigation; or with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence. Sub-clauses (5) and (6) provides that while investigating any offence under this Act, the Bureau may also investigate any other offence under any law for the time being in force, which the accused is alleged to have committed, if the offence is connected with such other offence and the State Government shall extend assistance and co-operation to the Bureau for investigation of an offence under the Act. Sub-clause (7) provides that save as otherwise provided, nothing contained in the Act shall affect the powers of the State Government to investigate and prosecute any offence under the Act or other offences under any other law for the time being in force.

Clause 6 of the Bill seeks to provide that the State Government shall appoint a State Nodal Officer, not below the rank of Director in the State Government, who shall be responsible for follow up action under the Act, as per the direction of the State Anti-Trafficking Committee and co-ordinate with other Government agencies and civil society organisations, provide relief and rehabilitation services through District Anti-Trafficking Unit and other Government agencies as well as civil society organisations and liaison with the State Police Nodal Officer, National Anti-Trafficking Relief and Rehabilitation Committee for all matters relating to relief and rehabilitation.

Clause 7 of the Bill seeks to provide that the State Government shall appoint a State Police Nodal Officer of such rank as may be specified by that Government, who shall be responsible for all the activities in the prevention and combating of trafficking of persons in the State and also to monitor the functioning of Anti-Trafficking Police Officers and Anti-Trafficking Units in the State and co-ordinate and monitor inter-State and trans-border transfer of persons rescued, witnesses, evidence and offenders under this Act and liaison with State Nodal Officer and such other functions as may be prescribed.

Clause 8 of the Bill seeks to provide that the State Government shall designate one police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned and perform such other functions as may be prescribed. Sub-clause (2) provides that the District Police Nodal Officer shall be the convener of the District Anti-Trafficking Committee and shall report to the State Police Nodal Officer in every matter relating to an offence of trafficking of persons including rescue, investigation and inter-State transfer of a person who is trafficked and also of the offenders. Sub-clause (3) provides that the District Police Nodal Officer shall monitor the functioning of Anti-Trafficking Unit and provide necessary assistance to them for the effective discharge of their duties.

Clause 9 of the Bill seeks to provide that the State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution and the State Government shall designate for each District such number of Anti-Trafficking Police Officers for matters related to trafficking of persons, including prevention of trafficking, rescue and protection of the victims, investigation and prosecution.

Clause 10 of the Bill seeks to provide that the appropriate Government shall set up for each District or a group of Districts, such number of Anti-Trafficking Units, for dealing with

all matters of prevention, rescue, protection and care of victims and witnesses and of investigation and prosecution of any offence under the Act. Sub-clause (2) provides that every local police station shall undertake every activity in matters of rescue, investigation, prevention and protection of persons trafficked under this Act and where the Anti-Trafficking Unit is not functional. Sub-clause (3) provides that the State Government shall appoint for every Anti-Trafficking Unit such number of subordinate police officers including women police officers as it deems necessary for the discharge of the functions of the Anti-Trafficking Unit and vest in them with all the powers to investigate any offence committed within its local jurisdiction under the Act and the officer-in-charge of a police station after registering the First Information Report under section 154 of the Code of Criminal Procedure, 1973, shall take all necessary action for immediate rescue and protection and then transfer the case to the Anti-Trafficking Unit.

Clause 11 of the Bill seeks to provide for the establishment of National Anti-Trafficking Relief and Rehabilitation Committee by the Central Government and by notification. Sub-clause (2) provides for the composition of the Committee which shall consist of a Chairperson, who is the Secretary, Ministry of Women and Child Development, Member-Secretary who is the Head of National Anti-Trafficking Bureau, representatives from Ministry of Home Affairs, Ministry of External Affairs, Ministry of Labour and Employment, Ministry of Social Justice and Empowerment, Ministry of Panchayati Raj, Ministry of Health and Family Welfare, Legislative Department, Four representatives from registered civil society organisations active in the prevention, rescue and rehabilitation of victims and such other representatives of the Ministries or Departments or experts representing different States, as may be prescribed. Sub-clause (3) seeks to provide for the functions of the National Anti-Trafficking Relief and Rehabilitation Committee, including to facilitate and ensure rehabilitation and relief services including compensation, repatriation, re-integration to the victims through concerned Ministries, Departments and statutory bodies; provide for Protection Homes and Rehabilitation Homes to enable the immediate and long term sustainable rehabilitation of victims, ensure the effective co-ordination between the concerned authorities both within the country as well as with other countries for the repatriation of victims; seek reports from appropriate Government, State Anti-Trafficking Committee, District Anti-Trafficking Committee, on the quality of services and the functioning of the Protection Homes and Rehabilitation Homes; maintain and monitor the Rehabilitation Fund established under clause 30 and such other functions as may be prescribed.

Clause 12 of the Bill seeks to provide that the appropriate Government shall establish a State Anti-Trafficking Committee to oversee the implementation of this Act and advise the State Government and District Anti-Trafficking Committees on matters relating to prevention of trafficking, protection, repatriation and rehabilitation of victims and shall consist of a Chairperson, who is the Chief Secretary and other Members, such as Director General of Police; Secretary, Department of Women and Child, Secretary, Home Department; Secretary, Labour Department; Secretary, Health Department; Secretary, State Legal Services Authority; Secretary, Law Department; Protector of Emigrants, Ministry of External Affairs; State Police Nodal Officer; State Nodal Officer; two social workers out of which one shall be a woman and such other members as may be prescribed. Sub-clause (3) provides for the functions of the State Anti-Trafficking Committee to identify the roles and responsibilities of each Department at State or District level for effective implementation of the Act and the rules made under it; arrange for appropriate training and sensitisation of functionaries of all personnel including Governmental and non-Governmental; develop effective networking and linkages with local non-Governmental organisations for specialised services and technical assistance like vocational training, education, healthcare, nutrition, mental health intervention, drug de-addiction and legal aid services; review and monitor the functioning of District Anti-Trafficking Committee; make necessary funds available to the District Anti-Trafficking Committee for providing or setting up required facilities for the implementation of the Act, and such other functions and duties as may be prescribed. Sub-clause (4) provides that the State Anti-Trafficking Committee shall co-ordinate with Bureau and National Anti-Trafficking

Relief and Rehabilitation Committee to provide all necessary assistance and inputs as may be required to prevent offences of trafficking of persons especially, those that have inter-State and international ramifications and have features of an organised crime.

Clause 13 of the Bill seeks to provide that the appropriate Government shall, by notification, constitute for every District, a District Anti-Trafficking Committee for exercising the powers and performing such functions and duties in relation to prevention, rescue, protection, medical care, psychological assistance and need-based rehabilitation of victims and will consist of a Chairperson who is a District Magistrate or Additional District Magistrate, a Convener who is a District Police Nodal Officer and District Officer for Women and Child Development; representative from District Officer for Women and Child Development, District Legal Services Authority and Child Welfare Committee; two Civil Society Organisations and the Non-Governmental Organisations working in the field of prevention of trafficking and related issues and other members as may be prescribed. Sub-clause (3) further provides for the functions to be performed by the District Anti-Trafficking Committee, such as, direct and facilitate the person in-charge of the Protection Homes and Rehabilitation Homes, as the case may be, and submit an individual care plan to the District Anti-Trafficking Committee; ensure care, protection, appropriate rehabilitation or restoration of all victims, based on each victims' individual care plan and by passing necessary directions to Protection Homes and Rehabilitation Homes, co-ordinate with other State Departments and Panchayati Raj institutions, to keep a check on the children who drop out from schools and those children who are covered by various schemes and have stopped accessing the benefits of those schemes and inform such cases to State Anti-Trafficking Committee and take appropriate actions; facilitate in a time bound manner or in the manner as may be prescribed, the inter-State repatriation of victims or persons subjected to bonded labour; facilitate survey of the areas and vulnerable population to identify source, transit and destination areas of trafficking of persons and based on the information received, draw up an action plan for the prevention and protection of people who are vulnerable to trafficking and implementation of the action plan; create programmes for awareness generation, community mobilisation and empowerment of vulnerable social groups against trafficking of persons; assist the Anti-Trafficking Police Officer, the Anti-Trafficking Unit or the local police, as the case may be, in conducting rescue operation, transferring victims to the nearest Protection Home, in connection with prevention of trafficking of persons, protection of victims and their rehabilitation, etc., and such other functions as may be prescribed. Sub-clause (4) and (5) provides that the appropriate Government shall provide adequate resources to the District Anti-Trafficking Committee for carrying out prevention, protection and rescue procedures and the District Anti-Trafficking Committee shall furnish a report to the State Anti-Trafficking Committee on quarterly basis.

Clause 14 of the Bill seeks to provide that the District Anti-Trafficking Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the victims and in case of child victim, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

Clause 15 of the Bill seeks to provide that the provisions of the Code of Criminal Procedure, 1973 shall mutatis mutandis apply in relation to a search and seizure in respect of an offence under this Act.

Clause 16 of the Bill seeks to provide that where a police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit has reason to believe that it is necessary to rescue a person without undue delay due to the imminent danger that may cause to his life and person, he or it may remove such person from any place or premises and produce him before the Magistrate or Child Welfare Committee, as the case may be, and shall take all necessary steps for the medical examination of such person for the purposes of determination as to the age, the assessment or detection of trauma, injury, illnesses incidental thereto to him and the provisions of section 164A of the Code of Criminal Procedure, 1973 and section 27 of the Protection of Children from Sexual Offences Act, 2012 shall mutatis mutandis apply in relation

to a medical examination of any person under this section. Sub-clause (3) provides that the police officer or Anti-Trafficking Police Officer or Anti-Trafficking Unit, as the case may be, shall inform the District Anti-Trafficking Committee about the rescue conducted under this section and the Committee shall take appropriate actions for providing interim relief and further rehabilitation services to the person rescued.

Clause 17 of the Bill seeks to provide that the District Anti-Trafficking Committee shall assist the Anti-Trafficking Police Officer or the Anti-Trafficking Unit or any police officer, as the case may be, in rescue operation and transferring any person to the nearest Protection Home or any other suitable institution, as deemed fit by the District Anti-Trafficking Committee. Sub-clause (2) provides that the Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall produce the person rescued before the Magistrate or the Child Welfare Committee, as the case may be, without any loss of time but within twenty-four hours of the rescue. Sub-clause (3) provides that the Magistrate may, after making an inquiry as to the age of the person rescued and if it is found that the person is a child, pass such orders as he deems necessary for the care and protection of the person, and where the Magistrate is satisfied, after making an inquiry as to the age of the victim and it is found that the victim is not a child, the Magistrate may, make an order that the victim be placed, for such reasonable period, in a Rehabilitation Home and if the victim or any person rescued is not a child and he voluntarily makes an application supported by an affidavit for his release and if the Magistrate is of the opinion that such application has not been made voluntarily, the Magistrate may reject such application after recording his reasons in writing and in discharging his functions, a Magistrate may summon a mental healthcare professional, or psycho social counsellor, or clinical psychologist, or psychotherapist to assist him and may, for this purpose, in consultation with the District Anti-Trafficking Committee and District Legal Services Authority, maintain a list of experienced social workers.

Clause 18 of the Bill seeks to provide that the Anti-Trafficking Police Officer or Anti-Trafficking Unit or any police officer, as the case may be, shall ensure that investigation including search and seizure must be conducted in accordance with the provisions laid down in the Code of Criminal Procedure, 1973, and any other law for the time being in force. Sub-clause (2), provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Anti-Trafficking Police Officer or the officer-in-charge of the police station, as the case may be, shall forward the report on completion of investigation to the court having jurisdiction within ninety days from the date of registration of first information report. Sub-clause (3) provides that the clause provides that the investigating officer, while forwarding the report on completion of investigation of an offence under this Act, punishable with imprisonment of more than two years, has reason to believe that any amount suspected to have been obtained by the accused by way of commission of the offence and held by him in any bank account, the investigating officer may submit an application before the designated court for freezing of such amount and the designated court, on satisfaction, after an inquiry made in this behalf, may freeze such amount in any such bank account and may, upon conviction, order that such amount lying in such bank account, shall be remitted to the Rehabilitation Fund.

Clause 19 of the Bill seeks to provide that where a person is prosecuted for committing or abetting or attempting to commit any offence under this Act in respect of a child or a woman or a person suffering from physical or mental disability, unless it is specified, the designated court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved.

