

31st July, 2021

Bills Introduced or Passed by Parliament in Monsoon Session 2021

<u>TABLE OF CONTENTS</u>			
S. No.	Short Title	Date of Introduction	Page
1.	The General Insurance Business (Nationalisation) Amendment Bill, 2021	30/07/2021 (Lok Sabha)	2 – 7
2.	The Commission for Air Quality Management in National Capital Region and Adjoining Areas Bill, 2021	30/07/2021 (Lok Sabha)	8 – 28
3.	The Appropriation (No. 4) Bill, 2021	28/07/2021 (Lok Sabha)	29 – 33
4.	The Appropriation (No. 3) Bill, 2021	28/07/2021 (Lok Sabha)	34 – 37
5.	The Insolvency and Bankruptcy Code (Amendment) Bill, 2021	26/07/2021 (Lok Sabha)	38 – 56
6.	The Inland Vessels Bill, 2021	22/07/2021 (Lok Sabha)	57 – 107
7.	The Essential Defense Services Bill, 2021	22/07/2021 (Lok Sabha)	108 – 116

Bill No. 115 of 2021

THE GENERAL INSURANCE BUSINESS (NATIONALISATION)
AMENDMENT BILL, 2021

A

BILL

further to amend the General Insurance Business (Nationalisation) Act, 1972.

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

1. (1) This Act may be called the General Insurance Business (Nationalisation) Amendment Act, 2021. 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.

Amendment of section 3.	<p>2. In section 3 of the General Insurance Business (Nationalisation) Act, 1972 (hereinafter referred to as the principal Act),—</p> <p>(i) after clause (b), the following clause shall be inserted, namely:—</p> <p style="padding-left: 2em;">'(ba) "board of directors" or "board", in relation to a specified insurer, shall have the same meaning as assigned to it in clause (10) of section 2 of the Companies Act, 2013;'</p> <p>(ii) in clause (c), for the words and figures "the Companies Act, 1956", the words and figures "the Companies Act, 2013" shall be substituted;</p> <p>(iii) for clause (g), the following clause shall be substituted, namely:—</p> <p style="padding-left: 2em;">'(g) "general insurance business" shall have the same meaning as assigned to it in the Insurance Act, 1938;'</p> <p>(iv) in clause (h), for the word and figures "section 617", the words, brackets and figures "clause (45) of section 2" shall be substituted;</p> <p>(v) after clause (o), the following clause shall be inserted, namely:—</p> <p style="padding-left: 2em;">'(oa) "specified insurer" means the Corporation as defined in clause (d) or any of the insurance companies specified in section 10A;'</p>	<p>57 of 1972.</p> <p>5</p> <p>18 of 2013.</p> <p>1 of 1956. 18 of 2013.</p> <p>10</p> <p>4 of 1938.</p> <p>15</p>
Amendment of section 9.	<p>3. In section 9 of the principal Act, for the words and figures "the Companies Act, 1956", the words and figures "the Companies Act, 2013" shall be substituted.</p>	<p>1 of 1956. 18 of 2013.</p>
Amendment of section 10B.	<p>4. In section 10B of the principal Act, the proviso shall be omitted.</p>	
Insertion of new section 24B.	<p>5. After section 24A of the principal Act, the following section shall be inserted, namely:—</p>	<p>20</p>
Cessation of application of Act.	<p>'24B. (1) On and from the date on which the Central Government ceases to control any specified insurer, after the commencement of the General Insurance Business (Nationalisation) Amendment Act, 2021, the provisions of this Act shall cease to apply in respect of that specified insurer.</p> <p>(2) Notwithstanding anything contained in sub-section (1), on the date of cessation of applicability referred to in sub-section (1),—</p> <p style="padding-left: 2em;">(a) any scheme framed by the Central Government under sub-section (1) of section 17A in respect of the specified insurer referred to in sub-section (1) shall be deemed to have been adopted by the board of directors of such specified insurer:</p> <p style="padding-left: 2em;">Provided that the board of directors may make such additions, amendments or variations thereto, or frame new policy in place of such scheme, as it may deem appropriate;</p> <p style="padding-left: 2em;">(b) without prejudice to the generality of the power of the board of directors of the specified insurer under clause (a), all powers exercisable by the Central Government under a scheme framed by it in sub-section (1) of section 17A shall be exercisable by that board of directors.</p> <p><i>Explanation 1.</i>—For the purposes of this section, the expression "control" means the right of the Central Government, in relation to a specified insurer,—</p> <p style="padding-left: 2em;">(i) to appoint a majority of its directors; or</p> <p style="padding-left: 2em;">(ii) to have power over its management or policy decisions,</p> <p>by virtue of its shareholding rights or management rights under its articles of association or shareholders agreements or voting agreements or any other agreements executed with the specified insurer or any other person in relation to the specified insurer.</p>	<p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p>

Explanation 2.—For the removal of doubts, it is hereby clarified that—

(i) the provisions of this section shall also apply to any rule, scheme, direction or notification made under this Act before the cessation of applicability;

5 (ii) the cessation of applicability shall not revive anything that was not already in force or in existence under this Act or affect anything previously done or suffered under this Act;

(iii) the board of directors of the specified insurer shall exercise the powers referred to in sub-section (2), subject to any requirement under any law for the time being in force.!

10 **6.** After section 31 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 31A.

'31A. A director of a specified insurer who is not its whole-time director shall be held liable only in respect of such acts of omission or commission of the specified insurer which had been committed with his knowledge, attributable through board processes, and with his consent or connivance or where he had not acted diligently.

Liability of director of specified insurer.

15 *Explanation.*—For the purposes of this section, the reference to "board" shall include committees of the board.!

STATEMENT OF OBJECTS AND REASONS

The General Insurance Business (Nationalisation) Act, 1972 (the Act) was enacted with a view to provide for the acquisition and transfer of shares of Indian insurance companies and undertakings of other existing insurers in order to serve better the need of the economy by securing the development of general insurance business in the best interests of the community and to ensure that the operation of the economic system does not result in the concentration of wealth to the common detriment, for the regulation and control of such business and for matters connected therewith or incidental thereto.

2. Subsequently, the Act was amended in 2002 with a view to provide for the transfer and vesting of the shares of the acquiring companies back to the Central Government and for the share holding of the Central Government in the General Insurance Corporation of India and the insurers referred to in section 10A (specified insurers) shall not be less than fifty-one per cent.

3. With a view to provide for greater private participation in the public sector insurance companies and to enhance insurance penetration and social protection and better secure the interests of policy holders and contribute to faster growth of the economy, it has become necessary to amend certain provisions of the Act. In the form of a Bill, namely, the General Insurance Business (Nationalisation) Amendment Bill, 2021.

4. The General Insurance Business (Nationalisation) Amendment Bill, 2021, *inter alia*, provides for the following, namely:—

(i) to omit the proviso to section 10B of the Act so as to remove the requirement that the Central Government holds not less than fifty-one per cent. of the equity capital in a specified insurer;

(ii) to insert a new section 24B providing for cessation of application of the Act to such specified insurer on and from the date on which the Central Government ceases to have control over it; and

(iii) to insert a new section 31A providing for liability of a director of specified insurer, who is not a whole-time director, in respect of such acts of omission or commission of the specified insurer which has been committed with his knowledge and with his consent.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 28th July, 2021.

NIRMALA SITHARAMAN.

ANNEXURE

EXTRACTS FROM THE GENERAL INSURANCE BUSINESS
(NATIONALISATION) ACT, 1972

(57 OF 1972)

* * * * *

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

* * * * *

1 of 1956. (c) "Companies Act" means the Companies Act, 1956;

* * * * *

(g) "general insurance business" means fire, marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them, but does not include capital redemption business and annuity certain business;

(h) "Government company" means a Government company as defined in section 617 of the Companies Act;

* * * * *

CHAPTER III

GENERAL INSURANCE CORPORATION OF INDIA

9. (1) As soon as may be after the commencement of this Act, the Central Government shall form a Government company in accordance with the provisions of the Companies Act, to be known as the General Insurance Corporation of India for the purpose of superintending, controlling and carrying on the business of general insurance: Formation of General Insurance Corporation of India.

40 of 2002. Provided that on and from the commencement of the General Insurance Business (Nationalisation) Amendment Act, 2002, the provisions of this sub-section shall have effect as if for the words "superintending, controlling and carrying on the business of general insurance", the words "carrying on re-insurance business" had been substituted.

* * * * *

1 of 1956. (3) Notwithstanding anything contained in the Companies Act, 1956, it shall not be necessary to add the word "Limited" as the last word of the name of the Corporation.

* * * * *

10B. The General Insurance Corporation and the insurance companies specified in section 10A may, raise their capital for increasing their business in rural and social sectors, to meet solvency margin and such other purposes, as the Central Government may empower in this behalf: Enhancement of equity capital of General Insurance Companies.

Provided that the shareholding of the Central Government shall not be less than fifty one per cent. at any time.

* * * * *

LOK SABHA

A

BILL

further to amend the General Insurance Business (Nationalisation) Act, 1972.

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

MGIPMRND—498LS(S3)—28-07-2021.

Bill No. 110 of 2021

**THE COMMISSION FOR AIR QUALITY MANAGEMENT IN
NATIONAL CAPITAL REGION AND ADJOINING AREAS
BILL, 2021**

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, application and commencement.
2. Definitions.

CHAPTER II

COMMISSION FOR AIR QUALITY MANAGEMENT IN NATIONAL CAPITAL REGION AND
ADJOINING AREAS

3. Constitution of Commission.
4. Appointment of Chairperson, Members and Member-Secretary.
5. Resignation and removal of Chairperson and Members.
6. Term of office of Chairperson and Members.
7. Member to act as Chairperson or to discharge his functions in certain circumstances.
8. Terms and conditions of service of Chairperson and Members.
9. Vacancies, etc., not to invalidate proceedings of Commission.
10. Procedure to be regulated by Commission.
11. Sub-Committees and other staff of Commission.

CHAPTER III

POWERS AND FUNCTIONS OF THE COMMISSION

12. Powers and functions of Commission.
13. Annual report.
14. Penalty for contravention of provisions of Act, rules, order or direction.
15. Environmental Compensation.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

16. Grants by Central Government.
17. Accounts and audit.

CHAPTER V

MISCELLANEOUS

18. Appeal.

(ii)

CLAUSES

19. Constitution of special investigation teams.
20. Power of Central Government to issue direction.
21. Power of Central Government to call for information.
22. Bar of jurisdiction.
23. Protection of action taken in good faith.
24. Members and officers to be public servants.
25. Power of Central Government to make rules.
26. Power of Commission to make regulations.
27. Power to remove difficulties.
28. Act to have overriding effect.
29. Repeal and savings of order constituting Environment Pollution (Prevention and Control) Authority for National Capital Region.
30. Savings.
31. Repeal and savings.

Bill No. 110 of 2021

**THE COMMISSION FOR AIR QUALITY MANAGEMENT IN
NATIONAL CAPITAL REGION AND ADJOINING AREAS
BILL, 2021**

A

BILL

to provide for the constitution of the Commission for Air Quality Management in National Capital Region and Adjoining Areas for better co-ordination, research, identification and resolution of problems surrounding the air quality index 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 Commission for Air Quality Management in National Capital Region and Adjoining Areas Act, 2021.

(2) It shall apply to the National Capital Region and also to adjoining areas in so far as it relates to matters concerning air pollution in the National Capital Region.

Short title,
application and
commencement.

(3) It shall be deemed to have come into force on the 13th April, 2021.

Definitions.

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

(a) “adjoining areas” means the areas in the States of Haryana, Punjab, Rajasthan and Utter Pradesh, adjoining the National Capital Territory of Delhi and the National Capital Region, where any source of pollution is located, causing adverse impact on air quality in the National Capital Region; 5

(b) “Associate Member” means a member who is co-opted under sub-section (3) of section 3;

(c) “Chairperson” means the Chairperson of the Commission for Air Quality Management in National Capital Region and Adjoining Areas referred to in section 3; 10

(d) “Commission” means the Commission for Air Quality Management in National Capital Region and Adjoining Areas constituted under section 3;

(e) “Member” means a Member of the Commission and includes the Chairperson thereof;

(f) “National Capital Region” shall have the same meaning as assigned to it in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985; 15
2 of 1985.

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

(2) The words used herein and not defined, but defined in the Environment (Protection) Act, 1986, shall have the meaning as assigned to them in that Act. 26 of 1986.

CHAPTER II

20

COMMISSION FOR AIR QUALITY MANAGEMENT IN NATIONAL CAPITAL REGION AND ADJOINING AREAS

Constitution of Commission.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Commission for Air Quality Management in National Capital Region and Adjoining Areas to exercise the powers conferred upon, and to perform the functions assigned to, that Commission under this Act. 25

(2) The Commission shall consist of the following Members, namely:—

(a) a full-time Chairperson having experience of not less than fifteen years in the field of environment protection and pollution control or having administrative experience of not less than twenty-five years; 30

(b) a representative of the Secretary to the Government of India in the Ministry of Environment, Forest and Climate Change, who shall be an officer not below the rank of Joint Secretary, *ex officio*;

(c) five *ex officio* Members who are either Chief Secretaries, or Secretaries in-charge of the department dealing with environment protection in the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh; 35

(d) one full-time Member who is or has been a Joint Secretary to the Government of India;

(e) three full-time independent technical Members to be appointed from amongst persons having specific knowledge and experience in matters relating to air pollution; 40

(f) one technical Member from the Central Pollution Control Board, *ex officio*;

(g) one technical Member to be nominated by the Indian Space Research Organisation, *ex officio*;

(h) three Members from non-Governmental organisations having experience in matters concerning combating of air pollution;

(i) one representative of the National Institution for Transforming India, not below the rank of Joint Secretary or Adviser, *ex officio*;

5 (j) one officer in the rank of Joint Secretary to the Government of India to be appointed by the Central Government as a full-time Member-Secretary of the Commission;

(k) three members, being stakeholders from such sectors as agriculture, industry, transport or construction.

10 (3) The Commission may co-opt the following persons as Associate Members, namely:—

(a) a representative of the Ministry of Road Transport and Highways, not below the rank of Joint Secretary to the Government of India;

15 (b) a representative of the Ministry of Power, not below the rank of Joint Secretary to the Government of India;

(c) a representative of the Ministry of Housing and Urban Affairs, not below the rank of Joint Secretary to the Government of India;

(d) a representative of the Ministry of Petroleum and Natural Gas, not below the rank of Joint Secretary to the Government of India;

20 (e) a representative of the Ministry of Agriculture and Farmers' Welfare, not below the rank of Joint Secretary to the Government of India;

(f) a representative of the Ministry of Commerce and Industry, not below the rank of Joint Secretary to the Government of India;

(g) a representative of any association of commerce or industry;

25 (h) such other Associate Members, as may be prescribed.

(4) The Member-Secretary shall be the Chief Coordinating Officer of the Commission and shall assist the Commission in the discharge of its functions under this Act.

30 (5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in the National Capital Region or adjoining areas.

35 (6) Notwithstanding anything contained in any other law for the time being in force, and notwithstanding any judgment or order of any court, the Commission shall have exclusive jurisdiction in the National Capital Region and adjoining areas in respect of matters covered by this Act and no other body, authority, individual or committee shall have any power or jurisdiction in such matters:

40 Provided that in case of any conflict in the orders or directions of the Commission and the Governments of the National Capital Territory of Delhi and of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh or the Central Pollution Control Board or the State Pollution Control Boards of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh or the Pollution Control Committee of the National Capital Territory of Delhi or any other statutory authority set up or established under a State Act, the order as well as the direction of the Commission shall prevail.

4. (1) The full-time Chairperson and full-time Members, other than *ex officio* Members, of the Commission shall be appointed by the Central Government:

45 Provided that every appointment under this sub-section shall, subject to the provisions of second proviso, be made on the recommendations of a Selection Committee consisting of—

Appointment
of
Chairperson,
Members and
Member-
Secretary.