Clause 20 of the Bill seeks to provide that the State and the District Anti-Trafficking Committees shall undertake all measures and recommend strategies and plans to protect and prevent vulnerable persons from being trafficked and such measures shall include, coordinating the implementation of all the programmes, schemes and plans relating to the prevention of trafficking of persons with any statutory bodies, organisations or agencies as well as Panchayati Raj institutions; facilitating the implementation of livelihood and

educational programmes for vulnerable communities; facilitating the implementation of programmes and schemes sponsored by various Ministries and Departments of the appropriate Government; co-ordinating with corporate sector to implement the various schemes, programmes for the prevention of trafficking of persons, ensuring accountability of the concerned agencies, by regular review and appropriate action; developing appropriate law and order framework to ensure prevention of trafficking of persons; undertaking vulnerability mapping of the State and give focus and attention to the challenging areas, commissioning independent research on various aspects of trafficking and ensure follow up action; organising interface between law enforcement agencies, other Government Departments and agencies with the voluntary organisations or non-Governmental organisations in matters of prevention of trafficking of persons; bringing out annual report on trafficking of persons in the State, networking with the Bureau and other State Anti-Trafficking Committees, especially with those States where source-transit-destination linkages exist, and undertake all activities for joint action programmes by bringing in common policies and programmes; linking with the Bureau and the Central Government and other concerned agencies, in case of trans-border trafficking of persons and ensure appropriate action.

Clause 21 of the Bill seeks to provide that the appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued and the Protection Homes shall provide for shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

Clause 22 of the Bill seeks to provide that the appropriate Government, as it deems fit, shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation of victims or any person rescued. Sub-clause (2) provides that the appropriate Government may also utilise any existing shelter home for the purposes of rehabilitation.

Clause 23 of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, a Protection Home and Rehabilitation Home shall be registered under this Act in such manner as may be prescribed by the appropriate Government and if any person in-charge of Protection Home and Rehabilitation Home providing shelter and rehabilitation to victims or any person rescued contravenes any of the provisions of sub-clause (1) of clause 23, he shall be punished with imprisonment which may extend to one year or with fine which shall not be less than one lakh rupees, or with both.

Clause 24 of the Bill seeks to provide that a victim or any person rescued on behalf of him may make an application to the Magistrate within the local limits of whose jurisdiction the victim or such other person is trafficked or suspected to be trafficked for an order that he may be kept in a Rehabilitation Home and in case the victim or any person rescued is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply. Sub-clause (2) provides that the Magistrate may, pending inquiry under sub-clause (3) or (4) of clause 17, direct that the victim or any person rescued be kept in such care and protection as he may consider proper, having regard to the circumstances of the case and the Magistrate shall consult the District Anti-Trafficking Committee before taking a final decision with respect to the rehabilitation of the victim or such other person.

Clause 25 of the Bill provides that where the person rescued is a victim, the District Anti-Trafficking Committee shall ensure that the rehabilitation of the person is not contingent upon criminal proceedings being initiated against the accused or the outcome thereof.

Clause 26 of the Bill seeks to provide that the District Anti-Trafficking Committee or the Child Welfare Committee, as the case may be, shall be responsible for the repatriation of

victims by co-ordinating with their counterparts in any other District and where the State Anti-Trafficking Committee is of the opinion that a victim from a foreign country needs to be repatriated to the country of origin, it may deal with the matter under any law for the time being in force. Sub-clause (3) provides that the State Nodal Officer shall obtain informed written consent from the victim for repatriation purposes, and where needed, shall make arrangements for the counselling of the victim by trained psycho social professionals. Sub-clause (4) provides that the repatriation of the victims shall be completed within a period of three months for inter-State repatriation, and within six months in case of cross border repatriation from the date of rescue by the District Anti-Trafficking Committee, or the Child Welfare Committee, or State Police Nodal Officer, as the case may be, and any delay in repatriation shall be recorded for reasons in writing and shall be reported to the National Anti-Trafficking Relief and Rehabilitation Committee and the Bureau forthwith.

Clause 27 of the Bill seeks to provide that upon application for interim relief by the victim, the District Anti-Trafficking Committee or Child Welfare Committee, as the case may be, shall take immediate steps to award interim relief to the victim as deemed appropriate not later than thirty days, taking into consideration all aspects, including physical, mental trauma and the other requirements of the victim and the appropriate Government shall provide adequate funds at the disposal of the District Anti-Trafficking Committee for the purposes under sub-clause (1) of clause 27, within a period of one month from the date of commencement of this Act.

Clause 28 of the Bill seeks to provide that the District Anti-Trafficking Committee shall take steps to ensure that appropriate relief is provided to the victim, within sixty days from the date of filing of charge sheet and the relief amount shall be in addition to any other compensation including any amount or benefit payable by way of any scheme of the appropriate Government or pursuant to any order of the court under any law for the time being in force.

Clause 29 of the Bill seeks to provide that where any property is, or is likely to be, used for the commission of an offence under this Act and the property is concealed, transferred or dealt with in any manner which may result in frustrating any proceedings under this Act, the designated court may attach such property and the designated court shall give an opportunity to be heard to the person who is the owner or occupier of the property. Sub-clause (2) provides that where a person has been convicted of any offence under this Act, the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-clause (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

Clause 30 of the Bill provides for Rehabilitation Fund by the Central Government for the welfare and rehabilitation of the victims under this Act and there shall be credited thereto any grants and loans made by the appropriate Government, any voluntary donations, contributions or subscriptions, whether or not for any specific purpose as may be decided upon by the Central Government, any fine recovered for the commission of an offence under the Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973, the amount seized from any bank account frozen under sub-clause (4) of clause 18 and any other sums as may be received. Sub-clause (2) provides that the State Government may supplement the Rehabilitation Fund and the Rehabilitation Fund shall be utilised under this Act by the appropriate Government for the establishment and administration of Protection Homes and Rehabilitation Homes, supporting innovative programmes for the welfare and rehabilitation of the victims, strengthening legal assistance and support, providing entrepreneurial support, skill development training or vocational training, providing aftercare facilities for capital and infrastructure to the victims who are ready to integrate into mainstream society by setting up small business or profession, providing victim and witness

protection, awareness generation programmes for the prevention of trafficking of persons, creating community-based programmes to identify, report and prevent trafficking of persons, providing specialised professional services, counsellors, translators, interpreters, social workers, mental health care professionals, vocational trainers or such other specialised professionals, for the victims and any other activity that may be required for effective implementation of the Act. Sub-clause (4) provides that the Rehabilitation Fund shall be maintained and monitored by the National Anti-Trafficking Relief and Rehabilitation Committee and shall be made available to the State and District Anti-Trafficking Committees towards prevention, protection and prosecution of matters relating to trafficking of persons. Sub-clause (6) provides that any fine recovered for the commission of an offence under the Act shall also be remitted to the Rehabilitation Fund which includes recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973 and the generation, dissemination and utilization of Fund shall be regulated in the manner as may be prescribed by the Central Government.

Clause 31 of the Bill seeks to provide for the offence of aggravated forms of trafficking, such as trafficking for the purpose of forced labour or bonded labour by using violence, intimidation, inducement, promise of payment of money, deception or coercion or by subtle means including, allegations of accumulated debt by the person, retention of any identity paper, threats of denunciation to authorities, or for the purpose of bearing child, either naturally or through assisted reproductive techniques, or by administering any narcotic drug or psychotropic substance or alcohol on a person for the purpose of trafficking or forcing him to remain in exploitative condition, by administering any chemical substance or hormones on a person for the purpose of early sexual maturity, or for the purpose of marriage or under the pretext of marriage trafficks a woman or child after marriage, or by causing serious injury resulting in grievous hurt or death of any person, including death as a result of suicide as a consequence of trafficking of person, or who is a pregnant woman or the offence results in pregnancy of the person, or by causing or exposing the person to a life-threatening illness including acquired immuno deficiency syndrome or human immunodeficiency virus, or for the purpose of begging, or who is a mentally ill person as defined in clause (1) of section 2 of the Mental Health Act, 1987 or a person with disability as defined in clause(s) of section 2 of the Rights of Persons with Disabilities Act, 2016, or as a consequence of trafficking, the person becomes mentally ill or disabled, or by encouraging or abetting any person to migrate illegally into India or Indians in to some other country.

Clause 32 of the Bill seeks to provide that whoever commits the offence of aggravated form of trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to life imprisonment and shall also be liable to fine which shall not be less than one lakh rupees.

Clause 33 of the Bill seeks to provide that whoever is convicted of the offence of trafficking on more than one occasion shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine which shall not be less than two laldi rupees.

Clause 34 of the Bill seeks to provide that whoever keeps or manages, or acts or assists in the keeping or management of a premises to be used as a place for trafficking of any person shall be punished with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction with rigorous imprisonment for a term which shall not be less than seven years and with fine which may extend to two lakh rupees. Sub-clause (92) also provides that whoever being a tenant, lessee, occupier or person in-charge of any premises, uses, or knowingly allows any other person to use, the premises or any part thereof as a place for trafficking of persons, or being the owner, lessor or landlord of any premises, or the agent of such owner, lessor, or landlord, lets out the same, or any part thereof with the knowledge that the same or any part thereof is intended to be used as a place of exploitation of the victim, or is wilfully a party to the use of the premises or any part

thereof as a place for trafficking of persons, shall be punished on first conviction with imprisonment for a term which may extend to three years and with fine which may extend to one lakh rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine which may extend to two lakh rupees. The clause further provides for an explanation, that for the purposes of sub-clause (2) of clause 34, it shall be presumed until the contrary is proved, that any person referred to in items (i) or (ii) of sub-clause (2) has not exercised due diligence in allowing to use or letting out the premises or in allowing the premises or any part thereof to be used as a place of exploitation or, as the case may be, and has knowledge that the premises or any part thereof was being used as a place of exploitation of the victim. The clause also provides that notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in items (i) or (ii) of sub-clause (2), of any offence under this Act in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or held or occupied at the time of the commission of the offence, shall become void with effect from the date of the said conviction.

Clause 35 of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, the Magistrate shall, on receipt of information from the police or otherwise, that any premises or any part thereof is being used for the purpose of trafficking of persons, issue notice to the owner, lessor or landlord of the premises or part thereof, or the agent of the owner, lessor or landlord, or on the tenant, lessee, occupier of, or any other person in charge of such premises or part thereof, to show cause within seven days of the receipt of the notice why the same should not be sealed or attached for improper use thereof; and, after hearing the person concerned, if the Magistrate is satisfied that the premises or part thereof is being used for trafficking of persons, then, the Magistrate may pass an order by directing eviction of the occupier or any person from the premises, within seven days of the passing of the order; directing that the owner, lessor, or landlord, or the agent of the owner, before letting out the premises or any part thereof, which, during the rescue or search has been found to be used for the purpose of trafficking, shall obtain the previous permission of the Magistrate and the Magistrate shall pass appropriate orders within thirty days from the date of order and where no permission is granted within such period, the permission shall be deemed to have been granted. Sub-clause (2) provides that if the Magistrate, after the show cause notice issued under sub-clause (1) of clause 35, finds that the premises or any part thereof was used for trafficking of any person, the owner, lessor, landlord as well as the agent of the owner, lessor, landlord exercised due diligence in letting out premises or any part thereof, then, the same shall be restored to the owner, lessor or landlord, or the agent of the owner with an undertaking that the premises or any part thereof shall not be leased out, or otherwise given possession of, or for the benefit of the person who was allowing the improper use therein, within two months of the issuing of the show cause notice by the Magistrate. Sub-clause (3) provides that if the Magistrate is satisfied that the premises or part thereof was not used for trafficking of any person, he shall cause the same to be restored to the owner, lessor or landlord, or the agent of the owner lessor, landlord, tenant, lessee, occupier or any other person in-charge of the premises or part thereof within two months of the issuance of the show cause notice and when an owner, lessor or landlord, or the agent of the owner, lessor or landlord fails to comply with a direction given under item (ii) of sub-clause (1), he shall be punished with fine which may extend to one lakh rupees.

Clause 36 of the Bill seeks to provide that a person is said to promote, procure or facilitate the commission of trafficking of person, if that person, produces, prints, issues or distributes unissued, tampered or fake certificates, registration or stickers as proof of compliance with Government requirements, or advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing or broadcast or distribution by any means, including the use of information technology or any brochure, flyer or any propaganda material that promotes trafficking of person or exploitation of a trafficked person in any manner, or assists in the conduct of misrepresentation or fraud for the purposes of

procuring or facilitating the acquisition of clearances and necessary documents from Government agencies for the purpose of trafficking of any person. Sub-clause (2) provides for rigorous imprisonment for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine which shall not be less than one lakh rupees for the punishment for promoting or facilitating trafficking of person.