(a) Minister in-charge of the Ministry of Environment, Forest and Climate Change in the Government of India—Chairperson;

(b) Minister in-charge of the Ministry of Commerce and Industry in the Government of India—member;

(c) Minister in-charge of the Ministry of Road Transport and Highways in the Government of India—member; 5

(d) Minister in-charge of the Ministry of Science and Technology in the Government of India—member;

(e) Cabinet Secretary— member:

Provided further that in case where the Central Government appoints a serving officer as the Chairperson under clause (a) of sub-section (2) of section 3, or the full-time Member under clause (d) thereof, then, no recommendation of the Selection Committee shall be required. 10

(2) No appointment of the Chairperson or a Member shall be invalid merely by reason of any vacancy of any member in the Selection Committee referred to in sub-section (1). 15

(3) The appointment of the Member-Secretary of the Commission shall be made by the Central Government in such manner, subject to such terms and conditions, as may be prescribed.

Resignation
and removal
of
Chairperson
and Members.

5. (1) The Chairperson or a Member, other than an *ex officio* Member, may, by notice in writing under his hand addressed to the Central Government, resign his office. 20

(2) The Central Government may remove the Chairperson or any Member, other than an *ex officio* Member, from his office, in such manner as may be prescribed, if such person—

(a) is adjudged an insolvent;

(b) engages during his term of office in any paid employment outside the duties of his office; 25

(c) is of unsound mind and stands so declared by a competent court;

(d) has so abused his position as to render his continuance in office prejudicial to the public interest;

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions; or 30

(f) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude:

Provided that no such Member shall be so removed, unless he has been given an opportunity of being heard.

Term of office
of Chairperson
and Members.

6. The Chairperson or a Member, other than an *ex officio* Member, shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier, and shall be eligible for re-appointment. 35

Member to act
as Chairperson
or to discharge
his functions
in certain
circumstances.

7. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of death, resignation or otherwise, the Central Government may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy. 40

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Central Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties. 45

8. The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members, other than *ex officio* Members, shall be such as may be prescribed:

Terms and conditions of service of Chairperson and Members.

5 Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment.

9. No act or proceedings of the Commission shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

Vacancies, etc., not to invalidate proceedings of Commission.

10 (1) The Commission shall meet at such time and place as the Chairperson may think fit.

Procedure to be regulated by Commission.

(2) Subject to the provisions of this Act and the rules made thereunder, the Commission shall have the power to lay down by regulations its own procedure.

15 (3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Chairperson in this behalf.

20 (4) The Commission may, by general or special order, subject to such conditions and limitations, if any, as may be specified therein, delegate to the Chairperson, full-time Member, Member-Secretary or any Sub-Committee constituted under section 11, such of its powers under this Act (except the power to make regulations under section 25), as it may deem necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and adjoining areas.

11. (1) The Commission shall have at least the following three Sub-Committees—

Sub-Committees and other staff of Commission.

(a) Sub-Committee on Monitoring and Identification;

(b) Sub-Committee on Safeguarding and Enforcement;

25 (c) Sub-Committee on Research and Development.

(2) The Sub-Committee on Monitoring and Identification shall be headed by a Member of the Commission chosen by it and shall have the following additional members, namely:—

(a) one representative from the Central Pollution Control Board;

30 (b) one representative each from the State Pollution Control Board or Committee, as the case may be, of the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(c) one representative from the National Environmental Engineering Research Institute;

(d) such other members as may be specified by regulations.

35 (3) The Sub-Committee on Safeguarding and Enforcement shall be headed by the full-time Chairperson of the Commission and shall have the following additional members, namely:—

40 (a) one representative each, not below the rank of Secretary from the department tackling air pollution from the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(b) one representative each from the State Pollution Control Board or Committee, as the case may be, from the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

45 (c) one officer not below the rank of Inspector General of Police or equivalent from the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(d) such other members as may be specified by regulations.

(4) The Sub-Committee on Research and Development shall be headed by a full-time technical Member of the Commission and shall have the following additional Members, namely:—

(a) two technical representatives from the National Environmental Engineering Research Institute; 5

(b) one technical representative each from research institutions or Universities or colleges or organisations in the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(c) two technical representatives from the field of medicine and research working or studying on the impact of air pollution on living beings; 10

(d) such other members as may be specified by regulations.

(5) The Commission may also constitute such other Sub-Committees as it thinks fit.

(6) The members of the Sub-Committees, other than *ex officio* members, shall be paid such allowances as may be prescribed.

(7) The Central Government, in consultation with the Commission, shall determine the nature and the categories of officers and other staff required to assist the Commission in the discharge of its function and provide the Commission with such officers and employees as it may deem fit. 15

(8) The officers and other staff of the Commission shall discharge their duties and functions under the general superintendence of the Chairperson. 20

(9) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (7) shall be such as may be prescribed.

CHAPTER III

POWERS AND FUNCTIONS OF THE COMMISSION

Powers and
functions of
Commission.

12. (1) Notwithstanding anything contained in any other law for the time being in force, the Commission shall have the power to take all such measures, issue directions and entertain complaints, as it deems necessary or expedient, for the purpose of protecting and improving the quality of the air in the National Capital Region and adjoining areas and shall also have the duty to take all such measures as may become necessary for protecting and improving the quality of air in the National Capital Region and adjoining areas. 25 30

(2) In particular and without prejudice to the generality of sub-section (1), the Commission shall, for the purposes of sub-section (1), have the following powers to perform its duties, including taking measures to abate air pollution and to regulate or prohibit activities that are likely to cause or increase air pollution in the National Capital Region and adjoining areas, namely:— 35

(i) co-ordination of actions by the Governments of the National Capital Territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh, officers and other authorities under this Act or the rules made thereunder or under any other law for the time being in force, which is relatable to the objects of this Act;

(ii) planning and execution of a programme for the region for prevention, control and abatement of air pollution; 40

(iii) laying down parameters for the quality of air in its various aspects;

(iv) laying down parameters for emission or discharge of environmental pollutants from various sources whatsoever that have implications on air quality in the region:

Provided that different parameters for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition 45

of the emission or discharge of environmental pollutants from such sources that have implications on air quality in the region;

5 (v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes, that have implications on air quality in the region, shall not be carried out or shall be carried out subject to certain safeguards;

(vi) carrying out and requiring investigations and research relating to problems of environmental pollution that have implications on air quality in the region;

10 (vii) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of air pollution in the region;

(viii) collection and dissemination of information in respect of matters relating to air pollution in the region;

15 (ix) preparation of manuals or codes or guidelines relating to the prevention, control and abatement of air pollution in the region;

(x) appoint officers, with prior approval of the Central Government, with such designations, as it thinks fit, for the purposes of this Act and may entrust to them such of the powers and functions under this Act or for the purposes of achieving the objects of this Act, as it may deem fit;

20 (xi) issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.

Explanation.—For avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

25 (a) the closure, prohibition or regulation of any industry, operation or process; or

(b) stoppage or regulation of the supply of electricity or water or any other service.

30 (3) (a) Subject to the provisions of this section, any person authorised by the Commission in this behalf shall have a right to enter, at all reasonable times, and with such assistance as he considers necessary, any place, for the purpose of—

(i) performing any of the functions of the Commission entrusted to him;

35 (ii) determining whether and if so, in what manner any such functions are to be performed or whether any provisions of this Act or the rules made thereunder or any notice, order, direction or authorisation served, made, given or granted under this Act is being or has been complied with;

40 (iii) examining and testing any equipment, industrial plant, record, register, document or any other material object or for conducting a search of any building in which he has reasons to believe that an offence under this Act or the rules made thereunder has been or is being or is about to be committed and for seizing any such equipment, industrial plant, record, register, document or other material object if he has reasons to believe that it may furnish evidence to the Commission of an offence punishable under this Act or the rules made thereunder or that such seizure is necessary to prevent or mitigate environmental pollution;

45 (b) every person carrying on any industry, operation or process or handling any hazardous substance shall be bound to render all assistance to the person empowered by the Commission under clause (a) for carrying out the functions under that clause and if he fails to do so without any reasonable cause or excuse, he shall be guilty of an offence under this Act;

(c) if any person wilfully delays or obstructs any person authorised by the Commission under clause (a) in the performance of his functions, he shall be guilty of an offence under this Act;

(d) the provisions of the Code of Criminal Procedure, 1973 shall apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provisions of the said law. 2 of 1974. 5

(4) (a) The Commission or any officer authorised by it in this behalf, shall, for the purpose of analysis, have power to take samples of air from any factory, premises or other place in such manner as may be prescribed; 10

(b) the result of any analysis of a sample taken under clause (a) shall not be admissible in evidence in any legal proceeding unless the provisions of clauses (c) and (d) are complied with;

(c) subject to the provisions of clause (d), the person taking the sample under clause (a) shall,— 15

(i) serve on the occupier or his agent or person in-charge of the place, a notice, then and there, in such form as may be prescribed, of his intention to have it so analysed;

(ii) in the presence of the occupier or his agent or person, collect a sample for analysis; 20

(iii) cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent or person;

(iv) send without delay, the container or the containers to the laboratory established or recognised by the Central Government; 25

(d) when a sample is taken for analysis under clause (a) and the person taking the sample serves on the occupier or his agent or person, a notice under sub-clause (i) of clause (c), then,—

(i) in a case where the occupier, his agent or person wilfully absents himself, the person taking the sample shall collect the sample for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample; and 30

(ii) in a case where the occupier or his agent or person present at the time of taking the sample refuses to sign the marked and sealed container or containers of the sample as required under sub-clause (iii) of clause (c), the marked and sealed container or containers shall be signed by the person taking the samples, 35

and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory established or recognised by the Central Government and such person shall inform the Government Analyst appointed or recognised, about the wilful absence of the occupier or his agent or person, or, as the case may be, his refusal to sign the container or containers. 40

(5) In discharge of its functions and exercising of its authority, the Commission and the Sub-Committees mentioned in section 11 shall be bound by such general or specific directions of the Central Government, as may be issued from time to time.

(6) In particular and without prejudice to the generality of the foregoing provisions, the Commission shall perform all or any of the following functions, namely:—

- 5 (a) take up matters *suo motu*, or on the basis of complaints made by any individual, representative body or organisation functioning in the field of environment, against any individual, association, company, public undertaking or local body carrying on any industry, operation or process;
- (b) provide the mechanism and the means to implement in the National Capital Region and adjoining areas—
- 10 (i) the National Clean Air Programme;
- (ii) the National Air Quality Monitoring Programme;
- (iii) the National Ambient Air Quality Standards;
- (c) provide an effective framework and platform in the National Capital Region and adjoining areas for—
- 15 (i) source identification of air pollutants on a periodic basis;
- (ii) taking on-ground steps for curbing air pollution;
- (iii) specific research and development in the field of air pollution;
- (iv) synergising the energies and efforts of all stakeholders in developing innovative ways to monitor, enforce and research on the issues concerning air pollution;
- 20 (v) building a network between technical institutions working or researching in the field of air pollution;
- (vi) international co-operation including sharing of international best practices in the field of air pollution;
- (vii) training and creating a special work-force for tackling the problem of air pollution;
- 25 (d) provide an effective frame work, action plan and take appropriate steps for—
- (i) tackling the problem of stubble burning;
- (ii) monitoring, assessing and inspecting air polluting agents;
- 30 (iii) increasing plantation;
- (e) monitoring the measures taken by the States to prevent stubble burning;
- (f) undertake and promote research in the field of air pollution;
- (g) spread awareness regarding air pollution among various sections of society and promote awareness of the collective steps that the public may take through publications, the media, seminars and other available means;
- 35 (h) encourage the efforts of non-governmental organisations and institutions working in the field of air pollution;
- (i) any other functions as have been entrusted to any *ad hoc* committee or commission or task force or body formed for the purpose of dealing with issues concerning air pollution, stubble burning or the monitoring of related factors, in pursuance of any judicial order passed from time to time;
- 40 (j) such other functions as it may consider necessary for the prevention of air pollution in the National Capital Region and adjoining areas.

Annual report.

13. (1) The Commission shall furnish to the Central Government an annual report containing such details of the steps taken, proposals made, researches awaited and other measures undertaken by it in pursuance of its functions under section 12, in such form and manner as may be specified by regulations.

(2) The Central Government shall cause the annual report furnished under sub-section (1) to be laid before each House of Parliament. 5

Penalty for contravention of provisions of Act, rules, order or direction.

14. (1) Any non-compliance or contravention of any provisions of this Act, rules made thereunder or any order or direction issued by the Commission, shall be an offence punishable with imprisonment for a term which may extend up to five years or with fine which may extend up to one crore rupees or with both: 10

Provided that the provisions of this section shall not apply to any farmer for causing air pollution by stubble burning or mismanagement of agricultural residue.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence under this Act shall be non-cognizable and triable by the Jurisdictional Judicial Magistrate of the First Class, who shall not take cognizance of the offence except upon a complaint made by the Commission or any officer authorised by the Commission in this behalf. 2 of 1974. 15

(3) Where any offence under this Act has been committed by a company, every person who, at the time when the offence was committed, was directly in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: 20

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. 25

(4) Notwithstanding anything contained in sub-section (3), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 30

Explanation.—For the purposes of sub-sections (3) and (4),—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and 35

(b) "director", in relation to a firm, means a partner in the firm.

(5) Where an offence under this Act has been committed by any Department of the Government, the Head of the Department 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 this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. 40

(6) Notwithstanding anything contained in sub-section (5), where an offence under this Act has been committed by a Department of Government and it is proved that the 45

offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

5 (7) For the purpose of this section and the procedure to be followed thereunder, the
2 of 1974. provisions of the Code of Criminal Procedure, 1973, shall apply.

15 **15.** The Commission may impose and collect Environmental Compensation from Environmental
farmers causing air pollution by stubble burning, at such rate and in such manner, as may be Compensation.
prescribed.

10 **CHAPTER IV**

FINANCE, ACCOUNTS AND AUDIT

16. (1) The Central Government shall, after due appropriation made by Parliament by Grants by
law in this behalf, pay to the Commission by way of grants such sums of money as the Central Central
Government may think fit for being utilised for the purposes of this Act. Government.

15 (2) The Commission may spend such sums as it thinks fit for performing the functions
under this Act, and such sums shall be treated as expenditure payable out of the grants
referred to in sub-section (1).

17. (1) The Commission shall maintain proper accounts and other relevant records Accounts and
and prepare an annual statement of accounts in such form as may be prescribed by the audit.
20 Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and
Auditor-General of India at such intervals as may be specified by him and any expenditure
incurred in connection with such audit shall be payable by the Commission to the Comptroller
and Auditor-General of India.

25 (3) The Comptroller and Auditor-General of India and any person appointed by him in
connection with the audit of the accounts of the Commission under this Act shall have the
same rights and privileges and authority in connection with such audit as the Comptroller
and Auditor-General of India generally has in connection with the audit of Government
accounts and, in particular, shall have the right to demand the production of books, accounts,
30 connected vouchers and other documents and papers and to inspect any of the offices of
the Commission.

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

CHAPTER V

MISCELLANEOUS

18. An appeal shall lie to the National Green Tribunal constituted under the National Appeal.
19 of 2010. 40 Green Tribunal Act, 2010 against any order, direction or action taken by or on behalf of the
Commission constituted under section 3 of this Act.

(i) the form in which annual statement of accounts shall be prepared under sub-section (1) of section 17;

(j) any other matter which has to be, or may be, prescribed.

(3) 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.

26. (1) Subject to the provisions of this Act and the rules made thereunder, the Commission may, with the previous approval of the Central Government, by notification, make regulations to carry out the provisions of this Act.

Power of Commission to make regulations.