Clause 37 of the Bill seeks to provide that whoever abets any person to commit any offence under this Act and if the act abetted is in consequence of the abetment, shall be punished with the punishment provided for that offence.

Clause 38 of the Bill seeks to provide that notwithstanding anything contained in any other law for the time being in force, whoever knowingly or having reason to believe that a person has been trafficked, fails to perform a duty, which he is entrusted under this Act, for providing care, protection and rehabilitation to a victim or performs duty but knowingly causes physical or mental injury or hardship or trauma to the victim shall be punished with fine which shall not be less than fifty thousand rupees and in the event of a second or subsequent offence with rigorous imprisonment for a term which may extend to one year and with fine which shall not be less than one lakh rupees.

Clause 39 of the Bill seeks to provide that whoever buys or sells any person for a consideration, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years, and shall also be liable to fine which shall not be less than one lakh rupees. Sub-clause (2) provides that whoever solicits or publicises electronically, taking or distributing obscene photographs or videos or providing materials or soliciting or guiding tourists or using agents or any other form which may lead to the trafficking of a person shall be punished with rigorous imprisonment for a term which shall not be less than five years but may extend to ten years, and shall also be liable to fine which shall not be less than fifty thousand rupees and may extend to one lakh rupees.

Clause 40 of the Bill seeks to provide that whoever hires or otherwise obtains possession, or lets to hire, or in any manner disposes of a person, for the purpose of trafficking of person, shall be punished with imprisonment of either description for a term which shall not be less than three years but may extend to five years and shall also be liable to fine which shall not be less than one lakh rupees.

Clause 41 of the Bill seeks to provide that whoever commits trafficking of a person with the aid of media, including, but not limited to print, internet, digital or electronic media, shall be punished with rigorous imprisonment for a term which shall not be less than seven years but may extend to ten years and shall also be liable to fine which shall not be less than one lakh rupees. Sub-clause (2) provides that whoever distributes, or sells or stores, in any form in any electronic or printed form showing incidence of sexual exploitation, sexual assault, or rape for the purpose of extortion or for coercion of the victim or his family members, or for unlawful gain shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to seven years and shall also be liable to fine which shall not be less than one lakh rupees.

Clause 42 of the Bill seeks to provide that no report or any newspaper or magazine or news-sheet or audio-visual media or any other form of communication regarding any inquiry or investigation or judicial proceedings at any stage shall disclose the name, address or any other particulars, which may lead to the identification of a victim or witness of trafficking of person under this Act shall be published and for reasons to be recorded in writing, the designated court may permit such disclosure, if in its opinion, such disclosure is in the best interest of the victim. It also provides that any person who contravenes the provisions of sub-clause (1) shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to one lakh rupees, or with both: and in case, the victim is a child, the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 shall apply.

Clause 43 of the Bill seeks to provide that where an act or omission constitutes an offence punishable under this Act and also under any other law for the time being in force, then, notwithstanding anything contained in any such law, the person found guilty of such offence, shall be liable to punishment under such law which provides for punishment which is greater in degree. Sub-clause (2) provides that a designated court convicting a person of any offence under this Act may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund. Sub-clause (3) provides that when an occupier or any other person fails to comply with a direction given under item (i) of sub-clause (1) of clause 35, he shall be deemed to have committed an offence under clause 34 and shall be punished accordingly.

Clause 44 of the Bill seeks to provide that whoever attempts to commit an offence punishable by this Act with imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

Clause 45 of the Bill seeks to provide that nothing is an offence which is committed or attempted to have been committed by a victim, punishable with death or imprisonment for life or for imprisonment for ten years, if the offence is committed or attempted to have been committed, under coercion or compulsion or intimidation or threat or undue influence by any person and where, at the time of committing the offence, the victim is subjected to reasonable apprehension of his death, grievous hurt or any other injury to him or to any other person whom he is interested in.

Clause 46 of the Bill seeks to provide for Designated Courts for the purposes of providing speedy trial of any offence under this Act. It further provides that the State Government shall, in consultation with the Chief Justice of the High Court, by notification, designate for each district, a Court of Session, within two months from the date of commencement of this Act, to try any offence under this Act.

Clause 47 of the Bill seeks to provide that the appropriate Government may, by notification, appoint Special Public Prosecutors for every designated court for conducting cases under this Act and every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 and provisions of that Code shall have effect accordingly. Sub-clause (3) provides that subject to the provision contained in section 301 of the Code of Criminal Procedure, 1973, the victim shall be entitled to the assistance of a legal counsel of his choice for any offence under this Act and if the victim is unable to afford a legal counsel, the Legal Services Authority shall provide a counsel to him.

Clause 48 of the Bill seeks to provide that the designated court shall complete the trial, as far as possible, within a period of one year from the date of taking into cognizance of any offence under this Act and may record the statement of any victim through video conferencing in any case, where the victim is unable to appear before the court for the reasons of safety or confidentiality. It also provides that in all matters of transborder and inter-State crimes where the victim has been repatriated to any other State or country is unable to attend the court proceedings, the court may order video conferencing to record their statement. It also provides that notwithstanding anything contained in this Act, the inquiry into and trial of offences under this Act, may be conducted in *camera*, if an application is made in this regard by the victim.

Clause 49 of the Bill seeks to provide that the designated court may order, where applicable, any back wages of the victim to be paid to him. Sub-clause (2) provides that the designated court shall on its own motion or on an application filed by or on behalf of the victim, award compensation under section 357A of the Code of Criminal Procedure, 1973, or

under any other law for the time being in force or otherwise at any stage of the proceedings and the appropriate Government shall ensure that the relief ordered by the designated court is paid within sixty days from the date of receipt of the order.

Clause 50 of the Bill provide that notwithstanding anything contained in the Code of Criminal Procedure, 1973, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of the designated court to the High Court and every appeal under this section shall be preferred within a period of sixty days from the date of judgment, sentence or order appealed against and the High Court may entertain an appeal after the expiry of the said period if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

Clause 51 of the Bill seeks to provide that the designated court, if on an application made by a victim, witness or a complainant in any proceeding before it or by the Special Public Prosecutor in relation to such victim, witness or a complainant or on its own motion, is satisfied that the life of such victim, witness or a complainant is in danger, it may, for reasons to be recorded in writing, take such measures to protect such victim, witness and the complainant. Sub-clause (2) provides that in particular, and without prejudice to the generality of the provisions of sub-clause (1) of clause 51, the measures which a designated court may take under that sub-section may include, the holding of the proceedings at a place to be decided by the designated court; the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public; the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and a decision that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

Clause 52 of the Bill seeks to provide that all offences under this Act shall be cognizable and non-bailable. Sub-clause (2) provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, (a) nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act with imprisonment of more than two years, (b) no person accused of committing an offence under this Act shall be released on bail or on his own bond unless—(i) the Special Public Prosecutor has been given an opportunity to oppose the application for such release, (ii) where the Special Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail, (c) the victim shall have a right to be heard in all bail matters. Sub-clause (3) provides that the conditions on granting of bail specified in item (b) of sub-clause (2) are in addition to the conditions provided under the Code of Criminal Procedure, 1973.

Clause 53 of the Bill seeks to provide that no suit, prosecution, or other legal proceeding shall lie against the Central Government or the State Government or any person acting under the directions of the Central Government or the State Government, as the case may be, acting in good faith, or intended to be done in pursuance of this Act, or of any rules made thereunder.

Clause 54 of the Bill seeks to provide that the Central Government may, by notification, make rules for carrying out the purposes of this Act. It also provides that every rule made under this section 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 both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Clause 55 of the Bill provide that the State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. Sub-clause (2) provides

that every rule made by the State Government, shall be laid, as soon as may be after it is made, before each House of the State Legislature, where it consists of two Houses or where such State Legislature consists of One House, before that House.

Clause 56 of the Bill seeks to provide that 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 removal of the difficulty and no such order shall be made under this section after the expiry of the period of two years from the commencement of this Act. Sub-clause (2) provides that every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 57 of the Bill seeks to provide that the provisions of section 360 of the Code of Criminal Procedure, 1973 and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person who is found guilty of having committed an offence under this Act.

Clause 58 of the Bill seeks to provide that the provisions of sections 193, 195, 199 and 203 of Indian Penal Code shall apply to any person who is guilty of having committed an offence under this Act.

Clause 59 of the Bill seeks to provide that 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 and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall, by notification, establish a National Anti-Trafficking Bureau, having police officers and other officers of such appropriate ranks as may be necessary for the discharge of its functions.

2. Sub-clauses (1) and (2) of clause 29 provides that the designated court shall, in addition to awarding any punishment, declare that any property, movable or immovable or both, belonging to such person or held by any person on his behalf, which has been used for the commission of that offence or accrued thereby, or which has been attached under sub-clause (1), shall stand forfeited to the appropriate Government and the same may be authorised for the purpose of realisation of any fine imposed by the designated court and the proceeds shall be remitted to the Rehabilitation Fund.

3. Clause 30 of the Bill provides that the Central Government shall constitute a Rehabilitation Fund for the welfare and rehabilitation of the victims under this Act. It also provides that the State Government may supplement the Rehabilitation Fund. Besides, the Rehabilitation Fund may also be credited through grants and loans made by the appropriate Government; any voluntary donations, contributions or subscriptions; any fine recovered for the commission of an offence under the Act which may include recovery of fine specified in section 421 of the Code of Criminal Procedure, 1973. Further, the proceeds through freezing of the bank accounts, as prescribed under sub-clauses (3) and (4) of clause 18, shall be remitted to the Rehabilitation fund.

4. Sub-clause (2) of clause 43 provides that the designated court convicting a person may also pass an order for the auction of the premises or any part thereof and the proceeds of such auction shall be ordered to be remitted to the Rehabilitation Fund.

5. The financial implication arising from the establishment of National Anti-Trafficking Bureau is estimated as recurring expenditure of Rs. 10 Crores in the first year and Rs. 20 crores each in the next two years and for Rehabilitation Fund it is estimated as an initial allocation of Rs. 10 crores and to be augmented subsequently on need basis.

6. It would be difficult to indicate the exact expenditure incurred in the appointment of officers of the National Anti-Trafficking Bureau etc. The Bill does not envisage any other expenditure of recurring or non-recurring.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 3 of the Bill provides for the manner of selection, deputation, functioning and reporting of the officers and employees of the National Anti-Trafficking Bureau.

2. Sub-clause (4) of clause 7 of the Bill provides that the State Nodal Officer shall perform such other functions as may be prescribed.

3. Sub-clause (1) of clause 8 of the Bill provides that the police officer not below the rank of Superintendent of Police of the District to be the District Police Nodal Officer on matters relating to trafficking of persons and responsible for all the activities in the District concerned, as may be prescribed.

4. Item (x) of sub-clause (2) of clause 11 of the Bill provides for inclusion of other representatives of the Ministries or Departments or experts representing different States in the composition of National Anti-Trafficking Relief and Rehabilitation Committee as may be prescribed. Item (vi) of sub-clause (3) of the said clause provides for prescribing other functions of National Anti-Trafficking Relief and Rehabilitation Committee as may be prescribed.

5. Item (xii) of sub-clause (2) of clause 12 of the Bill provides for nomination of such other members in the State Anti-Trafficking Committee. Item (vi) of sub-clause (3) of the said clause provides for the functions of the State Anti-trafficking Committee, including the nomination of such other members as may be prescribed.

6. Item (vi) of sub-clause (2) of clause 13 of the Bill provides for nomination of other members in the District Anti-Trafficking Committee, as may be prescribed. Item (iv) of sub-clause (3) of the said clause provides for inter-State repatriation of victims or persons subjected to bonded labour by the District Anti-trafficking Committee in a time bound manner or in the manner as may be prescribed. Item (vii) of sub-clause (3) of the said clause provides for any other function as may be prescribed.

7. Sub-clause (1) of clause 21 of the Bill provides that the appropriate Government shall maintain either directly or through voluntary organisations or non-Governmental organisations as many Protection Homes as necessary and to be managed in the manner, as may be prescribed for the immediate care and protection of the victims or any person rescued. Sub-clause (2) of the said clause provides that the Protection Homes shall provide shelter, food, clothing, counselling and medical care that is necessary for the victims or any person rescued and such other services in the manner, as may be prescribed.

8. Sub-clause (1) of clause 22 of the Bill provides that the appropriate Government, as it deems fit shall maintain either directly or through voluntary organisations or non-Governmental organisations, one or more Rehabilitation Homes in each District managed in the manner as may be prescribed for the purpose of providing long-term rehabilitation to the victims or any person rescued.