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

(a) the procedure to be followed by the Commission under sub-section (2) of section 10;

(b) the conditions and limitations subject to which power may be delegated by the Commission under sub-section (4) of section 10;

(c) the members of each Sub-Committee under sub-sections (2), (3) and (4) of section 11;

(d) the form and the manner of furnishing annual report under section 13;

(e) any other matter which has to be, or may be, specified by regulations.

(3) Every regulation made by the Commission 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 or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

27. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

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

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

Act to have overriding effect.

28. (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, any document, judgment, order, bye-law, rule, regulation, notification having the force of law in the territory of India.

(2) Notwithstanding anything contained in any other law for the time being in force or any judgment or any order of any Court and subject to the provisions of this Act, upon the notification of the constitution of the Commission under section 3, no other individual or body or authority constituted either under a law enacted by Parliament, or by a State, or appointed or nominated in terms of any judicial order, shall act upon or have jurisdiction in relation to the matters covered by this Act.

Repeal and savings of order constituting Environment Pollution (Prevention and Control) Authority for National Capital Region.

29. (1) The Order made under section 3 of the Environment (Protection) Act, 1986 constituting the Environment Pollution (Prevention and Control) Authority for the National Capital Region *vide* notification number S.O.93(E), dated the 29th January, 1998 is hereby repealed and the Environment Pollution (Prevention and Control) Authority for the National Capital Region is hereby dissolved.

(2) Notwithstanding such repeal, anything done or any action taken by the Environment Pollution (Prevention and Control) Authority for the National Capital Region under the said Order, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Savings.

30. Notwithstanding the cessation of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020, anything done or any action taken under the Ordinance so ceased, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Repeal and savings.

31. (1) The Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021 shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

India is committed to create a clean environment and pollution free air as mandated in the Constitution of India. The committee appointed under the Environment (Protection) Act, 1986 has taken measures to deal with the menace of air pollution, particularly in the National Capital Region. By orders passed from time to time, the courts have also set up *ad hoc* committees to aid and assist the monitoring and implementation of its orders and generally to take steps to deal with air pollution. Even then, quality of air in the air shed of the National Capital Region and in the adjoining areas remains a major cause of concern.

2. There is a need to evolve and implement a consolidated approach for monitoring, tackling and eliminating the causes for air pollution and identifying, specifying and rigorously enforcing measures for elimination and mitigation of air pollution, including but not limited to, controlling or eliminating the activities of stubble burning, vehicular pollution, industrial emissions, road dust, biomass burning and urban construction. It is now considered necessary to have a statutory authority with appropriate powers, and charged with the duty of taking comprehensive measures to tackle air pollution on a war footing, with power to coordinate with concerned States and the Central Government and issue directions to statutory authorities established under various laws.

3. The commitments and obligations to environmental conservation and protection within the ambit of the targeted goals on environmental sustainability under the Sustainable Development Goals, particularly towards the issue of air pollution, is manifested in the Air (Prevention and Control of Pollution) Act, 1981, which was enacted under article 253 of the Constitution and more recently in the National Clean Air Programme. It is noticed that there is lack of a permanent, dedicated and participative mechanism adopting a collaborative and participatory approach involving relevant Central Ministries, State Governments, local bodies and other stakeholders to tackle air pollution, in the National Capital Region and Adjoining Areas.

4. It is observed that sources of air pollution particularly in the National Capital Region consist of a variety of factors which are beyond the local limits of the National Capital Region. Special focus is required on all sources of air pollution which are associated with different economic sectors, including power, agriculture, transport, industry, residential and construction. Since air pollution is not a localised phenomenon, the effect is felt in areas even far away from the source, thus creating the need for regional-level initiatives through inter-State and inter-city coordination in addition to multi-sectorial synchronization.

5. Due to the absence of an inter-sectorial, public participative, multi-State dynamic body, the Hon'ble Supreme Court had to devote its precious time in constituting various *ad hoc* or permanent committees at various stages to oversee the problem of air pollution in the National Capital Region and suggest mitigation measures and has been monitoring, supervising and guiding the problem of air pollution in the National Capital Region through the continuing mandamus in the case of M.C. Mehta vs. Union of India and Others, W.P. (C) No.13029/1985. Though in compliance of the directions of the Hon'ble Supreme Court, the Central Government had constituted the Environment Pollution (Prevention and Control) Authority for the National Capital Region with effect from 29th January, 1998 *vide* notification number S.O.93(E), dated 29th January, 1998, the powers and functions of said Authority were limited to section 5 of the Environment Protection Act, 1986 and to the State of Delhi without any collaboration with other nearby States thereby limiting its efficacy.

6. Noting the lack of inter-State co-operation, the Hon'ble Supreme Court had, on multiple occasions, directed the presence of Chief Secretaries of the four States in question, namely, Punjab, Haryana, Delhi and Uttar Pradesh to ensure inter-State co-operation. Due

to lack of an oversight mechanism over the joint functioning of the States on issues concerning air pollution, and specifically stubble burning, the Hon'ble Supreme Court in *Aditya Dubey (minor) and Another vs. Union of India and Others*, W.P(C) No. 1135/2020, had further appointed a one-man Monitoring Committee to monitor the measures taken by the States to prevent stubble burning. The Hon'ble Supreme Court has, on numerous occasions sought to improve and propose innovative measures and research initiatives to resolve the problem of air pollution.

7. In order to provide a permanent solution and establish a self-regulated, democratically monitored mechanism for tackling air pollution in National Capital Region and adjoining areas, rather than limited and *ad hoc* measures, it was deemed necessary to take up immediate legislative measures to set up a Commission for Air Quality Management in National Capital Region and Adjoining Areas, which would replace the above-mentioned Committees in order to streamline the public participation, the inter-State co-operation, the expert involvement and persistent research and innovation.

8. As Parliament was not in session and there was an immediate need for legislation in this regard, the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 (Ord.13 of 2020) was promulgated by the President of India on the 28th October, 2020, but a Bill to replace the said Ordinance could not be introduced in Parliament, consequently, the Ordinance got lapsed on the 12th March, 2021. Thereafter, the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021 (Ord. 4 of 2021) was promulgated by the President of India on the 13th April, 2021 under clause (1) of article 123 of the Constitution.

9. The Commission for Air Quality Management in National Capital Region and Adjoining Areas Bill, 2021, which seeks to replace the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021 (Ord. 4 of 2021), provides for—

(a) the constitution of the Commission for Air Quality Management in National Capital Region and Adjoining Areas;

(b) three Sub-Committees to assist the Commission, *viz.*, Sub-Committee on Monitoring and Identification; Sub-Committee on Safeguarding and Enforcement; and Sub-Committee on Research and Development;

(c) the powers and functions of the Commission;

(d) the penalty for contravention of provisions of Act, rules, order or direction;

(e) the imposition of Environmental Compensation by the Commission for causing air pollution by stubble burning.

10. The Bill seeks to replace the aforesaid Ordinance.

BHUPENDER YADAV.

NEW DELHI;

The 22nd July, 2021.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 3 of the Bill provides for constitution of the Commission for Air Quality Management in National Capital Region and Adjoining Areas to exercise the powers and perform the functions assigned to it. Sub-clause (1) of clause 4 provides for appointment of a full-time Chairperson and Members. Sub-clause (3) thereof provides for appointment of a Member-Secretary. Clause 8 provides for payment of salaries and allowances to the Chairperson and Members of the Commission, other than *ex officio* members.

2. Clause 11 of the Bill makes a provision for constitution of Sub-Committees of the Commission. Sub-clause (6) thereof provides for payment of allowances to the members of the Sub-Committees other than *ex officio* members. Sub-clause (7) of said clause empowers the Central Government to determine and provide officers and other staff required to assist the Commission. Sub-clause (9) of said clause provides for payment of salaries and allowances to the officers and other staff of the Commission.

3. Sub-clause (1) of clause 16 of the Bill provides for payment of grants to the Commission, after due appropriation made by Parliament by law in this behalf, as the Central Government deems fit. Sub-clause (2) thereof provides that the Commission may spend such sums as it thinks fit for performing its functions under the Act.

4. The expenditure would be met from the Consolidated Fund of India through the budgetary provisions made in this behalf. The recurring expenditure of the Commission is estimated to be rupees eighteen crores and the non-recurring expenditure is estimated to be rupees five crores.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25 of the Bill empowers the Central Government to make rules, *inter alia*, in respect of matters relating to—(a) the other Associate Members who may be co-opted; (b) the manner of removal of Chairperson or a Member; (c) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members; (d) the allowance payable to the members, other than *ex officio* members, of the Sub-Committees; (e) the appointment of officers and other staff, and the salaries, allowances payable to, and the conditions of service of such officers and other staff of the Commission; (f) the manner of taking samples for analysis and the form in which notice for taking the sample may be served; (g) the rate at which, and the manner in which, the Environmental Compensation shall be imposed and collected; (h) the form in which annual statement of accounts shall be prepared.

2. Clause 26 of the Bill empowers the Commission to make regulations with the previous approval of the Central Government, *inter alia*, in respect of matters relating to— (a) the procedure to be followed by the Commission; (b) the conditions and limitations subject to which power may be delegated by the Commission; (c) the other members of each Sub-Committee; (d) the form and manner in which annual report shall be furnished by the Commission.

3. The matters in respect of which rules or regulations 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.

LOK SABHA

A

BILL

to provide for the constitution of the Commission for Air Quality Management in National Capital Region and Adjoining Areas for better co-ordination, research, identification and resolution of problems surrounding the air quality index and for matters connected therewith or incidental thereto.

(Shri Bhupender Yadav, Minister of Environment, Forest and Climate Change)

MGIPMRND—443LS—(S3)—26.07.2021.

Bill No. 103 of 2021

THE APPROPRIATION (No. 4) BILL, 2021

A

BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2021-22.

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

1. This Act may be called the Appropriation (No. 4) Act, 2021. Short title.
- 5 2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one lakh eighty-seven thousand two hundred two crore and forty-one lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2021-22 in respect of the services specified in column 2 of the Schedule. Issue of
Rs.18720241,00,000
out of the
Consolidated
Fund of India
for the
financial year
2021-22.
- 10 3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation.

THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		Total
		Voted by Parliament	Charged on the Consolidated Fund	
		Rs.	Rs.	Rs.
3	Atomic Energy Capital	600,00,00,000	..	600,00,00,000
4	Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH)	Revenue	2,00,000	2,00,000
6	Department of Fertilizers	Revenue	1,00,000	1,00,000
7	Department of Pharmaceuticals	Revenue	1083.21,00,000	1083.21,00,000
		Capital	139,00,00,000	139,00,00,000
8	Ministry of Civil Aviation	Revenue	178,24,00,000	178,24,00,000
		Capital	1872,00,00,000	1872,00,00,000
9	Ministry of Coal	Revenue	1,00,000	1,00,000
10	Department of Commerce	Revenue	4,00,000	54,00,000
		Capital	1,00,000	1,00,000
15	Department of Food and Public Distribution	Revenue	1100,00,00,000	1100,00,00,000
17	Ministry of Culture	Revenue	1,00,000	1,00,000
		Capital	1,00,000	1,00,000
18	Ministry of Defence (Civil)	Revenue	..	1,52,00,000
20	Capital Outlay on Defence Services	Capital	1,00,000	1,00,000
24	Department of School Education and Literacy	Revenue	4,00,000	4,00,000
25	Department of Higher Education	Revenue	3,00,000	3,00,000
27	Ministry of Environment, Forests and Climate Change	Revenue	1,00,000	1,00,000
28	Ministry of External Affairs	Revenue	370,00,00,000	370,00,00,000
29	Department of Economic Affairs	Revenue	1,00,000	1,00,000
		Capital	2641.67,00,000	2641.67,00,000
31	Department of Financial Services	Revenue	1750,00,00,000	1750,00,00,000
34	Direct Taxes	Capital	1,00,000	1,00,000
35	Indirect Taxes	Revenue	2,00,000	2,00,000
40	Transfers to States	Revenue	..	1,00,000
		Capital	158999.99,00,000	158999.99,00,000
42	Department of Animal Husbandry and Dairying	Revenue	3,00,000	3,00,000
43	Ministry of Food Processing Industries	Revenue	1,00,000	1,00,000
44	Department of Health and Family Welfare	Revenue	15917.89,00,000	15917.89,00,000
		Capital	545,66,00,000	545,66,00,000
45	Department of Health Research	Revenue	526,28,00,000	526,28,00,000
46	Department of Heavy Industry	Revenue	1,00,000	1,00,000
		Capital	110,05,00,000	110,05,00,000
50	Police	Revenue	2,00,000	2,00,000
		Capital	1,00,000	1,00,000
54	Ladakh	Revenue	11,00,000	11,00,000
55	Lakshadweep	Revenue	1,00,000	1,00,000
59	Ministry of Housing and Urban Affairs	Capital	2,00,000	2,00,000
61	Department of Water Resources, River Development and Ganga Rejuvenation .	Revenue	50,00,00,000	50,00,00,000
64	Law and Justice	Revenue	23,25,00,000	23,25,00,000
67	Ministry of Micro, Small and Medium Enterprises	Revenue	2,00,000	2,00,000
69	Ministry of Minority Affairs	Revenue	1,00,000	1,00,000
73	Ministry of Personnel, Public Grievances and Pensions	Revenue	2,00,000	2,00,000
75	Ministry of Petroleum and Natural Gas	Revenue	1,00,000	1,00,000
77	Ministry of Ports, Shipping and Waterways	Revenue	1,00,000	1,00,000
84	Ministry of Railways	Capital	1,00,000	1,00,000
85	Ministry of Road Transport and Highways	Capital	1,00,000	1,00,000

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
86	Department of Rural Development Revenue	2,00,000	..	2,00,000
87	Department of Land Resources Revenue	1,00,000	..	1,00,000
88	Department of Science and Technology Revenue	1,00,000	..	1,00,000
91	Ministry of Skill Development and Entrepreneurship Revenue	1,00,000	..	1,00,000
		10,01,00,000	..	10,01,00,000
92	Department of Social Justice and Empowerment Revenue	3,00,000	..	3,00,000
94	Department of Space Revenue	1,00,000	..	1,00,000
		1,00,000	..	1,00,000
95	Ministry of Statistics and Programme Implementation Revenue	1172,50,00,000	..	1172,50,00,000
97	Ministry of Textiles Revenue	2,00,000	..	2,00,000
		66,21,00,000	..	66,21,00,000
100	Ministry of Women and Child Development Revenue	2,00,000	..	2,00,000
101	Ministry of Youth Affairs and Sports Revenue	43,72,00,000	..	43,72,00,000
		1,00,000	..	1,00,000
TOTAL :		187200,38,00,000	2,03,00,000	187202,41,00,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 114 (1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the moneys required to meet the supplementary expenditure charged on the Consolidated Fund of India and the grants made by the Lok Sabha for expenditure of the Central Government for the financial year 2021-22.

NIRMALA SITHARAMAN.

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

**[Letter No. 4(25)-B(SD)/2021, dated 19.7.2021 from Smt. Nirmala Sitharaman,
Minister of Finance to the Secretary-General, Lok Sabha]**

The President, having been informed of the subject matter of the proposed Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2021-22, recommends under article 117(1) and (3) of the Constitution, the introduction of the Appropriation (No. 4) Bill, 2021 in Lok Sabha and also the consideration of the Bill.

LOK SABHA

A

BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the services of the financial year 2021-22.

(Smt. Nirmala Sitharaman, Minister of Finance)

MGIPMRND—379LS—20.07.2021.