9. Sub-clause (1) of clause 23 of the Bill provides that the Protection Homes and Rehabilitation Homes shall be registered under this Act in such manner as may be prescribed by the appropriate Government.

10. Sub-clause (7) of clause 30 of the Bill provides that the generation dissemination and utilisation of Fund shall be regulated in the manner as may be prescribed by the Central Government.

11. The matters in respect of which rules may be made relate to matters of procedure or 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.

RAJYA SABHA

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BILL

to prevent trafficking of persons, especially women and children and to provide care, protection and rehabilitation to the victims of trafficking, to prosecute offenders and to create a legal, economic and social environment for the victims and for matters connected therewith or incidental thereto.

(Dr. Sasmit Patra, M.P.)

MGIPMRND—851RS(S3)—8-8-2022.

Bill No. 187 of 2022

THE ELECTRICITY (AMENDMENT) BILL, 2022

A

BILL

further to amend the Electricity Act, 2003.

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

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

Short title and commencement.

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

36 of 2003.
1 of 1956.
18 of 2013.

2. Throughout the Electricity Act, 2003 (hereinafter referred to as the principal Act),
10 for the words and figures “the Companies Act, 1956”, wherever they occur, the words and figures “the Companies Act, 2013” shall be substituted.

Substitution of reference of certain expressions by certain other expressions.

- Amendment of section 2. **3.** In section 2 of the principal Act,—
- (i) in clause (31), for the word and figures “section 617”, the words, brackets and figures “clause (45) of section 2” shall be substituted;
- (ii) in clause (50), after sub-clause (j), the following sub-clause shall be inserted, namely:— 5
- “(k) energy storage system;”;
- (iii) after clause (60), the following clause shall be inserted, namely:—
- ‘(60a) “security of payment” means such security of payment as may be prescribed by the Central Government;’.
- Amendment of section 8. **4.** In section 8 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:— 10
- “(1A) The Authority shall, after examining the scheme, concur on the scheme in such manner as may be prescribed by the Central Government.”.
- Amendment of section 14. **5.** In section 14 of the principal Act,—
- (a) for clause (b), the following clause shall be substituted, namely:— 15
- “(b) to distribute electricity as a distribution licensee in an area of supply in accordance with such criteria as may be prescribed by the Central Government;”;
- (b) in the sixth proviso, the words “through their own distribution system” shall be omitted. 20
- Amendment of section 15. **6.** In section 15 of the principal Act, in sub-section (6), after the proviso, the following proviso shall be inserted, namely:—
- “Provided further that if the Appropriate Commission fails to grant the licence or reject the application, as the case may be, within the time so provided, the applicant shall be deemed to have been granted the licence.”. 25
- Amendment of section 26. **7.** In section 26 of the principal Act,—
- (i) in sub-section (2),—
- (a) the words “and functions” shall be omitted;
- (b) in the proviso, after the words “trading in electricity” occurring at the end, the words “except as mandated by the Central Government for implementation of any scheme to ensure the stability of the power system” shall be inserted; 30
- (ii) after sub-section (3), the following sub-sections shall be inserted, namely:—
- “(4) The National Load Despatch Centre shall—
- (a) be the apex body to ensure integrated operation of the power system in the country; 35
- (b) be responsible for optimum scheduling and despatch of electricity in the country across different States and regions in accordance with the contracts entered into with the licensees or the generating companies: 40
- Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as may be prescribed by the Central Government, has been made;

(c) monitor grid operations and ensure security of the electricity grid and for this purpose give directions as necessary to the Regional Load Despatch Centre or State Load Despatch Centre, as the case may be;

5 (d) exercise supervision and control over the inter-regional and inter-State transmission network; and

(e) have overall authority for carrying out real time operations of the electricity grid of the country.

10 (5) The National Load Despatch Centre shall give such directions and exercise such supervision and control over the power system as may be required for the safety and security of the electricity grid of the country, for ensuring the stability of grid operation and for achieving maximum economy and efficiency in the operation of the power system throughout the country.

15 (6) The National Load Despatch Centre shall give such directions to the State Load Despatch Centre, as may be necessary through the Regional Load Despatch Centre concerned.

20 (7) Every Regional Load Despatch Centre, State Load Despatch Centre, licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the National Load Despatch Centre from time to time.”.

8. In section 28 of the principal Act, in sub-section (3), in clause (a), the following proviso shall be inserted, namely:— Amendment of section 28.

25 “Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as may be prescribed by the Central Government, has been made;”.

9. In section 32 of the principal Act, in sub-section (2), in clause (a), the following proviso shall be inserted, namely:— Amendment of section 32.

30 “Provided that no electricity shall be scheduled or despatched under such contract unless adequate security of payment, as may be prescribed by the Central Government, has been made;”.

10. In section 40 of the principal Act,— Amendment of section 40.

(a) in clause (c), in sub-clause (ii), after the fourth proviso, the following proviso shall be inserted, namely:—

35 “Provided also that a consumer who requires supply of electricity where the maximum power to be made available at any time exceeds one megawatt shall be entitled to get open access to inter-State transmission system in accordance with the regulations made by the Central Commission, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission.”;

40 (b) after the fifth proviso as so inserted, the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this section and section 42, the expression “megawatt” means ten lakh watts.’.

11. In section 42 of the principal Act,—

45 (i) for sub-section (I), the following sub-section shall be substituted, namely:— Amendment of section 42.

“(I) It shall be the duty of all distribution licensees to,—

(a) ensure an efficient, co-ordinated and economic distribution system in their area of supply:

Provided that a distribution licensee may use the distribution systems of other licensees in the area of supply for supplying power through the system of non-discriminatory open access;

(b) give non-discriminatory open access to other distribution licensees on payment of wheeling charges; and 5

(c) provide supply of electricity to the consumers, in accordance with the provisions of this Act and the rules made thereunder by the Central Government and the regulations made by the Appropriate Commission and in accordance with the model regulations laid down by the Forum of Regulators.”; 10

(ii) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(4A) A distribution licensee shall provide non-discriminatory open access through its distribution system to all distribution licensees having licence within the same area of supply, subject to payment of wheeling charges and in accordance with the regulations specified by the Appropriate Commission. 15

(4B) In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that a distribution licensee has knowingly failed to provide open access through its distribution system to another distribution licensee or hindered it in any manner from using its distribution network, the Appropriate Commission may, after giving the distribution licensee an opportunity of being heard, issue such directions as it considers necessary and impose the penalties in accordance with the provisions of this Act.”. 20

Amendment of section 59.

12. In section 59 of the principal Act, in sub-section (1), after clause (b), the following clause shall be inserted, namely:— 25

“(c) the status of compliance of the guidelines issued by the Central Government regarding corporate governance.”.

Insertion of new section 60A.

13. After section 60 of the principal Act, the following section shall be inserted, namely:—

Management of power agreement, cross subsidy, etc.

“60A. (1) Notwithstanding anything contained in this Act, on the issuance of licence to more than one distribution licensee in an area of supply, the power and associated costs from the existing power purchase agreements with the existing distribution licensee, as on the date of issuing licence to another distribution licensee, shall be shared among all the distribution licensees in the area of supply as per such arrangements as may be specified by the State Commission in accordance with the provisions of this Act and the rules made thereunder by the Central Government: 35

Provided that the State Commission shall periodically review the sharing of power as provided in the existing power purchase agreements:

Provided further that a distribution licensee may enter into additional power purchase agreements, after meeting the commitments of the existing power purchase agreements, to meet any additional requirement of power without sharing with other distribution licensees. 40

(2) In case of issuance of licence to more than one distribution licensee in an area of supply, the State Government shall set up a cross subsidy balancing fund which shall be managed by a Government company or entity designated by that Government in accordance with such regulations as the State Commission may make in accordance with the provisions of this Act and the rules made thereunder by the Central Government. 45

(3) Any surplus with a distribution licensee on account of cross subsidy or cross subsidy surcharge or additional surcharge shall be deposited into the fund 50

referred to in sub-section (2), and the fund shall be utilised to make good deficits in cross subsidy in the same area or any other area of supply.”.

14. In section 61 of the principal Act, for clause (g), the following clauses shall be substituted, namely:—

Amendment
of section 61.

5 “(g) the tariff recovers all prudent costs incurred for supply of electricity;
 (ga) the tariff reduces cross subsidies in the manner specified by the Appropriate Commission;”.

15. In section 62 of the principal Act,—

Amendment
of section 62.

10 (i) in sub-section (1), in clause (d), for the proviso, the following provisos shall be substituted, namely:—

15 “Provided that in case of distribution of electricity in the same area of supply by two or more distribution licensees, the Appropriate Commission shall, for promoting competition among such distribution licensees, fix the maximum ceiling of tariff and the minimum tariff for retail sale of electricity in accordance with the provisions of this Act and the rules made thereunder by the Central Government:

20 Provided further that in such ceiling tariff, the cross subsidy, wheeling charges and adjustment in tariff pertaining to the period prior to the introduction of ceiling tariff, if any, shall be indicated separately by the Appropriate Commission.”;

 (ii) in sub-section (4), the following proviso shall be inserted, namely:—

25 "Provided that the Appropriate Commission may, by an order and for reasons to be recorded in writing, allow the licensee to effect the changes due to amendment in tariff, not exceeding in four stages, during a year in accordance with the Tariff Policy."

16. In section 64 of the principal Act,—

Amendment
of section 64.

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

30 “(1) An application for determination of tariff under section 62 shall be made by a generating company or licensee at such time and in such manner and accompanied by such fee, as may be specified by the Appropriate Commission:

 Provided that the time specified should be such that the new tariff comes into effect from the beginning of the following financial year:

35 Provided further that if an application is not made by a generating company or licensee on time, the State Commission shall, not later than thirty days of the last date specified in the regulations, initiate proceedings for determination of tariff and call for such information, details and documents as may be required for such determination with the objective of determining the tariff before the beginning of the financial year:

40 Provided also that, where two or more distribution licensees operate in the same area of supply, the State Commission shall fix the maximum ceiling of tariff and the minimum tariff, *suo motu*, after calling for requisite information from such distribution licensees.”;

 (ii) in sub-section (3),—

45 (a) for the words “one hundred and twenty days from receipt of an application”, the words “ninety days from the date of receipt of the application or initiation of proceedings” shall be substituted;

 (b) in clause (a), the following proviso shall be inserted, namely:—

 “Provided that if tariff order cannot be issued due to any reasons which are to be recorded in writing, the Appropriate Commission shall

issue the order for interim tariff within the said period of ninety days from the date of receipt of such application or initiation of such proceedings:

Provided further that the interim tariff shall remain in operation till issue of final tariff order which shall be issued within such period not exceeding one hundred and fifty days of receipt of such application for determination of tariff or initiation of such proceedings." 5

Amendment
of section 77.

17. In section 77 of the principal Act,—

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

“(1) The Chairperson of the Central Commission shall be a person of ability, integrity and standing, who is or has been,— 10

(i) head of an organisation dealing with generation, transmission or distribution of electricity; or

(ii) Secretary to the Government of India or its equivalent:

Provided that preference shall be given to a person having adequate knowledge and experience of not less than two years in the power sector.”; 15

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

“(2) The Members, other than the Chairperson of the Central Commission shall be persons of ability, integrity and standing, having adequate knowledge of and experience in the fields of engineering, law, economics, commerce, finance, public policy or public administration or management and shall be appointed as follows:— 20

(a) one person having adequate qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;

(b) one person having adequate qualifications and experience in the field of finance, economics, commerce, public policy, public administration or management; and 25

(c) one person, who is, or has been holding a judicial office or is a person possessing adequate professional qualifications and experience in law.”. 30

Amendment
of section 78.

18. In section 78 of the principal Act,—

(i) in sub-section (1), in clause (a), for the words “Planning Commission”, the words “Niti Aayog” shall be substituted;

(ii) in sub-section (2), for the words, figure and letter “specified in section 4A”, the words, brackets and figures “defined in clause (72) of section 2” shall be substituted; 35

(iii) in sub-section (9),—

(a) for the words “vacancy in the Selection Committee”, the words “vacancy, other than that of Chairperson, in the Selection Committee” shall be substituted; 40

(b) the proviso shall be omitted.

Amendment
of section 79.