Bill No. 102 of 2021

THE APPROPRIATION (No. 3) BILL, 2021

A

BILL

to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 2018, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (No. 3) Act, 2021. Short title.
2. From and out of the Consolidated Fund of India, the sums specified in Issue of
5 column 3 of the Schedule, amounting in the aggregate to the sum of ninety-nine thousand Rs. 99610,31,00,900
six hundred ten crore thirty-one lakh and nine hundred rupees shall be deemed to have out of the
been authorised to be paid and applied to meet the amounts spent for defraying the Consolidated
charges in respect of the services specified in column 2 of the Schedule during the Fund of India
financial year ended on the 31st day of March, 2018, in excess of the amounts granted to meet certain
10 for those services and for that year. excess
expenditure for
the year ended
on the
31st March, 2018.
3. The sums deemed to have been authorised to be paid and applied from and out Appropriation.
of the Consolidated Fund of India under this Act shall be deemed to have been
appropriated for the services and purposes expressed in the Schedule in relation to the
financial year ended on the 31st day of March, 2018.

THE SCHEDULE

(See sections 2 and 3)

1	2	3		
No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
	Civil Ministries	Rs.	Rs.	Rs.
20	Defence Services Revenue	3391,93,47,444	...	3391,93,47,444
21	Capital Outlay on Defence Services Capital	3552,71,69,143	204,34,99,597	3757,06,68,740
38	Repayment of Debt Capital	...	92333,69,22,874	92333,69,22,874
39	Pensions Revenue	127,61,61,842	...	127,61,61,842
	TOTAL :	7072,26,78,429	92538,04,22,471	99610,31,00,900

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 114 (1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the moneys required to meet the expenditure incurred in excess of the grants made by the Lok Sabha for expenditure of the Central Government, for the financial year ended 31st day of March, 2018.

NIRMALA SITHARAMAN

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

[Letter No. 7(1)-B(SD)/2020, dated 19.7.2021 from Smt. Nirmala Sitharaman, Minister of Finance to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the proposed Bill to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March 2018, in excess of the amounts granted for the said services and for that year recommended under clauses (1) and (3) of article 117 of the Constitution, read with clause (2) of article 115 thereof, the introduction of the Appropriation (No. 3) Bill, 2021, in Lok Sabha and also recommends to Lok Sabha the consideration of the Bill.

LOK SABHA

A

BILL

to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 2018, in excess of the amounts granted for those services and for that year.

(Smt. Nirmala Sitharaman, Minister of Finance)

MGIPMRND—380LS(S3)—20-07-2021.

AS PASSED BY LOK SABHA
ON 28.7.2021

Bill No. 104-C of 2021

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT)
BILL, 2021

A

BILL

further to amend the Insolvency and Bankruptcy Code, 2016.

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

1. (1) This Act may be called the Insolvency and Bankruptcy Code (Amendment) Act, 2021. Short title and commencement.

5 (2) It shall be deemed to have come into force on the 4th day of April, 2021.

Amendment
of section 4.

2. In the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in section 4, after the proviso, the following proviso shall be inserted, namely:—

31 of 2016.

"Provided further that the Central Government may, by notification, specify such minimum amount of default of higher value, which shall not be more than one crore rupees, for matters relating to the pre-packaged insolvency resolution process of corporate debtors under Chapter III-A."

Amendment
of section 5.

3. In section 5 of the principal Act,—

(i) after clause (2), the following clause shall be inserted, namely:—

'(2A) "base resolution plan" means a resolution plan provided by the corporate debtor under clause (c) of sub-section (4) of section 54A;'

(ii) in clause (5), in sub-clause (b), after the words "corporate insolvency resolution process", the words "or the pre-packaged insolvency resolution process, as the case may be," shall be inserted;

(iii) in clause (11), after the words "corporate insolvency resolution process", the words "or pre-packaged insolvency resolution process, as the case may be" shall be inserted;

(iv) in clause (15), after the words "process period", the words "or by the corporate debtor during the pre-packaged insolvency resolution process period, as the case may be" shall be inserted;

(v) in clause (19), after the words "for the purposes of", the words and figures "Chapter VI and" shall be inserted;

(vi) after clause (23), the following clauses shall be inserted, namely:—

'(23A) "preliminary information memorandum" means a memorandum submitted by the corporate debtor under clause (b) of sub-section (1) of section 54G;

(23B) "pre-packaged insolvency commencement date" means the date of admission of an application for initiating the pre-packaged insolvency resolution process by the Adjudicating Authority under clause (a) of sub-section (4) of section 54C;

(23C) "pre-packaged insolvency resolution process costs" means—

(a) the amount of any interim finance and the costs incurred in raising such finance;

(b) the fees payable to any person acting as a resolution professional and any expenses incurred by him for conducting the pre-packaged insolvency resolution process during the pre-packaged insolvency resolution process period, subject to sub-section (6) of section 54F;

(c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern pursuant to an order under sub-section (2) of section 54J;

(d) any costs incurred at the expense of the Government to facilitate the pre-packaged insolvency resolution process; and

(e) any other costs as may be specified;

(23D) "pre-packaged insolvency resolution process period" means the period beginning from the pre-packaged insolvency commencement date

and ending on the date on which an order under sub-section (1) of section 54L, or sub-section (1) of section 54N, or sub-section (2) of section 54-O, as the case may be, is passed by the Adjudicating Authority;';

5 (vii) in clause (25), after the words, brackets and figures "of sub-section (2) of section 25", the words, figures and letter "or pursuant to section 54K, as the case may be" shall be inserted;

(viii) in clause (27), after the words "corporate insolvency resolution process", the words "or the pre-packaged insolvency resolution process, as the case may be," shall be inserted.

10 **4.** In section 11 of the principal Act,—

Amendment
of section 11.

(i) in clause (a), after the words "corporate insolvency resolution process", the words "or a pre-packaged insolvency resolution process" shall be inserted;

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

15 "(aa) a financial creditor or an operational creditor of a corporate debtor undergoing a pre-packaged insolvency resolution process; or";

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

"(ba) a corporate debtor in respect of whom a resolution plan has been approved under Chapter III-A, twelve months preceding the date of making of the application; or".

20 **5.** After section 11 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
11A.

25 "11A. (1) Where an application filed under section 54C is pending, the Adjudicating Authority shall pass an order to admit or reject such application, before considering any application filed under section 7 or section 9 or section 10 during the pendency of such application under section 54C, in respect of the same corporate debtor.

Disposal of
applications
under section
54C and under
section 7 or
section 9 or
section 10.

30 (2) Where an application under section 54C is filed within fourteen days of filing of any application under section 7 or section 9 or section 10, which is pending, in respect of the same corporate debtor, then, notwithstanding anything contained in sections 7, 9 and 10, the Adjudicating Authority shall first dispose of the application under section 54C.

35 (3) Where an application under section 54C is filed after fourteen days of the filing of any application under section 7 or section 9 or section 10, in respect of the same corporate debtor, the Adjudicating Authority shall first dispose of the application under section 7 or section 9 or section 10.

(4) The provisions of this section shall not apply where an application under section 7 or section 9 or section 10 is filed and pending as on the date of the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2021."

40 **6.** In section 33 of the principal Act, in sub-section (3), after the words "approved by the Adjudicating Authority", the words, figures, brackets and letter "under section 31 or under sub-section (1) of section 54L," shall be inserted.

Amendment
of section 33.

7. In section 34 of the principal Act, in sub-section (1), after the words and figures "under Chapter II", the words, figures and letter "or for the pre-packaged insolvency resolution process under Chapter III-A" shall be inserted.

Amendment
of section 34.

Insertion of
new Chapter
III-A.

8. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

'CHAPTER III-A

PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS

Corporate
debtors
eligible for
pre-packaged
insolvency
resolution
process.

54A.(1) An application for initiating pre-packaged insolvency resolution process may be made in respect of a corporate debtor classified as a micro, small or medium enterprise under sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006. 5
27 of 2006.

(2) Without prejudice to sub-section (1), an application for initiating pre-packaged insolvency resolution process may be made in respect of a corporate debtor, who commits a default referred to in section 4, subject to the following conditions, that— 10

(a) it has not undergone pre-packaged insolvency resolution process or completed corporate insolvency resolution process, as the case may be, during the period of three years preceding the initiation date; 15

(b) it is not undergoing a corporate insolvency resolution process;

(c) no order requiring it to be liquidated is passed under section 33;

(d) it is eligible to submit a resolution plan under section 29A;

(e) the financial creditors of the corporate debtor, not being its related parties, representing such number and in such manner as may be specified, have proposed the name of the insolvency professional to be appointed as resolution professional for conducting the pre-packaged insolvency resolution process of the corporate debtor, and the financial creditors of the corporate debtor, not being its related parties, representing not less than sixty-six per cent. in value of the financial debt due to such creditors, have approved such proposal in such form as may be specified: 20
25

Provided that where a corporate debtor does not have any financial creditors, not being its related parties, the proposal and approval under this clause shall be provided by such persons as may be specified;

(f) the majority of the directors or partners of the corporate debtor, as the case may be, have made a declaration, in such form as may be specified, stating, *inter alia*, that— 30

(i) the corporate debtor shall file an application for initiating pre-packaged insolvency resolution process within a definite time period not exceeding ninety days; 35

(ii) the pre-packaged insolvency resolution process is not being initiated to defraud any person; and

(iii) the name of the insolvency professional proposed and approved to be appointed as resolution professional under clause (e);

(g) the members of the corporate debtor have passed a special resolution, or at least three-fourth of the total number of partners, as the case may be, of the corporate debtor have passed a resolution, approving the filing of an application for initiating pre-packaged insolvency resolution process. 40

(3) The corporate debtor shall obtain an approval from its financial creditors, not being its related parties, representing not less than sixty-six per cent. in value of the financial debt due to such creditors, for the filing of an application for initiating pre-packaged insolvency resolution process, in such form as may be specified: 45

Provided that where a corporate debtor does not have any financial creditors, not being its related parties, the approval under this sub-section shall be provided by such persons as may be specified.

5 (4) Prior to seeking approval from financial creditors under sub-section (3), the corporate debtor shall provide such financial creditors with—

(a) the declaration referred to in clause (f) of sub-section (2);

(b) the special resolution or resolution referred to in clause (g) of sub-section (2);

10 (c) a base resolution plan which conforms to the requirements referred to in section 54K, and such other conditions as may be specified; and

(d) such other information and documents as may be specified.

54B. (1) The insolvency professional, proposed to be appointed as the resolution professional, shall have the following duties commencing from the date of the approval under clause (e) of sub-section (2) of section 54A, namely:—

15 (a) prepare a report in such form as may be specified, confirming whether the corporate debtor meets the requirements of section 54A, and the base resolution plan conforms to the requirements referred to in clause (c) of sub-section (4) of section 54A;

20 (b) file such reports and other documents, with the Board, as may be specified; and

(c) perform such other duties as may be specified.

(2) The duties of the insolvency professional under sub-section (1) shall cease, if,—

25 (a) the corporate debtor fails to file an application for initiating pre-packaged insolvency resolution process within the time period as stated under the declaration referred to in clause (f) of sub-section (2) of section 54A; or

(b) the application for initiating pre-packaged insolvency resolution process is admitted or rejected by the Adjudicating Authority,

30 as the case may be.

35 (3) The fees payable to the insolvency professional in relation to the duties performed under sub-section (1) shall be determined and borne in such manner as may be specified and such fees shall form part of the pre-packaged insolvency resolution process costs, if the application for initiation of pre-packaged insolvency resolution process is admitted.

54C. (1) Where a corporate debtor meets the requirements of section 54A, a corporate applicant thereof may file an application with the Adjudicating Authority for initiating pre-packaged insolvency resolution process.

40 (2) The application under sub-section (1) shall be filed in such form, containing such particulars, in such manner and accompanied with such fee as may be prescribed.

(3) The corporate applicant shall, along with the application, furnish—

45 (a) the declaration, special resolution or resolution, as the case may be, and the approval of financial creditors for initiating pre-packaged insolvency resolution process in terms of section 54A;

Duties of insolvency professional before initiation of pre-packaged insolvency resolution process.

Application to initiate pre-packaged insolvency resolution process.

(b) the name and written consent, in such form as may be specified, of the insolvency professional proposed to be appointed as resolution professional, as approved under clause (e) of sub-section (2) of section 54A, and his report as referred to in clause (a) of sub-section (1) of section 54B; 5

(c) a declaration regarding the existence of any transactions of the corporate debtor that may be within the scope of provisions in respect of avoidance of transactions under Chapter III or fraudulent or wrongful trading under Chapter VI, in such form as may be specified;

(d) information relating to books of account of the corporate debtor and such other documents relating to such period as may be specified. 10

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order,—

(a) admit the application, if it is complete; or

(b) reject the application, if it is incomplete: 15

Provided that the Adjudicating Authority shall, before rejecting an application, give notice to the applicant to rectify the defect in the application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The pre-packaged insolvency resolution process shall commence from the date of admission of the application under clause (a) of sub-section (4). 20

54D. (1) The pre-packaged insolvency resolution process shall be completed within a period of one hundred and twenty days from the pre-packaged insolvency commencement date.

(2) Without prejudice to sub-section (1), the resolution professional shall submit the resolution plan, as approved by the committee of creditors, to the Adjudicating Authority under sub-section (4) or sub-section (12), as the case may be, of section 54K, within a period of ninety days from the pre-packaged insolvency commencement date. 25

(3) Where no resolution plan is approved by the committee of creditors within the time period referred to in sub-section (2), the resolution professional shall, on the day after the expiry of such time period, file an application with the Adjudicating Authority for termination of the pre-packaged insolvency resolution process in such form and manner as may be specified. 30

54E. (1) The Adjudicating Authority shall, on the pre-packaged insolvency commencement date, along with the order of admission under section 54C— 35

(a) declare a moratorium for the purposes referred to in sub-section (1) read with sub-section (3) of section 14, which shall, *mutatis mutandis* apply, to the proceedings under this Chapter;

(b) appoint a resolution professional— 40

(i) as named in the application, if no disciplinary proceeding is pending against him; or;

(ii) based on the recommendation made by the Board, if any disciplinary proceeding is pending against the insolvency professional named in the application; 45

(c) cause a public announcement of the initiation of the pre-packaged insolvency resolution process to be made by the resolution professional, in such form and manner as may be specified, immediately after his appointment.

Time-limit
for
completion of
pre-packaged
insolvency
resolution
process.

Declaration of
moratorium
and public
announcement
during pre-
packaged
insolvency
resolution
process.

(2) The order of moratorium shall have effect from the date of such order till the date on which the pre-packaged insolvency resolution process period comes to an end.

54F. (1) The resolution professional shall conduct the pre-packaged insolvency resolution process of a corporate debtor during the pre-packaged insolvency resolution process period.

Duties and powers of resolution professional during pre-packaged insolvency resolution process.

(2) The resolution professional shall perform the following duties, namely:—

(a) confirm the list of claims submitted by the corporate debtor under section 54G, in such manner as may be specified;

(b) inform creditors regarding their claims as confirmed under clause (a), in such manner as may be specified;

(c) maintain an updated list of claims, in such manner as may be specified;

(d) monitor management of the affairs of the corporate debtor;

(e) inform the committee of creditors in the event of breach of any of the obligations of the Board of Directors or partners, as the case may be, of the corporate debtor, under the provisions of this Chapter and the rules and regulations made thereunder;

(f) constitute the committee of creditors and convene and attend all its meetings;

(g) prepare the information memorandum on the basis of the preliminary information memorandum submitted under section 54G and any other relevant information, in such form and manner as may be specified;

(h) file applications for avoidance of transactions under Chapter III or fraudulent or wrongful trading under Chapter VI, if any; and

(i) such other duties as may be specified.