19. In section 79 of the principal Act, in sub-section (1),—

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

“(f) to adjudicate upon the disputes including those relating to performance of obligations under a contract related to sale, purchase or transmission of electricity, involving generating companies or licensees in regard to matters connected with clauses (a) to (d); 45

(fa) to adjudicate upon the disputes involving the National Load Despatch Centre or the Regional Load Despatch Centre in regard to matters connected with sections 26, 28 and 29;”;

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

5 “(ja) to grant licence for distributing electricity in more than one State;”;

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

10 “Provided that the Chairperson of the Central Commission shall constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 77 and not more than one Member, as may be nominated by the Chairperson, who shall discharge the functions as provided in clauses (f) and (fa).”.

20. In section 82 of the principal Act,—

Amendment
of section 82.

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

15 “(4) The State Commission shall consist of a Chairperson and three other Members.”;

(ii) after sub-section (5), the following sub-section shall be inserted, namely:—

20 “(6) If any State Commission is unable to perform its functions on account of vacancies, the Central Government may, in consultation with the State Government concerned, entrust its functions to any other State Commission or Joint Commission, as it deems necessary.”.

21. In section 84 of the principal Act,—

Amendment
of section 84.

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

“(1) The Chairperson of the State Commission shall be a person of ability, integrity and standing, who is or has been,—

25 (i) the head of an organisation dealing with generation, transmission or distribution of electricity; or

(ii) a Principal Secretary to the State Government or its equivalent:

Provided that preference shall be given to a person having adequate knowledge and experience of not less than two years in the power sector.”;

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

35 “(2) The Members, other than the Chairperson of the State Commission, shall be persons of ability, integrity and standing having adequate knowledge of and experience in the fields of engineering, law, economics, commerce, finance, public policy, public administration or management and shall be appointed as follows:—

(a) one person having adequate qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;

40 (b) one person having adequate qualifications and experience in the field of finance, economics, commerce, public policy, public administration or management; and

(c) one person, who is, or has been holding a judicial office or is a person possessing adequate professional qualifications and experience in law.”.

45 **22.** In section 85 of the principal Act,—

Amendment
of section 85.

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

“(c) a nominee of the Central Government not below the rank of Additional Secretary to the Government of India—Member.”;

(ii) in sub-section (6), for the words “vacancy in the Selection Committee”, the words “vacancy, other than that of Chairperson, in the Selection Committee” shall be substituted.

Amendment
of section 86.

23. In section 86 of the principal Act, in sub-section (1),—

(a) in the proviso to clause (a), for the words “Provided that”, the following shall be substituted, namely:— 5

“Provided that the tariff recovers all prudent costs incurred for supply of electricity and also provide reasonable returns on investment and take necessary steps to ensure financial stability of the licensees:

Provided further that”; 10

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

“(e) promote generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such person, a percentage of the total consumption of electricity in the area of supply of a distribution licensee which shall not be less than such percentage as may be prescribed by the Central Government;” 15

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

“(ea) promote co-generation of electricity;”;

(d) for clause (f), the following clauses shall be substituted, namely:— 20

“(f) adjudicate upon the disputes including those relating to performance of obligations under contracts related to sale, purchase or transmission of electricity involving generating companies or licensees:

Provided that in case of reneging of Power Purchase Agreement by a generating company or a licensee, the dispute shall be adjudicated along with appropriate compensation to the affected party, within ninety days from the date of submission of petition to the Appropriate Commission; 25

(fa) adjudicate upon the disputes involving the State Load Despatch Centre in regard to matters connected with section 32 and section 33;”;

(e) after clause (j), the following clauses shall be inserted, namely:— 30

“(ja) issue directions or guidelines or specify regulations to secure consumer choice and an efficient, coordinated and economical use of the distribution system, where there are more than one distribution licensee in an area of supply;

(jb) review the resource adequacy at intervals of every six months for each of the distribution licensees in accordance with the guidelines issued by the Central Government;”;

(f) in clause (k), after the words “under this Act”, the words “by the Central Government or the State Government:” shall be inserted;

(g) after clause (k), the following proviso shall be inserted, namely:— 40

“Provided that the Chairperson of the State Commission shall constitute a Bench consisting of a Member appointed under clause (c) of sub-section (2) of section 84 and not more than one Member, as may be nominated by the Chairperson, who shall discharge the functions provided in clauses (f) and (fa).” 45

24. In section 89 of the principal Act, in sub-section (1), in the second proviso, for the words “sixty-five”, the words “sixty-seven” shall be substituted. Amendment of section 89.
25. In section 90 of the principal Act, in sub-section (2),— Amendment of section 90.
- (i) after clause (f), the following clauses shall be inserted, namely:—
- “(g) has wilfully violated or overlooked the provisions of this Act or the rules or regulations made thereunder; or
- (h) has been grossly negligent in performing one or more functions assigned to him or the Commission under this Act or the rules or regulations made thereunder.”;
- (ii) in the proviso, for the words, brackets and letters “clauses (d), (e) and (f)”, the words, brackets and letters “clauses (d), (e), (f), (g) and (h)” shall be substituted.
26. In section 94 of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:— Amendment of section 94.
- “(4) An order made by the Appropriate Commission or its Bench shall be executable as a decree of a civil court and, for this purpose, such Commission or Bench shall have all the powers of a civil court including but not limited to powers of attachment and sale of property and appointment of a receiver.
- (5) Notwithstanding anything contained in sub-section (4), the Appropriate Commission or Bench referred to in that sub-section may transmit an 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.”.
27. In section 112 of the principal Act, in sub-section (1), for the words “three other Members”, the words “such number of other Members, not less than three, as may be prescribed by the Central Government” shall be substituted. Amendment of section 112.
28. In section 128 of the principal Act, in sub-section (2), for the word and figures “section 235”, the word and figures “section 210” shall be substituted. Amendment of section 128.
29. For section 142 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 142.
- “142. (1) Where the Appropriate Commission is satisfied on a complaint made to it or otherwise that any person has contravened any of the provisions of this Act or the rules made thereunder, the Commission may after giving such person an opportunity of being heard, by order in writing, direct that without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty, which shall not exceed one crore rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six lakh rupees for each day during which the failure continues after contravention of the first such direction. Penalty for contravention of provisions of Act.
- (2) Where the Appropriate Commission is satisfied on a complaint made to it or otherwise that any person has contravened any regulation, direction or order issued by it, the Commission may after giving such person an opportunity of being heard, by order in writing, direct that without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty, which shall not exceed ten lakh rupees for each contravention and in case of a continuing failure with

an additional penalty which may extend to sixty thousand rupees for each day during which the failure continues after contravention of the first such direction.

(3) Notwithstanding anything contained in sub-sections (1) and (2), where the Appropriate Commission is satisfied on a complaint filed before it or otherwise, that obligated entity has not purchased power from renewable sources of energy as specified under clause (e) of sub-section (1) of section 86, the Commission shall after giving such entity an opportunity of being heard, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall be liable to pay a penalty of a sum calculated at a rate of—

(i) not less than twenty-five paise per kilowatt-hour and not more than thirty-five paise per kilowatt-hour for the shortfall in purchase in the first year of default;

(ii) not less than thirty-five paise per kilowatt-hour and not more than fifty paise per kilowatt-hour for the shortfall in purchase continuing after the first year of default.”

Amendment of section 146. **30.** In section 146 of the principal Act, for the portion beginning with the words “shall be punishable” and ending with the words “for every day”, the following shall be substituted, namely:—

“shall be punishable with fine which may extend to one crore rupees, in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to one lakh rupees for every day”.

Amendment of section 152. **31.** In section 152 of the principal Act, in sub-section (1), for the words “may accept”, the words “shall accept” shall be substituted.

Amendment of section 166. **32.** In section 166 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) The Forum of Regulators referred to in sub-section (2) shall discharge the following functions, namely:—

(a) prepare and lay on model regulations for the guidance of State Commission for the purposes of sub-section (1) of section 42, sub-section (1) of section 43, sub-sections (1) and (2) of section 60A, section 61 and the first proviso to sub-section (1) of section 62, in accordance with the provisions of this Act and the rules made thereunder;

(b) monitor the status of compliance of the provisions of clause (e) of sub-section (1) of section 86 by distribution licensees on annual basis and submit a report to the Central Government; and

(c) any other functions, as may be prescribed by the Central Government.”

Amendment of section 176. **33.** In section 176 of the principal Act, in sub-section (2),—

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

“(a) the security of payment under clause (60a) of section 2;

(aa) the time within which the objection and suggestions on the draft National Electricity Plan to be invited by the Authority under the proviso to sub-section (4) of section 3;

(ab) the manner of concurrence by the Authority under sub-section (1A) of section 8;

(ac) the criteria for area of supply under clause (b) of section 14;”;

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

“(ia) the percentage of total consumption of electricity in the area of supply of distribution licensee under clause (e) of sub-section (I) of section 86;”;

5 (iii) after clause (q), the following clause shall be inserted, namely:—

“(qa) the number of members of the Appellate Tribunal under sub-section (I) of section 112;”;

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

10 “(xa) any other functions to be discharged by the Forum of Regulators under clause (c) of sub-section (3A) of section 166;”.

34. In section 178 of the principal Act, in sub-section (2), in clause (v), for the words “the manner of making an application”, the words “the time, manner of making an application” shall be substituted. Amendment of section 178.

35. In section 181 of the principal Act, in sub-section (2),— Amendment of section 181.

15 (a) after clause (l), the following clause shall be inserted, namely:—

“(la) the payment of transmission charges and a surcharge thereon by the consumer under proviso to sub-clause (ii) of clause (c) of section 40;”;

(b) after clause (zb), the following clauses shall be inserted, namely:—

20 “(zba) the arrangements for sharing of power and associated costs amongst the distribution licensees in the area of supply under sub-section (I) of section 60A;

“(zbb) the managing of cross subsidy balancing fund by a Government company under sub-section (2) of section 60A;”;

25 (c) in clause (zg), for the words “the manner of making an application”, the words “the time, manner of making an application” shall be substituted;

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

“(zia) securing the consumer choice under clause (ja) of sub-section (I) of section 86;”.

30 **36.** In section 183 of the principal Act, after sub-section (I), the following sub-section shall be inserted, namely:— Amendment of section 183.

35 “(IA) Notwithstanding anything contained in sub-section (I), if any difficulty arises in giving effect to the provisions of this Act as amended by the Electricity (Amendment) Act, 2022, 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 two years from the date of commencement of the Electricity (Amendment) Act, 2022.”.

STATEMENT OF OBJECTS AND REASONS

The Electricity Act, 2003 (the Act) was enacted to consolidate the laws relating to generation, transmission, distribution, trading and use of electricity and generally for taking measures conducive to development of electricity industry, promoting competition therein, protecting interest of consumers and supply of electricity to all areas, rationalisation of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, constitution of Central Electricity Authority, Regulatory Commissions and establishment of Appellate Tribunal and for matters connected therewith or incidental thereto.

2. The Act has facilitated the development of the power sector. The investments in all segments of the electricity sector, that is generation, transmission and distribution have brought a significant improvement in outcomes. The transmission grid has been unified into a "National Grid" and all households have access to grid electricity. However, the continuing as well as new challenges of sustainability of the power sector, contract enforcement, payment security mechanism, energy transition and the need to provide choice to consumers in order to promote competition and the like, it has become necessary to make certain amendments in the Act.

3. The amendments to the Act are also necessary in view of the importance of green energy for our environment in the context of global climate change concerns and our international commitments to increase the share of renewable energy. Further, it has become necessary to strengthen the regulatory mechanism, adjudicatory mechanism in the Act and to bring administrative reforms through improved corporate governance of distribution licensees.

4. The Electricity (Amendment) Bill, 2022, *inter alia*, provides for the following, namely:—

(i) to amend section 8 of the Act so as to streamline the concurrence of the hydro generating station by the Authority to facilitate development of the hydro sector in the country;

(ii) to amend section 14 of the Act in order to facilitate the use of distribution networks by all licensees under provisions of non-discriminatory open access with the objective of enabling competition, enhancing efficiency of distribution licensees for improving services to consumers and ensuring sustainability of the power sector;

(iii) to amend section 26 of the Act so as to strengthen the functioning of the National Load Despatch Centre for ensuring the safety and security of the grid and for the economic and efficient operation of the power system in the country;

(iv) to amend section 42 of the Act so as to facilitate non-discriminatory open access to the distribution network of a distribution licensee;

(v) to insert a new section 60A in the Act so as to enable management of power purchase and cross-subsidy in case of multiple distribution licensees in the same area of supply;

(vi) to amend section 62 of the Act so as to make provision regarding graded revision in tariff over a year and for mandatory fixing of maximum ceiling as well as minimum tariff by the Appropriate Commission;

(vii) to amend section 142 of the Act so as to enhance the rate of penalty for non-compliance of the provisions of the Act and the rules and regulations made thereunder;

(viii) to amend section 146 of the Act so as to convert the rate of punishment from "imprisonment or with fine" to "fine";

(ix) to amend section 152 of the Act so as to facilitate decriminalisation of offence as it would be mandatory to accept compounding;

(x) to amend section 166 of the Act so as to strengthen the functions to be discharged by the Forum of Regulators.

5. The Bill seeks to achieve the above objectives.

R. K. SINGH

NEW DELHI;
The 2nd August, 2022.

NOTES ON CLAUSES

Clause 1.—This clause provides for the "Short Title and commencement" of the proposed Legislation.

Clause 2.—This clause seeks to substitute the reference of certain expressions by certain other expressions.

Clause 3.—This clause seeks to amend section 2 of the principal Act to amend the definition of "Power System" by including 'Energy storage system' and to insert the new definition relating to "security of payment".

Clause 4.—This clause seeks to amend section 8 of the principal Act to streamline the concurrence of the hydro-generating station by the Authority so as to facilitate development of the hydro sector in the country.

Clause 5.—This clause seeks to amend section 14 of the principal Act to facilitate the use of distribution networks of other licensees under provisions of non-discriminatory open access with the objective of enabling competition, enhancing efficiency of distribution licensees for improving services to consumers and ensuring sustainability of the power sector.

Clause 6.—This clause seeks to amend section 15 of the principal Act which acts as a deeming provision to avoid delay in granting license.

Clause 7.—This clause seeks to amend section 26 of the principal Act to strengthen the powers and functions of the National Load Despatch Centre for ensuring the safety and security of the grid and for the economic and efficient operation of the power system in the country.

Clause 8.—This clause seeks to amend section 28 of the principal Act to provide for scheduling and despatch of electricity only if, a payment security mechanism has been established to ensure timely payment of dues.

Clause 9.—This clause seeks to amend section 32 of the principal Act to provide for scheduling and despatch of electricity only if, a payment security mechanism has been established to ensure timely payment of dues.

Clause 10.—This clause seeks to amend section 40 of the principal Act to enable access to large consumers to inter-state transmission system.

Clause 11.—This clause seeks to amend section 42 of the principal Act to facilitate operation of multiple distribution licensee in the same area and to avoid parallel network and optimise usage of the distribution network.

Clause 12.—This clause seeks to amend section 59 of the principal Act to enable administrative reforms through improved corporate governance of distribution licensees.

Clause 13.—This clause seeks to amend section 60 of the principal Act to enable management of power purchase and cross subsidy in case of multiple distribution licensees in the same area of supply.

Clause 14.—This clause seeks to amend section 61 of the principal Act to ensure cost reflective tariff, which is important for financial viability of the power sector.

Clause 15.—This clause seeks to amend section 62 of the principal Act to provide for mandatory fixing of maximum ceiling of tariff as well as minimum tariff by the Commission for retail sale of electricity for promoting competition in the same area of supply by the distribution

licensees. This clause also seeks to make provision regarding graded revision of tariff in a year.

Clause 16.—This clause seeks to amend section 64 of the principal Act to provide for *suo motu* determination of tariff by the Appropriate Commission, reduce the time required for tariff determination and provision for interim tariff.

Clause 17.—This clause seeks to amend section 77 of the principal Act to improve the Regulatory mechanism and for this purpose, the qualifications for the post of Chairpersons and Members in Central Commission is being amended.

Clause 18.—This clause seeks to amend section 78 of the principal Act so as to incorporate consequential change due to change in nomenclature of Planning Commission and to facilitate timely appointment of Chairperson and Members in the Commission.

Clause 19.—This clause seeks to amend section 79 of the principal Act to facilitate timely disposal of disputes related to contracts, provision for creating separate benches for adjudication of such matters.

Clause 20.—This clause seeks to amend section 82 of the principal Act by increasing number of Members so as to ensure smooth and efficient functioning of the State Commissions, entrusting of work to other Commission under certain conditions.

Clause 21.—This clause seeks to amend section 84 of the principal Act mandating the appointment of the Member from law background so as to improve functioning of the State Commissions.

Clause 22.—This clause seeks to amend section 85 of the principal Act regarding composition of the Selection Committee for State Commissions.

Clause 23.—This clause seeks to amend section 86 of the principal Act to provide for the Renewable Purchase Obligation, not to be less than the trajectory prescribed by the Central Government.

Clause 24.—This clause seeks to amend section 89 of the principal Act so as to ensure that the full tenure is availed by Chairperson and Members of the Electricity Regulatory Commissions.

Clause 25.—This clause seeks to amend section 90 of the principal Act to provide for removal of a Member of the Commission in case of gross negligence and non-compliance of the provisions of the Act and the rules made there under

Clause 26.—This clause seeks to amend section 94 of the principal Act so that the Civil Court powers can be extended to Regulatory Commissions so as to ensure compliance of the orders and regulations of the Commission.

Clause 27.—This clause seeks to amend section 112 of the principal Act to provide that the Appellate Tribunal shall consist of such number of other Members, not less than three as may be prescribed by the Central Government.

Clause 28.—This clause seeks to amend section 128 of the principal Act so as to substitute "section 235", with "section 210" under the Companies Act, 2013.

Clause 29.—This clause seeks to amend section 142 of the principal Act to introduce a specific provision for penalties for non-compliance of the Renewable Purchase Obligation.

Clause 30.—This clause seeks to amend section 146 of the principal Act to decriminalise the offence by removing imprisonment provisions for ensuring ease of doing business. The maximum permissible penalty amount for non-compliance of the provisions of the Act and the rules, regulations and orders issued under it, is proposed to be enhanced.

Clause 31.—This clause seeks to amend section 152 of the principal Act to facilitate decriminalisation of offence as it would be mandatory to accept compounding.

Clause 32.—This clause seeks to amend section 166 of the principal Act to empower Forum of Regulators to publish model regulations on various matters related to ease of implementation of the provisions of the Act.

Clause 33.—This clause seeks to amend section 176 of the principal Act so as to empower the Central Government to frame rules on certain matters which have been inserted by the proposed amendments.

Clause 34.—This clause seeks to amend section 178 of the principal Act to empower the Central Commission to frame regulations on certain matters which have been inserted by the proposed amendments.

Clause 35.—This clause seeks to amend section 181 of the principal Act to empower the State Commission to frame regulations on certain matters which have been inserted by the proposed amendments.

Clause 36.—This clause seeks to amend section 183 of the principal Act to empower the Central Government to remove the difficulties in giving effect to the provisions of the Electricity (Amendment) Act, 2022.

FINANCIAL MEMORANDUM

The provisions of the proposed Legislation does not involve any expenditure either recurring or non-recurring from and out of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 33 of the Bill proposes to amend sub-section (2) of section 176 of the Electricity Act, 2003 (the Act) relating to the power of the Central Government to make rules. The proposed amendments to sub-section (2) of the said section, *inter alia*, are—(a) the security of payment under clause (60a) of section 2; (b) the manner of concurrence by the Authority under sub-section (1A) of section 8; (c) the criteria for area of supply under clause (b) of section 14; (d) the percentage of total consumption of electricity in the area of distribution licensee under clause (e) of sub-section (1) of section 86; (e) the number of members of the Appellate Tribunal under sub-section (1) of section 112; and (f) any other functions to be discharged by the Forum of Regulators under clause (c) of sub-section (3A) of section 166.

2. Clause 34 of the Bill proposes to amend sub-section (2) of section 178 of the said Act relating to the power of the Central Commission to make regulations. The proposed amendment to sub-section (2) of the said section provides for the time, manner of making an application before the Central Commission and the fee payable therefore under sub-section (1) of section 64.

3. Clause 35 of the Bill proposes to amend sub-section (2) of section 181 of the said Act relating to the power of the State Commission to make regulations. The proposed amendment to sub-section (2) of the said section, *inter alia*, are—(a) the payment of transmission charges and a surcharge thereon by the consumer under proviso to sub-clause (ii) of clause (c) of section 40; (b) the arrangements for sharing of power and associated costs amongst the distribution licensees in the area of supply under sub-section (1) of section 60A; (c) the managing of cross subsidy balancing fund by a Government company under sub-section (2) of section 60A; (d) the time, manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section 64; and (e) securing the consumer choice under clause (ja) of sub-section (1) of section 86.

4. The matters in respect of which the rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE ELECTRICITY ACT, 2003

(36 OF 2003)

* * * * *

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

Definitions.

* * * * *

(31) “Government company” shall have the meaning assigned to it in section 617 of the Companies Act, 1956;

1 of 1956.

* * * * *

(50) “power system” means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely:—

* * * * *

(j) works;

* * * * *

(60) “Schedule” means the Schedule to this Act;

* * * * *

14. The Appropriate Commission may, on an application made to it under section 15, grant a licence to any person—

Grant of licence.

* * * * *

(b) to distribute electricity as a distribution licensee; or

* * * * *

Provided also that the Appropriate Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under this Act, comply with the additional requirements relating to the capital adequacy, creditworthiness, or code of conduct as may be prescribed by the Central Government, and no such applicant, who complies with all the requirements for grant of licence, shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose:

* * * * *

15. (1) *

*

*

*

*

Procedure for grant of licence.

(6) Where a person makes an application under sub-section (1) of section 14 to act as a licensee, the Appropriate Commission shall, as far as practicable, within ninety days after receipt of such application,—

(a) issue a licence subject to the provisions of this Act and the rules and regulations made thereunder; or

(b) reject the application for reasons to be recorded in writing if such application does not conform to the provisions of this Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

* * * * *

National Load
Despatch
Centre.

26. (1) * * * * *

(2) The constitution and functions of the National Load Despatch Centre shall be such as may be prescribed by the Central Government:

Provided that the National Load Despatch Centre shall not engage in the business of trading in electricity.

* * * * *

Functions of
Regional Load
Despatch
Centre.

28. (1) * * * * *

(3) The Regional Load Despatch Centre shall—

(a) be responsible for optimum scheduling and despatch of electricity within the region, in accordance with the contracts entered into with the licensees or the generating companies operating in the region;

* * * * *

Functions of
State Load
Despatch
Centres.

32. (1) * * * * *

(2) The State Load Despatch Centre shall—

(a) be responsible for optimum scheduling and despatch of electricity within a State, in accordance with the contracts entered into with the licensees or the generating companies operating in that State;

* * * * *

Duties of
transmission
licensees.

40. It shall be the duty of a transmission licensee—

* * * * *

(c) to provide non-discriminatory open access to its transmission system for use by—

* * * * *

(ii) any consumer as and when such open access is provided by the State Commission under sub-section (2) of section 42, on payment of the transmission charges and a surcharge thereon, as may be specified by the State Commission:

* * * * *

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

* * * * *

PART VI

DISTRIBUTION OF ELECTRICITY

Provisions with respect to distribution licensees

42. (1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-ordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in this Act. Duties of distribution licensee and open access.

* * * * *

59. (1) Every licensee shall, within the period specified by the Appropriate Commission, furnish to the Commission the following information, namely:— Information with respect to levels of performance.

* * * * *

(b) the number of cases in which compensation was made under sub-section (2) of section 57 and the aggregate amount of the compensation.

* * * * *

PART VII

TARIFF

61. The Appropriate Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely:— Tariff regulations.

* * * * *

(g) that the tariff progressively reflects the cost of supply of electricity and also reduces cross-subsidies in the manner specified by the Appropriate Commission;

* * * * *

62. (1) The Appropriate Commission shall determine the tariff in accordance with the provisions of this Act for— Determination of tariff.

* * * * *

(d) retail sale of electricity:

Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Appropriate Commission may, for promoting competition among distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity.

* * * * *

(4) No tariff or part of any tariff may ordinarily be amended, more frequently than once in any financial year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.

* * * * *

Procedure for tariff order.

64. (1) An application for determination of tariff under section 62 shall be made by a generating company or licensee in such manner and accompanied by such fee, as may be determined by regulations.

* * * * *

(3) The Appropriate Commission shall, within one hundred and twenty days from receipt of an application under sub-section (1) and after considering all suggestions and objections received from the public,—

(a) issue a tariff order accepting the application with such modifications or such conditions as may be specified in that order;

* * * * *

Qualifications for appointment of Members of Central Commission.