(3) The resolution professional shall exercise the following powers, namely:—

(a) access all books of account, records and information available with the corporate debtor;

(b) access the electronic records of the corporate debtor from an information utility having financial information of the corporate debtor;

(c) access the books of account, records and other relevant documents of the corporate debtor available with Government authorities, statutory auditors, accountants and such other persons as may be specified;

(d) attend meetings of members, Board of Directors and committee of directors, or partners, as the case may be, of the corporate debtor;

(e) appoint accountants, legal or other professionals in such manner as may be specified;

(f) collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor and the existence of any transactions that may be within the scope of provisions relating to avoidance of transactions under Chapter III or fraudulent or wrongful trading under Chapter VI, including information relating to—

(i) business operations for the previous two years from the date of pre-packaged insolvency commencement date;

(ii) financial and operational payments for the previous two years from the date of pre-packaged insolvency commencement date;

(iii) list of assets and liabilities as on the initiation date; and

(iv) such other matters as may be specified;

(g) take such other actions in such manner as may be specified. 5

(4) From the date of appointment of the resolution professional, the financial institutions maintaining accounts of the corporate debtor shall furnish all information relating to the corporate debtor available with them to the resolution professional, as and when required by him.

(5) The personnel of the corporate debtor, its promoters and any other person associated with the management of the corporate debtor shall extend all assistance and cooperation to the resolution professional as may be required by him to perform his duties and exercise his powers, and for such purposes, the provisions of sub-sections (2) and (3) of section 19 shall, *mutatis mutandis* apply, in relation to the proceedings under this Chapter. 10
15

(6) The fees of the resolution professional and any expenses incurred by him for conducting the pre-packaged insolvency resolution process shall be determined in such manner as may be specified:

Provided that the committee of creditors may impose limits and conditions on such fees and expenses: 20

Provided further that the fees and expenses for the period prior to the constitution of the committee of creditors shall be subject to ratification by it.

(7) The fees and expenses referred to in sub-section (6) shall be borne in such manner as may be specified.

List of claims and preliminary information memorandum.

54G. (1) The corporate debtor shall, within two days of the pre-packaged insolvency commencement date, submit to the resolution professional the following information, updated as on that date, in such form and manner as may be specified, namely:— 25

(a) a list of claims, along with details of the respective creditors, their security interests and guarantees, if any; and 30

(b) a preliminary information memorandum containing information relevant for formulating a resolution plan.

(2) Where any person has sustained any loss or damage as a consequence of the omission of any material information or inclusion of any misleading information in the list of claims or the preliminary information memorandum submitted by the corporate debtor, every person who— 35

(a) is a promoter or director or partner of the corporate debtor, as the case may be, at the time of submission of the list of claims or the preliminary information memorandum by the corporate debtor; or

(b) has authorised the submission of the list of claims or the preliminary information memorandum by the corporate debtor, 40

shall, without prejudice to section 77A, be liable to pay compensation to every person who has sustained such loss or damage.

(3) No person shall be liable under sub-section (2), if the list of claims or the preliminary information memorandum was submitted by the corporate debtor without his knowledge or consent. 45

(4) Subject to section 54E, any person, who sustained any loss or damage as a consequence of omission of material information or inclusion of any misleading information in the list of claims or the preliminary information memorandum shall be entitled to move a court having jurisdiction for seeking compensation for such loss or damage.

54H. During the pre-packaged insolvency resolution process period,—

Management of affairs of corporate debtor.

(a) the management of the affairs of the corporate debtor shall continue to vest in the Board of Directors or the partners, as the case may be, of the corporate debtor, subject to such conditions as may be specified;

(b) the Board of Directors or the partners, as the case may be, of the corporate debtor, shall make every endeavour to protect and preserve the value of the property of the corporate debtor, and manage its operations as a going concern; and

(c) the promoters, members, personnel and partners, as the case may be, of the corporate debtor, shall exercise and discharge their contractual or statutory rights and obligations in relation to the corporate debtor, subject to the provisions of this Chapter and such other conditions and restrictions as may be prescribed.

54-I. (1) The resolution professional shall, within seven days of the pre-packaged insolvency commencement date, constitute a committee of creditors, based on the list of claims confirmed under clause (a) of sub-section (2) of section 54F:

Committee of creditors.

Provided that the composition of the committee of creditors shall be altered on the basis of the updated list of claims, in such manner as may be specified, and any such alteration shall not affect the validity of any past decision of the committee of creditors.

(2) The first meeting of the committee of creditors shall be held within seven days of the constitution of the committee of creditors.

(3) The provisions of section 21, except sub-section (1) thereof, shall, *mutatis mutandis* apply, in relation to the committee of creditors under this Chapter:

Provided that for the purposes of this sub-section, references to "resolution professional" under sub-sections (9) and (10) of section 21, shall be construed as references to "corporate debtor or the resolution professional".

54J.(1) Where the committee of creditors, at any time during the pre-packaged insolvency resolution process period, by a vote of not less than sixty-six per cent. of the voting shares, resolves to vest the management of the corporate debtor with the resolution professional, the resolution professional shall make an application for this purpose to the Adjudicating Authority, in such form and manner as may be specified.

Vesting management of corporate debtor with resolution professional.

(2) On an application made under sub-section (1), if the Adjudicating Authority is of the opinion that during the pre-packaged insolvency resolution process—

(a) the affairs of the corporate debtor have been conducted in a fraudulent manner; or

(b) there has been gross mismanagement of the affairs of the corporate debtor,

it shall pass an order vesting the management of the corporate debtor with the resolution professional.

(3) Notwithstanding anything to the contrary contained in this Chapter, the provisions of—

- (a) sub-sections (2) and (2A) of section 14;
- (b) section 17;
- (c) clauses (e) to (g) of section 18; 5
- (d) sections 19 and 20;
- (e) sub-section (1) of section 25;
- (f) clauses (a) to (c) and clause (k) of sub-section (2) of section 25; and
- (g) section 28,

shall, *mutatis mutandis* apply, to the proceedings under this Chapter, from the date of the order under sub-section (2), until the pre-packaged insolvency resolution process period comes to an end. 10

Consideration and approval of resolution plan.

54K. (1) The corporate debtor shall submit the base resolution plan, referred to in clause (c) of sub-section (4) of section 54A, to the resolution professional within two days of the pre-packaged insolvency commencement date, and the resolution professional shall present it to the committee of creditors. 15

(2) The committee of creditors may provide the corporate debtor an opportunity to revise the base resolution plan prior to its approval under sub-section (4) or invitation of prospective resolution applicants under sub-section (5), as the case may be. 20

(3) The resolution plans and the base resolution plan, submitted under this section shall conform to the requirements referred to in sub-sections (1) and (2) of section 30, and the provisions of sub-sections (1), (2) and (5) of section 30 shall, *mutatis mutandis* apply, to the proceedings under this Chapter.

(4) The committee of creditors may approve the base resolution plan for submission to the Adjudicating Authority if it does not impair any claims owed by the corporate debtor to the operational creditors. 25

(5) Where—

- (a) the committee of creditors does not approve the base resolution plan under sub-section (4); or 30
- (b) the base resolution plan impairs any claims owed by the corporate debtor to the operational creditors,

the resolution professional shall invite prospective resolution applicants to submit a resolution plan or plans, to compete with the base resolution plan, in such manner as may be specified. 35

(6) The resolution applicants submitting resolution plans pursuant to invitation under sub-section (5), shall fulfil such criteria as may be laid down by the resolution professional with the approval of the committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified. 40

(7) The resolution professional shall provide to the resolution applicants,—

- (a) the basis for evaluation of resolution plans for the purposes of sub-section (9), as approved by the committee of creditors subject to such conditions as may be specified; and

(b) the relevant information referred to in section 29, which shall, *mutatis mutandis* apply, to the proceedings under this Chapter,

in such manner as may be specified.

5 (8) The resolution professional shall present to the committee of creditors, for its evaluation, resolution plans which conform to the requirements referred to in sub-section (2) of section 30.

(9) The committee of creditors shall evaluate the resolution plans presented by the resolution professional and select a resolution plan from amongst them.

10 (10) Where, on the basis of such criteria as may be laid down by it, the committee of creditors decides that the resolution plan selected under sub-section (9) is significantly better than the base resolution plan, such resolution plan may be selected for approval under sub-section (12):

Provided that the criteria laid down by the committee of creditors under this sub-section shall be subject to such conditions as may be specified.

15 (11) Where the resolution plan selected under sub-section (9) is not considered for approval or does not fulfil the requirements of sub-section (10), it shall compete with the base resolution plan, in such manner and subject to such conditions as may be specified, and one of them shall be selected for approval under sub-section (12).

20 (12) The resolution plan selected for approval under sub-section (10) or sub-section (11), as the case may be, may be approved by the committee of creditors for submission to the Adjudicating Authority:

25 Provided that where the resolution plan selected for approval under sub-section (11) is not approved by the committee of creditors, the resolution professional shall file an application for termination of the pre-packaged insolvency resolution process in such form and manner as may be specified.

30 (13) The approval of the resolution plan under sub-section (4) or sub-section (12), as the case may be, by the committee of creditors, shall be by a vote of not less than sixty-six per cent. of the voting shares, after considering its feasibility and viability, the manner of distribution proposed, taking into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor and such other requirements as may be specified.

35 (14) While considering the feasibility and viability of a resolution plan, where the resolution plan submitted by the corporate debtor provides for impairment of any claims owed by the corporate debtor, the committee of creditors may require the promoters of the corporate debtor to dilute their shareholding or voting or control rights in the corporate debtor:

40 Provided that where the resolution plan does not provide for such dilution, the committee of creditors shall, prior to the approval of such resolution plan under sub-section (4) or sub-section (12), as the case may be, record reasons for its approval.

45 (15) The resolution professional shall submit the resolution plan as approved by the committee of creditors under sub-section (4) or sub-section (12), as the case may be, to the Adjudicating Authority.

Explanation I.—For the removal of doubts, it is hereby clarified that, the corporate debtor being a resolution applicant under clause (25) of section 5, may submit the base resolution plan either individually or jointly with any other person.

Explanation II.—For the purposes of sub-sections (4) and (14), claims shall be considered to be impaired where the resolution plan does not provide for the full payment of the confirmed claims as per the updated list of claims maintained by the resolution professional.

Approval of resolution plan.

54L. (1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) or sub-section (12), as the case may be of section 54K, subject to the conditions provided therein, meets the requirements as referred to in sub-section (2) of section 30, it shall, within thirty days of the receipt of such resolution plan, by order, approve the resolution plan: 5 10

Provided that the Adjudicating Authority shall, before passing an order for approval of a resolution plan under this sub-section, satisfy itself that the resolution plan has provisions for its effective implementation.

(2) The order of approval under sub-section (1) shall have such effect as provided under sub-sections (1), (3) and (4) of section 31, which shall, *mutatis mutandis* apply, to the proceedings under this Chapter. 15

(3) Where the Adjudicating Authority is satisfied that the resolution plan does not conform to the requirements referred to in sub-section (1), it may, within thirty days of the receipt of such resolution plan, by an order, reject the resolution plan and pass an order under section 54N. 20

(4) Notwithstanding anything to the contrary contained in this section, where the Adjudicating Authority has passed an order under sub-section (2) of section 54J and the resolution plan approved by the committee of creditors under sub-section (4) or sub-section (12), as the case may be of section 54K, does not result in the change in the management or control of the corporate debtor to a person who was not a promoter or in the management or control of the corporate debtor, the Adjudicating Authority shall pass an order— 25

(a) rejecting such resolution plan;

(b) terminating the pre-packaged insolvency resolution process and passing a liquidation order in respect of the corporate debtor as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) of section 33; and 30

(c) declaring that the pre-packaged insolvency resolution process costs, if any, shall be included as part of the liquidation costs for the purposes of liquidation of the corporate debtor. 35

Appeal against order under section 54L.

54M. Any appeal against an order approving the resolution plan under sub-section (1) of section 54L, shall be on the grounds laid down in sub-section (3) of section 61.

Termination of pre-packaged insolvency resolution process.

54N. (1) Where the resolution professional files an application with the Adjudicating Authority,— 40

(a) under the proviso to sub-section (12) of section 54K; or

(b) under sub-section (3) of section 54D,

the Adjudicating Authority shall, within thirty days of the date of such application, by an order,—

(i) terminate the pre-packaged insolvency resolution process; and 45

(ii) provide for the manner of continuation of proceedings initiated

for avoidance of transactions under Chapter III or proceedings initiated under section 66 and section 67A, if any.

5 (2) Where the resolution professional, at any time after the pre-packaged insolvency commencement date, but before the approval of resolution plan under sub-section (4) or sub-section (12), as the case may be of section 54K, intimates the Adjudicating Authority of the decision of the committee of creditors, approved by a vote of not less than sixty-six per cent. of the voting shares, to terminate the pre-packaged insolvency resolution process, the Adjudicating Authority shall pass an order under sub-section (1).

10 (3) Where the Adjudicating Authority passes an order under sub-section (1), the corporate debtor shall bear the pre-packaged insolvency resolution process costs, if any.

15 (4) Notwithstanding anything to the contrary contained in this section, where the Adjudicating Authority has passed an order under sub-section (2) of section 54J and the pre-packaged insolvency resolution process is required to be terminated under sub-section (1), the Adjudicating Authority shall pass an order—

20 (a) of liquidation in respect of the corporate debtor as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) of section 33; and

(b) declare that the pre-packaged insolvency resolution process costs, if any, shall be included as part of the liquidation costs for the purposes of liquidation of the corporate debtor.

25 54-O.(1) The committee of creditors, at any time after the pre-packaged insolvency commencement date but before the approval of resolution plan under sub-section (4) or sub-section (12), as the case may be of section 54K, by a vote of not less than sixty-six per cent. of the voting shares, may resolve to initiate a corporate insolvency resolution process in respect of the corporate debtor, if such corporate debtor is eligible for corporate insolvency resolution process under Chapter II.

Initiation of corporate insolvency resolution process.

30 (2) Notwithstanding anything to the contrary contained in Chapter II, where the resolution professional intimates the Adjudicating Authority of the decision of the committee of creditors under sub-section (1), the Adjudicating Authority shall, within thirty days of the date of such intimation, pass an order to—

35 (a) terminate the pre-packaged insolvency resolution process and initiate corporate insolvency resolution process under Chapter II in respect of the corporate debtor;

40 (b) appoint the resolution professional referred to in clause (b) of sub-section (1) of section 54E as the interim resolution professional, subject to submission of written consent by such resolution professional to the Adjudicating Authority in such form as may be specified; and

45 (c) declare that the pre-packaged insolvency resolution process costs, if any, shall be included as part of insolvency resolution process costs for the purposes of the corporate insolvency resolution process of the corporate debtor.

(3) Where the resolution professional fails to submit written consent under clause (b) of sub-section (2), the Adjudicating Authority shall appoint an interim resolution professional by making a reference to the Board for recommendation, in the manner as provided under section 16.

(4) Where the Adjudicating Authority passes an order under sub-section (2)—

(a) such order shall be deemed to be an order of admission of an application under section 7 and shall have the same effect;

(b) the corporate insolvency resolution process shall commence from the date of such order;

(c) the proceedings initiated for avoidance of transactions under Chapter III or proceedings initiated under section 66 and section 67A, if any, shall continue during the corporate insolvency resolution process;

(d) for the purposes of sections 43, 46 and 50, references to "insolvency commencement date" shall mean "pre-packaged insolvency commencement date"; and

(e) in computing the relevant time or the period for avoidable transactions, the time-period for the duration of the pre-packaged insolvency resolution process shall also be included, notwithstanding anything to the contrary contained in sections 43, 46 and 50.

54P. (1) Save as provided under this Chapter, the provisions of sections 24, 25A, 26, 27, 28, 29A, 32A, 43 to 51, and the provisions of Chapters VI and VII of this Part shall, *mutatis mutandis* apply, to the pre-packaged insolvency resolution process, subject to the following, namely:—

(a) reference to "members of the suspended Board of Directors or the partners" under clause (b) of sub-section (3) of section 24 shall be construed as reference to "members of the Board of Directors or the partners, unless an order has been passed by the Adjudicating Authority under section 54J";

(b) reference to "clause (j) of sub-section (2) of section 25" under section 26 shall be construed as reference to "clause (h) of sub-section (2) of section 54F";

(c) reference to "section 16" under section 27 shall be construed as reference to "section 54E";

(d) reference to "resolution professional" in sub-sections (1) and (4) of section 28 shall be construed as "corporate debtor";

(e) reference to "section 31" under sub-section (3) of section 61 shall be construed as reference to "sub-section (1) of section 54L";

(f) reference to "section 14" in sub-sections (1) and (2) of section 74 shall be construed as reference to "clause (a) of sub-section (1) of section 54E";

(g) reference to "section 31" in sub-section (3) of section 74 shall be construed as reference to "sub-section (1) of section 54L".

(2) Without prejudice to the provisions of this Chapter and unless the context otherwise requires, where the provisions of Chapters II, III, VI and VII are applied to the proceedings under this Chapter, references to—

(a) "insolvency commencement date" shall be construed as references to "pre-packaged insolvency commencement date";

(b) "resolution professional" or "interim resolution professional", as the case may be, shall be construed as references to the resolution professional appointed under this Chapter;

(c) "corporate insolvency resolution process" shall be construed as references to "pre-packaged insolvency resolution process"; and

Application of provisions of Chapters II, III, VI and VII to this Chapter.

(d) "insolvency resolution process period" shall be construed as references to "pre-packaged insolvency resolution process period".

9. In section 61 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:— Amendment of section 61.

5 "(4) An appeal against a liquidation order passed under section 33, or sub-section (4) of section 54L, or sub-section (4) of section 54N, may be filed on grounds of material irregularity or fraud committed in relation to such a liquidation order.

10 (5) An appeal against an order for initiation of corporate insolvency resolution process passed under sub-section (2) of section 54-O, may be filed on grounds of material irregularity or fraud committed in relation to such an order."

10. In section 65 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— Amendment of section 65.

15 "(3) If any person initiates the pre-packaged insolvency resolution process—

 (a) fraudulently or with malicious intent for any purpose other than for the resolution of insolvency; or

 (b) with the intent to defraud any person,

the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees."

20 11. After section 67 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 67A.

25 "67A. On and after the pre-packaged insolvency commencement date, where an officer of the corporate debtor manages its affairs with the intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may, on an application by the resolution professional, pass an order imposing upon any such officer, a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees." Fraudulent management of corporate debtor during pre-packaged insolvency resolution process.

12. In section 77 of the principal Act, the *Explanation* shall be omitted. Omission of *Explanation* to section 77.

30 13. After section 77 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 77A.

"77A. (1) Where—

 (a) a corporate debtor provides any information in the application under section 54C which is false in material particulars, knowing it to be false or omits any material fact, knowing it to be material; or Punishment for offences related to pre-packaged insolvency resolution process.

35 (b) a corporate debtor provides any information in the list of claims or the preliminary information memorandum submitted under sub-section (1) of section 54G which is false in material particulars, knowing it to be false or omits any material fact, knowing it to be material; or

40 (c) any person who knowingly and wilfully authorised or permitted the furnishing of such information under sub-clauses (a) and (b),

such corporate debtor or person, as the case may be, shall be punishable with imprisonment for a term which shall not be less than three years, but which may

extend to five years or with fine which shall not be less than one lakh rupees, but which may extend to one crore rupees, or with both.

(2) If a director or partner of the corporate debtor, as the case may be, deliberately contravenes the provisions of Chapter III-A, such person shall be punishable with imprisonment for not less than three years, but which may extend to five years, or with fine which shall not be less than one lakh rupees, but which may extend to one crore rupees, or with both. 5

Explanation.—For the purposes of this section and sections 75, 76 and 77, an application shall be deemed to be false in material particulars in case the facts mentioned or omitted in the application, if true, or not omitted from the application, as the case may be, would have been sufficient to determine the existence of a default under this Code." 10

Amendment
of section
208.

14. In section 208 of the principal Act,—

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

"(ca) pre-packaged insolvency resolution process under Chapter III-A of Part II;" 15

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

"(1A) Where the name of the insolvency professional proposed to be appointed as a resolution professional, is approved under clause (e) of sub-section (2) of section 54A, it shall be the function of such insolvency professional to take such actions as may be necessary to perform his functions and duties prior to the initiation of the pre-packaged insolvency resolution process under Chapter III-A of Part II." 20

Amendment
of section
239.

15. In section 239 of the principal Act, in sub-section (2), after clause (fc), the following clauses shall be inserted, namely:— 25

"(fd) the form, particulars, manner and fee for making application before the Adjudicating Authority under sub-section (2) of section 54C;

(fe) the conditions and restrictions with which the promoters, members, personnel and partners of the corporate debtor shall exercise and discharge contractual or statutory rights and obligations under clause (c) of section 54H;" 30

Amendment
of section
240.

16. In section 240 of the principal Act, in sub-section (2),—

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

"(ea) the other costs under sub-clause (e) of clause (23C) of section 5;" 35

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

"(zka) such number of financial creditors and the manner of proposing the insolvency professional, and the form for approving such insolvency professional by the financial creditors under clause (e), the persons who shall provide approval under the proviso to clause (e), the form for making a declaration under clause (f) of sub-section (2) of section 54A; 40

(zkb) the form for obtaining approval from financial creditors under sub-section (3), and the persons who shall provide approval under the proviso to sub-section (3) of section 54A;

(zkc) the other conditions for the base resolution plan under clause (c), and such information and documents under clause (d) of sub-section (4) of section 54A; 45

(*zkd*) the form in which the report is to be prepared under clause (*a*), such reports and other documents under clause (*b*), and such other duties under clause (*c*) of sub-section (*1*), and the manner of determining and bearing the fees in sub-section (*3*) of section 54B;

5 (*zke*) the form for providing written consent of the insolvency professional under clause (*b*), the form for declaration under clause (*c*), the information relating to books of account and such other documents relating to such period under clause (*d*) of sub-section (*3*) of section 54C;

10 (*zkf*) the form and manner for making application for termination of the pre-packaged insolvency resolution process under sub-section (*3*) of section 54D;

 (*zkg*) the form and manner of making public announcement under clause (*c*) of sub-section (*1*) of section 54E;

15 (*zkh*) the manner of confirming the list of claims under clause (*a*), the manner of informing creditors under clause (*b*), the manner of maintaining an updated list of claims under clause (*c*), the form and manner of preparing the information memorandum under clause (*g*), and such other duties under clause (*i*) of sub-section (*2*) of section 54F;

20 (*zki*) such other persons under clause (*c*), the manner of appointing accountants, legal or other professionals under clause (*e*), such other matters under sub-clause (*iv*) of clause (*f*) and the manner of taking other actions under clause (*g*) of sub-section (*3*) of section 54F;

25 (*zkj*) the manner of determination of fees and expenses as may be incurred by the resolution professional under sub-section (*6*) of section 54F;

 (*zkk*) the manner of bearing fees and expenses under sub-section (*7*) of section 54F;

 (*zkl*) the form and manner of list of claims and preliminary information memorandum under sub-section (*1*) of section 54G;

30 (*zkm*) the conditions under clause (*a*) of section 54H;

 (*zkn*) the manner of alteration of the composition of the committee of creditors under the proviso to sub-section (*1*) of section 54-I;

 (*zko*) the form and manner of making application under sub-section (*1*) of section 54J;

35 (*zkp*) the manner of inviting prospective resolution applicants under sub-section (*5*) of section 54K;

 (*zkq*) the other conditions under sub-section (*6*) of section 54K;

40 (*zkr*) the conditions under clause (*a*) and the manner of providing the basis for evaluation of resolution plans and the information referred to in section 29 under sub-section (*7*) of section 54K;

 (*zks*) the conditions under the proviso to sub-section (*10*) of section 54K;

 (*zkt*) the manner and conditions under sub-section (*11*) of section 54K;

45 (*zku*) the form and manner of filing application under the proviso to sub-section (*12*) of section 54K;

(zkv) the other requirements under sub-section (13) of section 54K;

(zkw) the form for submission of written consent under clause (b) of sub-section (2) of section 54-O;"

Amendment
of section
240A.

17. In section 240A of the principal Act, in sub-section (1), after the words "corporate insolvency resolution process", the words "or pre-packaged insolvency resolution process" shall be inserted. 5

Repeal and
savings.

18. (1) The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 is hereby repealed.

Ord. 3 of
2021.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the provisions of this Act. 10

LOK SABHA

A

BILL

further to amend the Insolvency and Bankruptcy Code, 2016.

(As passed by Lok Sabha)

MGIPMRND—477LS—28-07-2021.

THE INLAND VESSELS BILL, 2021

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Application and scope.
3. Definitions.

CHAPTER II

DECLARATION OF INLAND WATER AREA INTO ZONES

4. Declaration of inland water area into Zones.

CHAPTER III

ADMINISTRATIVE PROVISIONS

5. Administrative role of Central Government and State Governments.
6. Competent authority.

CHAPTER IV

SURVEY OF INLAND VESSELS

7. Power to classify and categorise for purpose of survey.
8. Construction, alteration or modification of mechanically propelled inland vessel.
9. Survey of vessels.
10. Appointment and qualifications of surveyors.
11. Powers of surveyors.
12. Grant of certificate of survey and procedures.
13. Provisional certificate of survey and its effect.
14. Mechanically propelled inland vessels not to proceed without certificate of survey, and requirement of Zone to be specified in such certificate.
15. Suspension and cancellation of certificate of survey.
16. Delivery of expired, suspended or cancelled certificate of survey.

CHAPTER V

REGISTRATION

17. Registration.
18. Requirement of certificate of registration.
19. Owner or master to carry certificate of registration.

(ii)

CLAUSES

20. Appointment of ports or places of registry and Registrars of Inland Vessels.
21. Book of registry.
22. Central data base of inland vessels.
23. Application and processes of registration of vessels.
24. Grant of certificate of registration and marking of vessel.
25. Effect of certificate of registration.
26. Duplicate certificate.
27. Provisional certificate of registration.
28. Registration of modifications or alterations.
29. Change of residence or place of business.
30. Prohibition against transfer of ownership of registered vessel.
31. Suspension of certificate of registration.
32. Cancellation of registration.
33. Mortgage of mechanically propelled inland vessel or share therein.

CHAPTER VI

MANNING, QUALIFICATION, TRAINING, EXAMINATION AND CERTIFICATION

34. Training and minimum age for employment.
35. Minimum manning scale and manning requirements.
36. Appointment and duties of examiners.
37. Grant of certificate of competency.
38. Certificate of service.
39. Effect of certificate of competency or certificate of service.
40. Suspension and cancellation of certificate.
41. Registry of certificate holders and central registry.

CHAPTER VII

SPECIAL CATEGORY VESSELS

42. Special category vessels.
43. Appointment or authorisation of officers to implement provisions, grant certificate of fitness, etc.
44. Safety of passengers or service users.
45. Inspection of vessel.
46. Suspension or cancellation of certificate of fitness.

CHAPTER VIII

NAVIGATION SAFETY AND SIGNALS

47. Navigation safety, lights and signals.
48. Obligation to ensure safe navigation.

(iii)

CLAUSES

- 49. Distress signal.
- 50. Assistance to vessels in distress and persons in distress.
- 51. Life saving, fire safety and communication appliances.

CHAPTER IX

PREVENTION OF POLLUTION CAUSED BY INLAND VESSEL

- 52. Chemicals, etc., to be designated as pollutants.
- 53. Certificate of prevention of pollution.
- 54. Reception facilities and containment of pollution.
- 55. Appointment of surveyor or officer to inspect.
- 56. Investigation into incidents of pollution.

CHAPTER X

WRECK AND SALVAGE

- 57. Prohibition against intentionally causing wreck.
- 58. Receivers of wreck.
- 59. Powers of Central Government to make rules for Chapter X.

CHAPTER XI

LIABILITY AND LIMITATION OF LIABILITY

- 60. Liability under Act.
- 61. Apportionment of loss.
- 62. Liability for personal injury, loss of life or pollution to environment.
- 63. Detention of mechanically propelled inland vessel.
- 64. Limitation of liability.
- 65. Non-applicability of limitation.

CHAPTER XII

INSURANCE OF MECHANICALLY PROPELLED VESSELS PLYING IN INLAND WATERS

- 66. Insurance to cover.
- 67. Contractual liability not to cover.
- 68. Issuance and terms of insurance policy.
- 69. Duty to indemnify and direct action against insurer.
- 70. Effect of death on certain causes of action.
- 71. Effect of certificate of insurance.
- 72. Transfer of certificate of insurance.
- 73. Powers of Central Government to make rules for Chapter XII.

CHAPTER XIII

INQUIRY INTO CASUALTY, ACCIDENT OR WRECK

- 74. Reporting of casualty, accident, wreck, etc.
- 75. Preliminary enquiry by designated authority and inquiry by District Magistrate.
- 76. Assessors.

CLAUSES

- 77. Report of District Magistrate to be notified by State Government.
- 78. Powers of District Magistrate subsequent to inquiry.
- 79. Power of State Government to suspend, cancel and confiscate certificate.

CHAPTER XIV

REGULATION OF TRADE PRACTICES

- 80. Powers of Central Government to protect interests of service providers and service users.
- 81. Prohibited goods and dangerous goods.
- 82. Trade permission and endorsement of certificates of foreign vessels.

CHAPTER XV

PILOTAGE, VESSEL DETENTION AND DEVELOPMENT FUND

- 83. Pilotage.
- 84. Certified master to be deemed pilot under Act 15 of 1908.
- 85. Vessel detention and forfeiture.
- 86. Constitution of Development Fund.

CHAPTER XVI

OFFENCES AND PENALTIES

- 87. Offences and penalties.
- 88. Offences by company, limited liability partnership firm or any such arrangement.
- 89. Fees, additional fee, payment and collection.
- 90. Cognizance of offence.

CHAPTER XVII

NON-MECHANICALLY PROPELLED INLAND VESSEL

- 91. Local self-governance.
- 92. Obligation to enrol.
- 93. Certificate of enrolment and marking of vessel.
- 94. Standards of construction and safety.
- 95. Power of State Government to make rules to regulate non-mechanically propelled inland vessels.
- 96. Constitution of welfare fund.

CHAPTER XVIII

MISCELLANEOUS

- 97. Desertion and absence without leave.
- 98. General powers of Central Government to make rules.
- 99. Emergency preparedness.
- 100. Removal of lawful obstruction.

(v)

CLAUSES

101. Validity of certificates issued under laws other than this Act.
102. Obstruction to officer appointed or authorised.
103. Place of trial.
104. Composition of offences.
105. Appeal.
106. Power of Central Government to make rules.
107. Power of State Government to make rules.
108. Power of Central Government to give directions.
109. Protection of action taken in good faith.
110. Power to remove difficulties.
111. Consistency with other laws.
112. Suspension or alteration of application and operation of Act.
113. Laying of rules and notifications.
114. Repeal and savings.

Bill No. 99-C of 2021

THE INLAND VESSELS BILL, 2021

A

BILL

to promote economical and safe transportation and trade through inland waters, to bring uniformity in application of law relating to inland waterways and navigation within the country, to provide for safety of navigation, protection of life and cargo, and prevention of pollution that may be caused by the use or navigation of inland vessels, to ensure transparency and accountability of administration of inland water transportation, to strengthen procedures governing the inland vessels, their construction, survey, registration, manning, navigation and such other 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 Inland Vessels Act, 2021.
 (2) It extends to the whole of India.

Short title,
extent and
commencement.

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

Provided that different dates may be appointed for bringing into force different provisions of this Act in different States or Union territories, as it may deem fit by the Central Government.

Application
and scope.