77. (1) The Chairperson and the Members of the Central Commission shall be persons having adequate knowledge of, or experience in, or shown capacity in, dealing with, problems relating to engineering, law, economics, commerce, finance or management and shall be appointed in the following manner, namely:—

(a) one person having qualifications and experience in the field of engineering with specialisation in generation, transmission or distribution of electricity;

(b) one person having qualifications and experience in the field of finance;

(c) two persons having qualifications and experience in the field of economics, commerce, law or management:

Provided that not more than one Member shall be appointed under the same category under clause (c).

(2) Notwithstanding anything contained in sub-section (1), the Central Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.

* * * * *

Constitution of Selection Committee to recommend Members.

78. (1) The Central Government shall, for the purposes of selecting the Members of the Appellate Tribunal and the Chairperson and Members of the Central Commission, constitute a Selection Committee consisting of—

(a) Member of the Planning Commission incharge of the energy sector—
Chairperson;

* * * * *

(2) For the purposes of clause (d) of sub-section (1), the Central Government shall nominate from amongst persons holding the post of Chairperson or managing director, by whatever name called, of any public financial institution specified in section 4A of the Companies Act, 1956.

1 of 1956.

* * * * *

(9) No appointment of the Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee:

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson of the Central Commission where such person is, or has been, a Judge of the Supreme Court or the Chief Justice of a High Court.

* * * * *

79. (1) The Central Commission shall discharge the following functions, namely:— Functions of Central Commission.

* * * * *

(f) to adjudicate upon disputes involving generating companies or transmission licensee in regard to matters connected with clauses (a) to (d) above and to refer any dispute for arbitration;

* * * * *

(j) to fix the trading margin in the inter-State trading of electricity, if considered, necessary;

(k) to discharge such other functions as may be assigned under this Act.

* * * * *

Constitution, powers and functions of State Commissions

82. (1) * * * * * Constitution of State Commission.

(4) The State Commission shall consist of not more than three Members, including the Chairperson.

* * * * *

84. (1) The Chairperson and the Members of the State Commission shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in, dealing with problems relating to engineering, finance, commerce, economics, law or management. Qualifications for appointment of Chairperson and Members of State Commission.

(2) Notwithstanding anything contained in sub-section (1), the State Government may appoint any person as the Chairperson from amongst persons who is, or has been, a Judge of a High Court:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of that High Court.

* * * * *

85. (1) The State Government shall, for the purposes of selecting the Members of the State Commission, constitute a Selection Committee consisting of— Constitution of Selection Committee to select Members of State Commission.

* * * * *

(c) the Chairperson of the Authority or the Chairperson of the Central Commission—Member:

Provided that nothing contained in this section shall apply to the appointment of a person as the Chairperson who is or has been a Judge of the High Court.

* * * * *

(6) No appointment of Chairperson or other Member shall be invalid merely by reason of any vacancy in the Selection Committee.

* * * * *

Functions of State Commission.

86. (1) The State Commission shall discharge the following functions, namely:—

(a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under section 42, the State Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers;

* * * * *

(e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;

(f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;

* * * * *

(j) fix the trading margin in the intra-State trading of electricity, if considered, necessary;

(k) discharge such other functions as may be assigned to it under this Act.

* * * * *

Appropriate Commission—other provisions

Term of office and conditions of service of Members.

89. (1) The Chairperson or other Member shall hold office for a term of five years from the date he enters upon his office:

Provided that the Chairperson or other Member in the Central Commission or the State Commission shall not be eligible for re-appointment in the same capacity as the Chairperson or a Member in that Commission in which he had earlier held office as such:

Provided further that no Chairperson or Member shall hold office as such after he has attained the age of sixty-five years.

* * * * *

Removal of Member.

90. (1) * * * * *

(2) The Central Government, in the case of a Member of the Central Commission, and the State Government, in the case of a Member of the State Commission, may by order remove from office any Member, if he—

* * * * *

(f) has been guilty of proved misbehaviour:

Provided that no Member shall be removed from his office on any ground specified in clauses (d), (e) and (f) unless the Chairperson of the Appellate Tribunal on a reference being made to him in this behalf by the Central Government or the State Government, as the case may be, has, on an inquiry, held by him in accordance with such procedure as may be prescribed by the Central Government, reported that the Member ought on such ground or grounds to be removed.

* * * * *

	*	*	*	*	*	
	<p>112. (1) The Appellate Tribunal shall consist of a Chairperson and three other Members.</p>					Composition of Appellate Tribunal.
	*	*	*	*	*	
	<p>128. (1) * * * * *</p>					Investigation of certain matters.
1 of 1956.	<p>(2) Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956, the Investigating Authority may, at any time, and shall, on being directed so to do by the Appropriate Commission, cause an inspection to be made, by one or more of his officers, of any licensee or generating company and his books of account; and the Investigating Authority shall supply to the licensee or generating company, as the case may be, a copy of his report on such inspection.</p>					
	*	*	*	*	*	
	<p>142. In case any complaint is filed before the Appropriate Commission by any person or if that Commission is satisfied that any person has contravened any of the provisions of this Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Appropriate Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under this Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.</p>					Punishment for non-compliance of directions by Appropriate Commission.
	*	*	*	*	*	
	<p>146. Whoever, fails to comply with any order or direction given under this Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of this Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence:</p>					Punishment for non-compliance of orders or directions.
	<p>Provided that nothing contained in this section shall apply to the orders, instructions or directions issued under section 121.</p>					
	*	*	*	*	*	
2 of 1974.	<p>152. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Appropriate Government or any officer authorised by it in this behalf may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of electricity punishable under this Act, a sum of money by way of compounding of the offence as specified in the Table below:</p>					Compounding of offences.
	*	*	*	*	*	
	<p>176. (1) * * * * *</p>					Power of Central Government to make rules.
	<p>(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:—</p>					
	<p>(a) the time within which the objection and suggestions on the draft National Electricity Plan to be invited by the Authority under the proviso to sub-section (4) of section 3;</p>					
	*	*	*	*	*	

(i) the functions and duties of the Central Electricity Authority under section 73;

* * * * *

(q) the form and the manner of verifying such form, and fee for filing appeal under sub-section (2) of section 111;

* * * * *

(x) the powers to be exercised and the functions to be performed by the Inspectors under sub-section (1) of section 162;

* * * * *

Powers of Central Commission to make regulations.

178. (1) * * * *

(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of following matters, namely:—

* * * * *

(v) the manner of making an application before the Central Commission and the fee payable therefor under sub-section (1) of section 64;

* * * * *

Powers of State Commissions to make regulations.

181. (1) * * * *

(2) In particular and without prejudice to the generality of the power contained in sub-section (1), such regulations may provide for all or any of the following matters, namely:—

* * * * *

(l) payment of the transmission charges and a surcharge under sub-clause (ii) of clause (c) of section 40;

* * * * *

(zb) the period within which information to be furnished by the licensee under sub-section (1) of section 59;

* * * * *

(zg) the manner of making an application before the State Commission and the fee payable therefor under sub-section (1) of section 64;

* * * * *

(zi) the manner by which development of market in power including trading specified under section 66;

* * * * *

LOK SABHA

A
BILL
further to amend the Electricity Act, 2003.

(Shri R.K. Singh, Minister of Power)

MGIPMRND—801LS(S3)—03-08-2022.

AS PASSED BY LOK SABHA
ON 8.8.2022

Bill No. 177-C of 2022

THE ENERGY CONSERVATION (AMENDMENT) BILL, 2022

A

BILL

further to amend the Energy Conservation Act, 2001.

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

1. (1) This Act may be called the Energy Conservation (Amendment) Act, 2022.

Short title and
commencement.

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

2. In section 2 of the Energy Conservation Act, 2001 (hereinafter referred to as the principal Act),—

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

‘(c) “building” means any structure or erection or part of structure or erection—

5

(i) constructed after the rules relating to energy conservation and sustainable building codes have been notified by the Central Government under clause (p) of section 14 and by the State Government under clause (a) of section 15;

(ii) which has a minimum connected load of 100 Kilowatt (kW) or contract demand of 120 Kilovolt Ampere (kVA); and

10

(iii) which is used or intended to be used for commercial purpose or as an office building or for residential purpose:

Provided that the State Government may specify a lower connected load or contract demand than the load or demand specified above;’;

15

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

‘(da) “carbon credit certificate” means the certificate issued by the Central Government or any agency authorised by it under section 14AA;

(db) “carbon credit trading scheme” means the scheme for reduction of carbon emissions notified by the Central Government under clause (w) of section 14;’;

20

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

‘(h) “energy” means any form of energy derived from fossil fuels or non-fossil sources or renewable sources;’;

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

25

‘(ia) “energy auditor” means any individual possessing the qualifications prescribed under clause (m) of section 14;’;

(v) for clause (j), the following clause shall be substituted, namely:—

‘(j) “energy conservation and sustainable building code” means the code which provides norms and standards for energy efficiency and its conservation, use of renewable energy and other green building requirements for a building;’;

30

(vi) after clause (q), the following clause shall be inserted, namely:—

‘(qa) “registered entity” means any entity, including designated consumers, registered for carbon credit trading scheme specified under clause (w) of section 14;’;

35

(vii) after clause (t), the following clauses shall be inserted, namely:—

‘(ta) “vehicle” shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988;

59 of 1988.

(tb) “vessel” includes every description of water craft used or capable of being used in inland waters or in coastal waters, including any ship, boat, sailing vessel, tug, barge or other description of vessel including non-displacement craft, amphibious craft, wing-in-ground craft, ferry, roll-on-roll-off vessel, container vessel, tanker vessel, gas carrier or floating

40

unit or dumb vessel used for transportation, storage or accommodation within or through inland waters and coastal waters;’.

3. In section 4 of the principal Act,—

Amendment
of section 4.

5 (a) in sub-section (1), for the words “twenty, but not exceeding twenty-six”, the words “thirty-one, but not exceeding thirty-seven” shall be substituted;

(b) in sub-section (2),—

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

10 “(ga) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Environment, Forest and Climate Change—*ex officio* member;

(gb) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Housing and Urban Affairs—*ex officio* member;

15 (gc) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Road Transport and Highways—*ex officio* member;

(gd) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Steel—*ex officio* member;

20 (ge) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Civil Aviation—*ex officio* member;

25 (gf) the Secretary to the Government of India, in charge of the Ministry or Department of the Central Government dealing with the Ports, Shipping and Waterways—*ex officio* member;

(gg) Member of the Railway Board (in charge of Energy), Ministry of Railways—*ex officio* member;”;

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

30 “(ma) Director-General of the National Productivity Council, Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry—*ex officio* member;”;

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

35 “(o) one official each from the energy or power department of the five States from the five power regions, not below the rank of Principal Secretary to the State Government, to be appointed by the Central Government—member;”;

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

40 “(p) such number of persons, not exceeding seven, as may be prescribed, to be appointed by the Central Government as members, from amongst persons who, in the opinion of the Central Government, are experts or capable of representing industry, equipment and appliance manufacturers, architects, institutes and consumers—members;”.

4. In section 13 of the principal Act, in sub-section (2),—

Amendment of
section 13.

45 (i) in clause (a), after the word and figures “section 14”, the words “and other standards required to be prescribed under other provisions of this Act” shall be inserted;

(ii) in clause (d), for the words “energy conservation building codes”, the words “energy conservation and sustainable building codes” shall be substituted;

(iii) in clause (h), after the word “promote”, the words “or undertake” shall be inserted;

(iv) after clause (t), the following clauses shall be inserted, namely:— 5

“(ta) collaborate with any international institution or organisation or to obtain membership of bodies having similar objectives as that of the Bureau, in consultation with the Central Government;

(tb) authorise any agency in the country or outside the country to carry out any of the functions of the Bureau, for such purposes, and subject to such terms and conditions, as may be specified by regulations; 10

(tc) undertake, or authorise any other body which meets with such technical qualifications, as may be specified by regulations, to test samples for purposes other than those specified in section 14;

(td) empanel technical experts to promote energy efficiency and carbon credit trading activities undertaken to meet the objectives of the Act; 15

(te) recommend to the Central Government on the requirements to be specified in the carbon credit trading scheme to be notified under clause (w) of section 14;

(tf) recommend minimum share of consumption of non-fossil sources by designated consumers as energy or feedstock;”. 20

Insertion of new section 13A. Prohibition of use of deceptive name, etc.

5. After section 13 of the principal Act, the following section shall be inserted, namely:—

“13A. (1) No person shall, without previous permission of the Bureau, use any name which so nearly resembles the name of the Bureau as to deceive or likely to deceive the public. 25

(2) Notwithstanding anything contained in any other law for the time being in force, no registering authority shall register any company, firm or other body of persons which bears any name or mark resembling the name of the Bureau.”.

Amendment of section 14.