2. (1) Save as otherwise expressly provided in this Act, the provisions of Chapters I, III, X, XVI and XVIII shall apply to all inland vessels plying within inland waters of India, and—

(a) Chapters IV, V, VI, VIII, IX, X, XI, XII, XIII and XIV shall apply to all mechanically propelled vessels registered under this Act; 10

(b) Chapters VIII, IX, X, XI, XII and XIII shall apply to vessels registered under such laws in force in India other than this Act, or registered in such laws in force in any country other than India; but endorsed or recognised under this Act for the purpose of plying within inland waterways;

(c) Chapters IV, V, VI, VII, VIII, IX, X, XI, XII, XIII and XIV shall apply to all vessels identified as special category vessels plying or using inland waterways; 15

(d) Chapter XVII shall apply to all non-mechanically propelled inland vessels.

(2) Notwithstanding anything contained in sub-section (1), the Central Government or the State Government, as the case may be, may extend the application of any Chapter or provision of this Act to any class or category of inland vessels, or to any region of inland waters, by notification in the Official Gazette. 20

Definitions.

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

(a) "authorised insurer" means any insurance company carrying on any class of marine insurance business, which is registered or recognised by the Central Government under any law for the time being in force in India; 25

(b) "bareboat charter" means an arrangement for the hiring of a vessel without crew, where the charterer is responsible for appointing the crew and making other arrangements;

(c) "bareboat charter-cum-demise" is a bareboat charter where the ownership of the vessel is intended to be transferred after a specified period to the company to which it has been chartered; 30

(d) "cargo terminal" means a place designated for the loading, or unloading, or any other allied processes of such loading or unloading of cargo in a port, jetty, wharf or such other places developed within inland waters for the purpose of loading and unloading of cargo; 35

(e) "casualty" includes any vessel which—

(i) is lost, abandoned, materially damaged;

(ii) causes loss of material or damage to any other vessel;

(iii) causes any loss of life or personal injury;

(iv) causes pollution as a result of or in connection with its operation; 40

(f) "central database" means the centralised record maintained for recording the data and details of—

(i) vessels;

(ii) registration of vessels;

(iii) crew and manning in the vessels; 45

(iv) certificates issued in respect of vessels;

(v) reception facilities; and

(vi) such other data,

to be recorded and maintained in the form of an electronic portal or in such other form and manner as may be prescribed by the Central Government;

5 (g) "certificate of insurance" means a certificate issued by an authorised insurer in pursuance of the insurance premium paid by the insured, and includes a cover note complying with such requirements as may be prescribed by the Central Government;

(h) "competent authority" means the authority referred to in section 6;

10 (i) "court" means any civil court, revenue court or High Court having jurisdiction over the matters of liabilities and offences as provided in this Act including investigation and inquiry into claims arising out of causalities and accidents within its jurisdiction;

(j) "cover note" includes any note of undertaking issued by the insurer who promises to cover the liability and to indemnify the losses incurred by the insured as provided in the contract of insurance;

15 (k) "crew" means personnel employed for operation or serving on an inland vessel other than master or passengers as a part of performing the functions of manning;

20 (l) "dangerous cargo" means any cargo, which, due to its nature, form or content as a whole or in part, are declared as dangerous or potentially dangerous while carried in on any class or category of inland vessels in inland waters under this Act or any other law for the time being in force;

(m) "dangerous goods" means any goods, which, due to its nature, form or content as a whole or in part, are declared as dangerous or potentially dangerous while carried in on any class or category of inland vessels in inland waters under this Act or any other law for the time being in force;

25 (n) "designated authority" means the authorities appointed by State Government under sub-section (3) of section 5;

(o) "fishing vessel" means a vessel fitted with mechanical mode of propulsion, which is exclusively engaged in fishing for profit, within inland waters;

30 (p) "hazardous chemical" means any chemical, which has been designated as pollutants under this Act or any other law for the time being in force in India;

(q) "inland vessel" includes any mechanically propelled inland vessel or non-mechanically propelled inland vessel which is registered and plying in inland waters, but does not include—

44 of 1958.
13 of 1972. 35 (i) a fishing vessel registered under the Merchant Shipping Act, 1958 or the Marine Products Export Development Authority Act, 1972; and

(ii) any vessel that are specified as not to be inland vessels by notification by the Central Government.

44 of 1958.
40 *Explanation*—For the purposes of this clause, it is clarified that a vessel registered under the Merchant Shipping Act, 1958 and plying within the inland waters shall be deemed to be an inland vessel registered under this Act;

(r) "inland waters", for the purpose of inland navigation, includes any—

(i) canal, river, lake or other navigable water inward of baseline or as may be declared by notification in the Official Gazette by the Central Government;

45 (ii) tidal water limit, as may be declared by notification in the Official Gazette by the Central Government;

(iii) national waterways declared by the Central Government; and

(iv) other waters as may be declared by notification in the Official Gazette by the Central Government;

(s) "lien" is a legal right or interest that a creditor has in the inland vessel or any property thereof, retained until a debt or duty is secured, or the performance of some other obligation is satisfied; 5

(t) "limitation of liability" means the rate or extent of liability within which the owner or such other persons entitled under this Act, may limit the liability or be permitted to limit or cap the liability arising out of claims, in accordance with the procedure laid down and the rates, as may be specified in this Act or as may be prescribed by the Central Government; 10

(u) "load line" means a water line which is marked on an inland vessel to denote the safe carrying or loading capacity of such vessel;

(v) "master" includes any person including serang or such other person, who is in command or in charge of any inland vessel, and does not include a pilot or harbour master; 15

(w) "material fact" means a fact of such a nature, which determines the judgment of a prudent insurer, in assessing the extent of his liability, premium to be charged, conditions to be specified and such other terms to be entered and incorporated in a policy of insurance governing the relationship with the insured; 20

(x) "material particular" means any particular of such a nature, which determines the judgment of a prudent insurer, in assessing the extent of his liability, premium to be charged, conditions to be specified and such other terms to be entered and incorporated in a policy of insurance governing the relationship with the insured;

(y) "mechanically propelled inland vessel" means— 25

(i) any inland vessel in the inland waters which is propelled by mechanical means of propulsion; or

(ii) floating units, floating surfaces, dumb vessels, barges, rigs, jetties or such other non-mechanically propelled inland vessel, which are towed or pushed with the assistance of another mechanically propelled vessel and used for carriage, storage, transportation and accommodation of passengers and cargo in or through inland waters; 30

(z) "minimum manning requirement" means the standard and number of persons required for safe manning and navigation of vessels, as may be prescribed by the Central Government; 35

(za) "non-mechanically propelled inland vessel" means any vessel which is not a mechanically propelled inland vessel;

(zb) "notification" means a notification published in the Gazette of India or the Official Gazette of a State, as the case may be, and the expression "notify" with its grammatical variation and cognate expressions shall be construed accordingly; 40

(zc) "obnoxious substance" means any substance, which has been designated as pollutants under this Act or any other law for the time being in force in India;

(zd) "official number" means the number assigned to any vessel by the Registrar of Inland Vessels or such other person appointed under this Act, to be affixed or displayed on a conspicuous part of such vessel to refer, distinguish and identify one vessel from another; 45

(ze) "oil" means any edible oil carried on vessel as cargo or persistent oil such as crude oil, heavy diesel oil, lubricating oil and white oil, carried on board of a vessel as cargo or fuel;

(zf) "oily mixture" means a mixture with any oil content;

5 (zg) "owner" means operator, charterer, beneficial owner or registered owner, who is responsible for the activities of the vessel and shall be under obligation to comply with the provisions of this Act in relation to, or in possessing express or implied title under this Act or any other law for the time being in force;

10 (zh) "passenger" means any person carried on board of a vessel, except persons employed or engaged in any capacity on board of the vessel in connection with the business of the vessel;

(zi) "passenger terminal" means the terminal designated for the embarking or dis-embarking of passengers and the permitted cargo, in a port, jetty, wharf or like places;

15 (zj) "passenger vessel" means any vessel permitted to carry more than twelve passengers;

(zk) "pilot" means a person appointed by the owner of the vessel to assist the master or to steer the vessel in such area of inland water in accordance with the mandatory requirements, as specified in section 83;

20 (zl) "prescribed" means prescribed by rules by the Central Government or a State Government, as the case may be;

(zm) "priority of lien" means the ranking of liens in the order in which they are perfected or recorded in the book of registry maintained at every port or place of registry;

25 (zn) "reciprocating country" means any country, as may on the basis of reciprocity, specified by notification by the Central Government to be a reciprocating country for the purposes of this Act;

30 (zo) "recognised organisation" means any organisation recognised and authorised by the Central Government to perform and execute the functions involved in survey, classification or certification of vessels;

(zp) "salvage" means an act of the salvor in retrieving or saving any property or life in danger due to wreck or accident and includes all expenses incurred by the salvor in the performance of salvage services;

(zq) "salvor" means any person who conducts salvage operations;

35 (zr) "service provider" includes any person, who in the capacity of owner or operator of an inland vessel used or plying in inland waters, providing services to any service user for the purposes of transportation, storage or accommodation;

40 (zs) "service user" includes any person who as a passenger or owner of cargo or freight forwarder, uses the services of any inland vessel in the inland waters for transportation, storage or accommodation purposes;

45 (zt) "special category vessel" means a mechanically propelled inland vessel that is identified under this Act as special by considering its use, purpose, function or utility or the means of propulsion including the fuelling system or source of power for propulsion, such as liquefied natural gas, electrical propulsion, the design, dimensions of construction or areas of operation or such other criteria or standards;

(zu) "vessel" includes every description of water craft used or capable of being used in inland 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 unit or dumb vessel used for transportation, storage or accommodation within or through inland waters;

(zv) "wreck" means a state of any vessel, or goods or a part or property of such vessel or carried on the vessel,— 5

(i) which have been cast into or have fallen into the inland waters and then sunk and remain under water or remains floating on the surface; or

(ii) which have sunk in the inland waters, but are attached to a floating object in order that they may be found again; or 10

(iii) which are intentionally thrown away or abandoned without hope or intention of recovery; or

(iv) which by its presence in inland waters, is a hazard or causes impediment to navigation, or adversely affects safety of life or causes pollution.

CHAPTER II 15

DECLARATION OF INLAND WATER AREA INTO ZONES

Declaration of inland water area into Zones.

4. (1) The State Government may, for the purposes of this Act, declare by notification any inland water area to be a "Zone" depending on the maximum significant wave height criteria specified in sub-section (2).

(2) For the purposes of sub-section (1), the State Government may classify the maximum significant wave height criteria into the following Zones, namely:— 20

(i) Zone 1 refers to the area (other than Zone 2 or Zone 3) where the maximum significant wave height does not exceed 2.0 metres;

(ii) Zone 2 refers to the area (other than Zone 3) where the maximum significant wave height does not exceed 1.2 metres; and 25

(iii) Zone 3 refers to the area where the maximum significant wave height does not exceed 0.6 metres.

CHAPTER III

ADMINISTRATIVE PROVISIONS

Administrative role of Central Government and State Governments.

5. (1) The Central Government may, by general or special order, direct that any power, authority or jurisdiction exercisable by it under, or in relation to any such provision of this Act, or the rules made thereunder, or as may be specified in the order allocating the duties, shall, subject to such conditions and restrictions as may be so specified, also be exercisable by the competent authority or by such other officer as may be specified in that order. 30

(2) On and from the date of issue of notifications or rules made by the Central Government under the provisions of this Act, the provisions shall,— 35

(a) uniformly apply in whole or in any part of India, as may be specified therein; and

(b) prevail over such notifications or rules, as the case may be, issued or made by the State Governments. 40

(3) The State Governments may, by notification, appoint one or more designated authorities within their respective jurisdiction for the purposes of exercising or discharging the powers, authority or duties conferred, by or under this Act and the rules made thereunder.

(4) Notwithstanding anything contained in sub-section (1) and section 6, the existing administrative authorities constituted under State Governments or Union territory Administrations may continue to be the designated authorities for the purposes of sub-section (3). 45

(5) The State Government may, for the purposes of implementing the various provisions of this Act and the rules made thereunder, by general or special order, direct that any power or authority conferred under this Act, subject to such conditions and restrictions as it may think fit, be exercised or discharged by the respective designated authorities or any officer or any other organisation or body.

(6) Save as otherwise provided in this Act, the State Government shall have the power to make rules and shall exercise the powers conferred on it, as provided by or under this Act.

(7) Notwithstanding anything to the contrary in this Act, for the purposes of administration of the non-mechanically propelled inland vessels, as specified in Chapter XVII, the Central Government shall have no powers of administration and shall only provide assistance to the respective State Government, on receipt of official request from such State Government.

82 of 1985. **6.** The Inland Waterways Authority of India, constituted under section 3 of the Inland Waterways Authority of India Act, 1985 shall be the competent authority for the purpose of exercising or discharging the powers, authority or duties conferred, by or under this Act. Competent authority.

CHAPTER IV

SURVEY OF INLAND VESSELS

7. (1) For the purposes of this Chapter,—

- (a) the classification of mechanically propelled vessels;
- (b) the criteria for such classification; and
- (c) the standards of design, construction, fitness and crew accommodation of such vessels,

shall be such, as may be prescribed by the Central Government.

(2) The State Government shall classify and categorise mechanically propelled inland vessels on the basis of criteria and standards referred to in sub-section (1).

8. (1) No person shall construct any mechanically propelled inland vessel, or alter or modify any mechanically propelled inland vessel so as to affect its strength, stability or safety, except with prior approval of the designated authority, in such manner as may be prescribed by the Central Government.

(2) The list of alterations or modifications referred to in sub-section (1), which would affect the strength, stability or safety of any mechanically propelled inland vessel, and the criteria therefor, shall be such as may be specified by the Central Government, by notification.

9. (1) The standard for type and periodicity of surveys for every mechanically propelled inland vessel shall be such as may be prescribed by the Central Government.

(2) The owner, operator, master or construction yard or any other applicant, as the case may be, shall submit a request for survey in such form and content as may be prescribed by the Central Government.

45 of 1860. **10.** (1) For the purposes of this Act, the State Government may, by notification, appoint officers or persons as surveyors of inland vessels and such surveyors shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Appointment and qualifications of surveyors.

(2) The minimum criteria and qualifications for the appointment of surveyors, which the State Governments shall adopt in the appointment of surveyors, shall be such as may be prescribed by the Central Government.

11. (1) On receipt of the application from the owner or master or construction yard for conducting survey, in such form and within such time as may be prescribed by the Central Government, the surveyor may board or enter and inspect a mechanically propelled inland vessel: Powers of surveyors.

Provided that the surveyor shall not unnecessarily hinder the loading or unloading of cargo or; embarking or dis-embarking of passengers of the mechanically propelled inland vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, operator, master and crew of the mechanically propelled inland vessel shall render the surveyor, all reasonable facilities for conducting survey, and all information with respect to such mechanically propelled inland vessel, and her machinery or any part thereof, and all equipment and articles on board, as he may require for the purposes of a survey. 5

Grant of certificate of survey and procedures.

12. (1) On completion of survey of a mechanically propelled inland vessel, the surveyor shall forthwith issue the applicant, a declaration of survey, valid for such period and in such form, as may be prescribed by the Central Government. 10

(2) The State Government shall, if satisfied that all the provisions of this Act have been complied with in respect of a declaration submitted under sub-section (1), and on receipt of payment of fee, as may be prescribed by the State Government, issue a certificate of survey to the applicant. 15

(3) A certificate of survey granted under this section shall be in such form as may be prescribed by the Central Government, and shall contain a statement to the effect that all the provisions of this Act with respect to the survey of the mechanically propelled inland vessel and the declaration of surveyor have been complied with, and shall set forth such particulars or such other terms and conditions, as may be prescribed by the Central Government. 20

(4) The State Government may, by notification in the Official Gazette, delegate all or any of the functions assigned to it by the Central Government under this section:

Provided that no delegation shall be made to authorise the grant of a certificate of survey by the surveyor, who made the declaration of survey under sub-section (1).