6. In section 14 of the principal Act,— 30

(i) in clause (a), for the word “appliance”, the words “appliance, vehicle, vessel, industrial unit, building or establishment” shall be substituted;

(ii) in clause (b), after the words “class of equipment or appliances,”, the words “or vehicle, vessel, industrial unit, building or establishment” shall be inserted;

(iii) for clause (c), the following clause shall be substituted, namely:— 35

“(c) prohibit manufacture or import of any equipment or appliance or vehicle or vessel specified under clause (b), unless it conforms to energy consumption standards specified under clause (a):

Provided that an industrial unit specified under clause (b) shall close its operations unless it conforms to the norms for processes or energy consumption standards specified under clause (a): 40

Provided further that from the date of notification of norms for processes and energy consumption standards under clause (a), no notification prohibiting such manufacture or import shall be issued—

(i) within a period of six months in the case of equipment or appliance or vehicle or vessel; and 45

(ii) within a period of two years for closure of industrial unit:

Provided also that the Central Government may, having regard to the market share and the technological development having impact on equipment or appliance or vehicle or vessel, and for reasons to be recorded in writing, extend the said period of six months referred to above, by a further period not exceeding six months;”;

(iv) in clause (f), after the words “Energy Intensive Industries”, the words “and other establishments” shall be inserted;

(v) in clause (h), after the words “Energy Intensive Industries”, the words “and other establishments” shall be inserted;

(vi) in clause (l), for the words “energy manager”, the words “energy auditor or energy manager” shall be substituted;

(vii) in clauses (p), (q) and (r), for the words “energy conservation building codes”, the words “energy conservation and sustainable building codes” shall be substituted;

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

“(w) specify the carbon credit trading scheme;

(x) specify minimum share of consumption of non-fossil sources by designated consumers as energy or feedstock, provided different share of consumption may be specified for different types of non-fossil sources for different designated consumers:”.

7. In section 14A of the principal Act,—

Amendment of section 14A.

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

“Issuance of energy savings certificate.”;

(b) in sub-section (1), after the words “Central Government”, the words “or any agency authorised by it” shall be inserted;

(c) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that any other person may also purchase energy saving certificate or carbon credit certificate on voluntary basis.”.

8. After section 14A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 14AA.

“14AA. (1) The Central Government, or any agency authorised by it may issue carbon credit certificate to the registered entity which complies with the requirements of the carbon credit trading scheme.

Issuance of carbon credit certificate.

(2) The registered entity shall be entitled to purchase or sell the carbon credit certificate in accordance with carbon credit trading scheme specified under clause (w) of section 14.”.

9. In section 15 of the principal Act,—

Amendment of section 15.

(i) in clause (a),—

(I) for the words “energy conservation building codes”, at both the places where they occur, the words “energy conservation and sustainable building codes” shall be substituted;

(II) after the words “energy in the buildings”, the words “and implement the same through building bye-laws of the State” shall be substituted;

(ii) in clause (b), for the words “energy conservation building codes”, the words “energy conservation and sustainable building codes” shall be substituted;

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

“(ha) levy such fee as may be prescribed for the services rendered by the designated agency to promote efficient use of energy and its conservation under this Act;”.

Insertion of new section 15A.

10. After section 15 of the principal Act, the following section shall be inserted, namely:—

Budget of designated agency.

“15A. The designated agency shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure and forward the same to the State Government, which shall include the same in the annual budget.”.

Substitution of new section for section 16.

11. For section 16 of the principal Act, the following section shall be substituted, namely:—

Establishment of Fund by State Government.

“16. (1) There shall be constituted a Fund for the purposes of promotion of efficient use of energy and its conservation within the State to be called the State Energy Conservation Fund and there shall be credited thereto—

(a) all grants and loans that may be made by the State Government or the Central Government or any other organisation or individual for the purposes of this Act;

(b) all fees received by the State Government or the designated agency under this Act;

(c) all sums received by the State Government or the designated agency from such other sources as may be decided by the State Government.

(2) The Fund shall be utilised for meeting the expenses—

(a) of the designated agency in the discharge of its functions;

(b) for the objects and purposes authorised by or under this Act.

(3) The Fund created under sub-section (1) shall be administered by such person or authority and in such manner as may be prescribed by the rules made by the State Government.”.

Substitution of new section for section 26.

12. For section 26 of the principal Act, the following section shall be substituted, namely:—

Penalty.

“26. (1) If any person fails to comply with the provisions of clause (h) or clause (i) or clause (k) or clause (l) of section 14 or clause (c) or clause (h) of section 15, he shall be liable to a penalty which shall not exceed ten lakh rupees:

Provided that in the case of continuing failures, the person shall be liable to an additional penalty which may extend to ten thousand rupees for every day during which such failures continue.

(2) Notwithstanding anything contained in this Act or any other Act for the time being in force, if any person fails to comply with the provisions of clauses (c) and (d) of section 14, he shall in addition to the penalty of ten lakh rupees, be also liable to pay additional penalty which shall not exceed five thousand rupees per appliance or equipment in relation to which the non-compliance has occurred, but shall not be lower than two thousand rupees:

Provided that where such non-compliance relates to any industrial unit or vessel, he shall also be liable to an additional penalty which shall not exceed twice the price of every metric ton of oil equivalent consumed in excess of the prescribed norms:

5 Provided further that if the manufacturer of a vehicle fails to comply with the fuel consumption norms, he shall also be liable to pay an additional penalty per unit of vehicles sold in the corresponding year, as follows, namely:—

(i) twenty-five thousand rupees per vehicle for non-compliance of norms up to 0.2 litres per 100 kms;

10 (ii) fifty thousand rupees per vehicle for non-compliance of norms above 0.2 litres per 100 kms.

(3) If any person fails to comply with the directions issued under clauses (n) and (x) of section 14, he shall be liable to a penalty which shall not exceed ten lakh rupees for each such failure:

15 Provided that he shall also be liable to an additional penalty which shall not exceed twice the price of every metric ton of oil equivalent prescribed under this Act, which is in excess of the prescribed norms.

(4) If a person fails to comply with the provisions of sub-section (1) of section 13A or fails to provide any information under section 52, he shall be liable to a penalty which may extend to fifty thousand rupees on first such non-compliance or failure:

20 Provided that for every subsequent non-compliance or failure, he shall be liable to pay an additional penalty which shall not exceed ten thousand rupees per day of such non-compliance or failure.

(5) Any amount payable under this section, if not paid, may be recovered as if it were an arrear of land revenue.”.

25 **13.** After section 27 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 27A.

“27A. (1) The State Commission may, by notification, make regulations for discharging its functions under this Act.

Power of State Commission to make regulations.

30 (2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the manner of making application before the State Commission and the fee payable;

(b) any other matter which is to be, or may be, provided by regulations by the State Commission for the purposes of its function:

35 Provided that every regulation made by the State Commission under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.”.

40 **14.** In section 28 of the principal Act, after clause (b), the following clause shall be inserted, namely:—

Amendment of section 28.

“(c) the loss caused to a consumer and amount of compensation thereof.”.

45 **15.** In section 52 of the principal Act, for the words, brackets, letter and figures “specified under clause (b) of section 14 shall supply the Bureau with such information, and with such samples”, the words “or any other person or entity covered under this Act shall furnish to the Bureau such information, documents or records relating to energy consumption, and such samples” shall be substituted.

Amendment of section 52.

- Amendment of section 56. **16.** In section 56 of the principal Act, in sub-section (2), in clause (l), for the words “energy conservation building codes”, the words “energy conservation and sustainable building codes” shall be substituted.
- Amendment of section 57. **17.** In section 57 of the principal Act, in sub-section (2),—
- (i) in clause (a), for the words “energy conservation building codes”, the words “energy conservation and sustainable building codes” shall be substituted; 5
- (ii) after clause (b), the following clauses shall be inserted, namely:—
- “(ba) the fee to be levied for the services rendered by the designated agency for promoting efficient use of energy and its conservation under clause (ha) of section 15; 10
- “(bb) the form in which and the time at which, the budget of the designated agency shall be prepared under section 15A;”;
- (iii) in clause (c), for the word, brackets and figure “section (4)”, the word, brackets and figure “section (3)” shall be substituted.
- Amendment of section 58. **18.** In section 58 of the principal Act, in sub-section (2), after clause (h), the following clauses shall be inserted, namely:— 15
- “(ha) the purposes, and the terms and conditions subject to which, an agency may be authorised to carry out the functions of the Bureau under clause (tb) of sub-section (2) of section 13;
- “(hb) the technical qualification to test samples under clause (tc) of sub-section (2) of section 13;” 20

LOK SABHA

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BILL

further to amend the Energy Conservation Act, 2001.

(As passed by Lok Sabha)

MGIPMRND—890LS(S3)—08-08-2022.

Bill No. 186-C of 2022

THE NEW DELHI INTERNATIONAL ARBITRATION CENTRE
(AMENDMENT) BILL, 2022

A

BILL

to amend the New Delhi International Arbitration Centre Act, 2019.

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

1. (1) This Act may be called the New Delhi International Arbitration Centre (Amendment) Act, 2022. Short title and commencement.

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

17 of 2019. **2.** In the New Delhi International Arbitration Centre Act, 2019 (hereinafter referred to as the principal Act), in the long title, for the words “New Delhi International Arbitration Centre”, wherever they occur, the words “India International Arbitration Centre” shall be substituted. Amendment of long title.

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Amendment of Preamble.	3. In the principal Act, in the Preamble, for the words “New Delhi International Arbitration Centre” at both the places where they occur, the words “India International Arbitration Centre” shall be substituted.	
Amendment of section 1.	4. In section 1 of the principal Act, in sub-section (1), for the words “New Delhi International Arbitration Centre”, the words “India International Arbitration Centre” shall be substituted.	5
Amendment of section 2.	5. In section 2 of the principal Act, in sub-section (1), in clause (a), for the words “New Delhi International Arbitration Centre”, the words “India International Arbitration Centre” shall be substituted.	
Amendment of chapter heading.	6. In the principal Act, in Chapter II, in the chapter heading, for the words “NEW DELHI INTERNATIONAL ARBITRATION CENTRE”, the words “INDIA INTERNATIONAL ARBITRATION CENTRE” shall be substituted.	10
Amendment of section 3.	7. In section 3 of the principal Act,— (i) in the marginal heading, for the words “New Delhi International Arbitration Centre”, the words “India International Arbitration Centre” shall be substituted; (ii) in sub-section (1), for the words “New Delhi International Arbitration Centre”, the words “India International Arbitration Centre” shall be substituted.	15
Amendment of section 4.	8. In section 4 of the principal Act,— (i) in the marginal heading, for the words “New Delhi International Arbitration Centre”, the words “India International Arbitration Centre” shall be substituted; (ii) in sub-section (1), for the words “New Delhi International Arbitration Centre” at both the places where they occur, the words “India International Arbitration Centre” shall be substituted.	20
Amendment of section 15.	9. In section 15 of the principal Act, for clause (a), the following clause shall be substituted, namely:— “(a) to facilitate the conduct of arbitration and other forms of alternative dispute resolution mechanism, both international and domestic, in the manner as may be specified by the regulations;”.	25
Amendment of section 20.	10. In section 20 of the principal Act, in sub-section (5), in the proviso, for the word “application” at both the places where they occur, the word “question” shall be substituted.	30
Amendment of section 23.	11. In section 23 of the principal Act, in sub-section (1), in clause (a), for the word “Centre”, the word “Secretariat” shall be substituted.	
Amendment of section 25.	12. In section 25 of the principal Act, in sub-section (3), after the words “allowances of Members”, the words “, Registrar, Counsel and other officers and employees of the Centre” shall be inserted.	35
Amendment of section 28.	13. In section 28 of the principal Act, in sub-section (1), for the words “which shall”, the word “to” shall be substituted.	
Amendment of section 31.	14. In section 31 of the principal Act, in sub-section (2), for clause (a), the following clauses shall be substituted, namely:— “(a) the manner of the conduct of arbitration and other forms of alternative dispute resolution mechanism under clause (a) of section 15; (aa) the time and place and the rules of procedure to be observed in regard to the transaction of business of the Committee at the meetings including the quorum under sub-section (3) of section 19;”.	40
Amendment of section 34.	15. In section 34 of the principal Act, in sub-section (1), in the proviso, for the words “two years”, the words “five years” shall be substituted.	45

LOK SABHA

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BILL

to amend the New Delhi International Arbitration Centre Act, 2019.

(As passed by Lok Sabha)

MGIPMRND—889LS(S3)—08-08-2022.