Provisional certificate of survey and its effect.

13. (1) On receipt of application and the fee from the owner or operator of any mechanically propelled inland vessel, the surveyor who conducted the survey, may grant a provisional certificate of survey extending the validity of the prevailing certificate of survey by endorsement, in such form and for such period, as may be prescribed by the Central Government. 25

(2) Any mechanically propelled inland vessel, which has been issued with a provisional certificate of survey or endorsement under sub-section (1), may proceed on voyage or use in service, temporarily, pending the issue of the certificate of survey, in such manner and subject to the conditions as may be prescribed by the State Government. 30

Mechanically propelled inland vessels not to proceed without certificate of survey, and requirement of Zone to be specified in such certificate.

14. (1) No mechanically propelled inland vessel shall be used nor proceed on voyage, without a valid certificate of survey that shall provide or indicate among others, the Zone intended for operation or applicable voyage or service of such vessel. 35

(2) The certificate of survey shall have effect throughout India, unless otherwise specified therein and subject to such other conditions as may be specified by the competent authority.

(3) The certificate of survey shall be valid for such period as may be specified by notification by the Central Government and shall not be in force— 40

(a) after the expiration of the period specified in the certificate of survey; or

(b) after notice has been issued to cancel or suspend such certificate.

(4) Nothing in this section shall prevent the State Government from excluding a mechanically propelled inland vessel from the requirement under sub-section (1), on an application made by the owner or master of the vessel for permission to proceed on a voyage; during the interval between the date on which the certificate of survey expires and the earliest possible date of renewal. 45

(5) After cessation of a certificate of survey, a valid certificate of survey shall be obtained only after a fresh survey of the mechanically propelled inland vessel has been conducted by any surveyor appointed under this Act.

5 **15.** (1) The State Government may suspend or cancel a certificate of survey, if it has reason to believe that—

Suspension and cancellation of certificate of survey.

(a) the declaration of the surveyor of the sufficiency and good condition of the hull, engines or other machinery or of any of the equipment of the mechanically propelled vessel has been fraudulently or erroneously made; or

10 (b) the certificate has otherwise been granted upon false or erroneous information; or

(c) since the making of the declaration, the hull, engine or other machinery, or any of the equipment of the mechanically propelled vessel have sustained any material damage, or have otherwise become insufficient.

15 (2) The State Government shall issue the notice of suspension of certificate of survey to the owner, operator, master or construction yard by stating the errors to be rectified and conditions that have to be complied with by the owner, operator, master or construction yard within three months from the date of issuance of such notice, in such manner as may be prescribed by that Government.

20 (3) In the event of non-compliance of the notice of suspension by the owner, operator, master or construction yard within the period specified therein, the State Government shall record such non-compliance and shall issue the notice of cancellation of certificate of survey, which shall come into force with immediate effect.

25 **16.** (1) The owner or master shall deliver the certificate of survey, which has expired or has been suspended or cancelled, to such officer as the State Government may, by notification in the Official Gazette, appoint in this behalf.

Delivery of expired, suspended or cancelled certificate of survey.

(2) The State Government shall record the details of the cancelled certificate in the book of registry maintained by the Registrar of Inland Vessels.

CHAPTER V

REGISTRATION

30 **17.** (1) Any mechanically propelled inland vessel, which is wholly owned by—

Registration.

(a) a citizen of India; or

2 of 1912.

(b) a co-operative society registered or deemed to be registered under the Co-operative Societies Act, 1912; or

35

(c) a body established under any Act relating to co-operative societies for the time being in force in any State; or

18 of 2013.

(d) a company registered under the Companies Act, 2013; or

6 of 2009.

(e) a partnership firm registered under the Limited Liability Partnership Act, 2008; or

40

(f) any other body including a partnership firm, trust or societies established by or under any Central or State enactment and which has its principal place of business in India;

(g) any legal business combination, otherwise allowed under the existing commercial law for the time being in force in India, within the permissible foreign direct investment limits in the sector and having its principal place of business in India,

45 shall be registered under the provisions of this Act.

(2) A foreign vessel, other than vessels registered or obligated to register under the Merchant Shipping Act, 1958, chartered on bareboat charter-cum-demise by an Indian charterer, for the purposes of plying exclusively within inland waters, shall be registered under the provisions of this Chapter. 44 of 1958.

(3) The inland vessels registered under this Act may also be registered under the Merchant Shipping Act, 1958. 5 44 of 1958.

Explanation.—For the purposes of sub-section (2), "Indian charterer" shall mean a person referred to in clauses (a) to (g) of sub-section (1), who has chartered a vessel on bareboat charter-cum-demise contract.

Requirement of certificate of registration.

18. (1) A mechanically propelled inland vessel required to be registered under this Chapter, shall not proceed on any voyage or be used for any service, unless it has a valid certificate of registration granted under this Act in respect thereof. 10

(2) Notwithstanding anything contained in sub-section (1), the authority appointed or authorised under this Chapter may—

(a) permit any mechanically propelled inland vessel, built at any place other than a port or place of registry, to make her first voyage through the inland waters to any such port or place for the purpose of registration; or 15

(b) permit the vessel registered under any law for the time being in force in India for which provisions have been made under this Act to conduct voyage within the inland waters; or 20

(c) permit any mechanically propelled vessel registered under such laws of countries other than India, which shall only be permitted to ply within the inland waters subject to compliance of such terms and conditions as may be prescribed by the Central Government.

Owner or master to carry certificate of registration.

19. (1) The owner or master of an inland vessel shall carry a valid certificate of registration issued under this Chapter and shall make available for inspection, when demanded by the officers appointed by the State Government. 25

(2) The State Government or such other officer appointed or authorised under this Chapter may detain any mechanically propelled inland vessel required to be registered under this Act, until the respective owner, operator or master of such vessel furnishes a valid certificate of registration. 30

Appointment of ports or places of registry and Registrars of Inland Vessels.

20. (1) For the purposes of this Chapter, the State Government may, by notification,—

(a) appoint ports or places of registry; and

(b) appoint Registrar of Inland Vessels at the said ports or places of registry, who shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 35 45 of 1860.

(2) A Registrar of Inland Vessels shall, in respect to the port or place of registry for which he is appointed, perform his functions as may be prescribed by the State Government.

Book of registry.

21. (1) The Registrar of Inland Vessels shall maintain and keep a book of registry, which shall have record of all particulars contained in the form of certificate of registration as may be prescribed by the Central Government. 40

(2) The Registrar of Inland Vessels shall report the details of the book of registry or entries made therein, to the State Government at regular intervals, in such manner and period as may be prescribed by the State Government.

(3) The State Government shall report and update the Central Government in respect of— 45

(a) the designated ports and places of registry;

- (b) the details of officers appointed or authorised under this Chapter; and
- (c) the details of registrations as entered in the book of registry,

to facilitate and administer the registration processes under this Chapter.

5 **22.** The Central Government shall appoint officers to maintain a central data base for inland vessels, in such form and manner, and the functions of the officers so appointed shall be such, as may be prescribed by that Government. Central data base of inland vessels.

23. (1) The owner or master, may make an application for registration of a mechanically propelled inland vessel, which has a valid certificate of survey issued under this Act, in such form, manner and along with such particulars, as may be prescribed by the Central Government. Application and processes of registration of vessels.

10 (2) The list of documents to be submitted or adduced by the applicants for registration, in addition to the particulars referred to in sub-section (1), shall be such as may be prescribed by the Central Government.

 (3) Every application for registration shall be made to the Registrar of Inland Vessels, within the jurisdiction of the respective State in which the owner of the mechanically propelled inland vessel—

- (a) ordinarily resides; or
- (b) has the principal place of business or the officially registered office.

20 (4) If the Registrar of Inland Vessels is satisfied that the vessel or the application submitted for registration is not in compliance with the provisions of this Act, he may refuse to register a mechanically propelled inland vessel for reasons to be recorded in writing and shall provide the applicant a note containing the reasons for such refusal.

25 **24 .** (1) Subject to the provisions of section 23, the Registrar of Inland Vessels shall, grant the certificate of registration to the applicant, who has paid such fee, as may be prescribed by the State Government, and assign the official number to such registered vessel. Grant of certificate of registration and marking of vessel.

 (2) The certificate of registration shall be in such form and content, as may be prescribed by the Central Government, and shall contain the following particulars, namely:—

- (a) registered address of the owner and other ownership details;
- (b) details of mortgage, if any;
- 30 (c) official number;
- (d) classification and category of vessel;
- (e) any other particular, as may be prescribed by the State Government.

 (3) The owner shall display the official number on a conspicuous part of the vessel, as may be prescribed by the State Government.

35 **25.** (1) The certificate of registration granted under section 24 shall be deemed to be valid in all States and Union territories, unless otherwise specified therein. Effect of certificate of registration.

 (2) The certificate of registration issued under this Chapter shall be conclusive proof of ownership and title, as declared by the applicant and as entered in the book of registry by the Registrar of Inland Vessels.

40 (3) Notwithstanding anything contained in this Act, any person who has beneficial interest of ownership in the mechanically propelled inland vessel or shares therein, shall have the same rights as that of the registered owner and shall be deemed as owner of such vessel for the purposes of this Act.

Duplicate certificate.	<p>26. (1) If the certificate of registration issued under this Chapter is lost or destroyed, the registered owner shall apply for a duplicate certificate to the Registrar of Inland Vessels, who has issued such certificate of registration, in such form and manner as may be prescribed by the State Government.</p> <p>(2) The Registrar of Inland Vessels shall, on receipt of application under sub-section (1) and such fees or additional fees, as may be prescribed by the State Government, issue the duplicate certificate of registration.</p>	5
Provisional certificate of registration.	<p>27. (1) The Registrar of Inland Vessels may, pending issuance of the certificate of registration, upon an application and on payment of fee, by the applicant, issue a provisional certificate of registration valid for such period as may be prescribed under sub-section (2).</p> <p>(2) The application, fee and the issuance of provisional certificate of registration referred to in sub-section (1) shall be in such form, rate and manner, as may be prescribed by the Central Government.</p> <p>(3) During the period of validity of the provisional certificate of registration, the owner, operator, master or construction yard shall implement and comply with all necessary steps to be taken to have the vessel registered under this Chapter.</p>	10 15
Registration of modifications or alterations.	<p>28. (1) The owner, operator or master of any mechanically propelled inland vessel, shall make an application, in such form, manner and within such period as may be prescribed by the State Government, to effect any alteration or modification affecting the strength, stability or safety of such mechanically propelled inland vessel along with the respective certificate of survey, in which such alteration or modification have been approved, to the respective Registrar of Inland Vessels, who has issued the certificate of registration.</p> <p>(2) The Registrar of Inland Vessels shall, on receipt of application and the certificate of survey and on receipt of such fee, as may be prescribed by the State Government, either cause the alteration or modification to be registered and entered in the certificate of registration, or direct that the vessel be registered anew:</p> <p>Provided that, where the Registrar of Inland Vessels, directs that the vessel be registered anew, he shall grant a provisional certificate for a specific period describing the vessel as altered or endorse on the existing certificate about the particulars of the alteration.</p> <p>(3) Any mechanically propelled inland vessel found plying without complying with sub-section (1) or sub-section (2) shall be detained by such authority or officer as the State Government may, by general or special order, appoint in this behalf.</p>	20 25 30
Change of residence or place of business.	<p>29. (1) If the owner of a mechanically propelled inland vessel ceases to reside or carry on business at the registered address recorded in the certificate of registration of the vessel, such person shall comply with the procedures prescribed under sub-section (2) by the Central Government.</p> <p>(2) For the purposes of sub-section (1), the procedures to be complied with by the owner of any mechanically propelled inland vessel, who ceases to be the owner or applies for the requirement of transfer of registry or any such circumstances leading to change of the registered address, shall be such as may be prescribed by the Central Government.</p>	35 40
Prohibition against transfer of ownership of registered vessel.	<p>30. No mechanically propelled inland vessel registered with the registering authority of a State Government under this Chapter, shall be transferred to a person residing in any country other than India, without the prior approval of the Registrar of Inland Vessels, who has originally granted the certificate of registration and such a transfer shall be validated only if made in compliance with such procedures as may be prescribed by the Central Government.</p>	45
Suspension of certificate of registration.	<p>31. (1) The Registrar of Inland Vessels may at any time, require any mechanically propelled inland vessel within the local limits of his jurisdiction to be inspected by such authority as the State Government may, by general or special order, appoint in this behalf.</p>	

(2) As a result of such inspection, if the Registrar of Inland Vessels has reason to believe that after the granting of the certificate of registration, the mechanically propelled inland vessel became unfit to ply in inland waters, order suspension of the certificate of registration of the said vessel for such period as he may deem fit.

5 (3) The Registrar of Inland Vessels shall, before suspending a certificate of registration, provide to the owner, operator or master an opportunity of being heard, and record the reasons for such suspension.

(4) The Registrar of Inland Vessels who suspends the certificate of registration under sub-section (2), shall issue a notice of suspension to the registered owner stating the reasons
10 for suspension and the conditions to be complied within such period, as may be prescribed by the State Government, for withdrawal of such order of suspension.

(5) Where the registration of a mechanically propelled inland vessel is suspended under sub-section (2) by any Registrar of Inland Vessels, other than the Registrar of Inland Vessels who has originally issued the certificate of registration, the former shall intimate the
15 latter, regarding such order of suspension or withdrawal of such order of suspension; and the latter shall enter such order in the book of registry in which the registration of the vessel is originally recorded.

(6) The Registrar of Inland Vessels suspending the certificate of registration, shall confiscate such certificate and return the certificate to the owner or master only upon withdrawal
20 of the order of suspension.

32. (1) If any mechanically propelled inland vessel registered under this Act is declared missing, destroyed, lost, abandoned or has been rendered permanently unfit for service or destined for scrapping or dismantling or sold abroad; the owner of the vessel shall, within such time as may be prescribed by the Central Government, report the fact to the Registrar of
25 Inland Vessels of the place where the vessel is registered and shall also forward to that authority, along with the report, the certificate of registration of the vessel and thereupon such Registrar of Inland Vessels shall have the certificate of registration cancelled.

Cancellation of registration.

(2) Any Registrar of Inland Vessels may at any time require that any mechanically propelled inland vessel within the local limits of his jurisdiction may be inspected by such
30 designated authority as the State Government may, by general or special order, appoint in this behalf and, if as a result of such inspection, such Registrar of Inland Vessels is satisfied that the vessel is in such a condition that it is not fit to ply in any inland water, the Registrar of Inland Vessels may, after giving the owner of the vessel an opportunity of being heard, cancel the registration of the vessel and require the owner thereof to surrender forthwith to
35 him, the certificate of registration in respect of that vessel, if it has not already been so surrendered.

33. (1) A registered mechanically propelled inland vessel or a share therein may be mortgaged as a security for a loan or other valuable consideration, and the instrument creating the security shall be in such form, as may be prescribed by the Central Government,
40 and on the production of such instrument, the Registrar of Inland Vessels who granted the certificate of registration shall record it in the book of registry.

Mortgage of mechanically propelled inland vessel or share therein.

(2) The manner and the conditions, subject to which a mechanically propelled inland vessel or a share therein may be mortgaged, shall be such as may be prescribed by the Central Government.

45

CHAPTER VI

MANNING, QUALIFICATION, TRAINING, EXAMINATION AND CERTIFICATION

34. (1) The standards for qualification, training, training institutes, examination and grant of certificate of competency for the purposes of this Chapter shall be such as may be prescribed by the Central Government.

Training and minimum age for employment.

(2) No person under the age of eighteen years shall be employed on a mechanically propelled inland vessel registered under this Act.

Minimum
manning scale
and manning
requirements.

35. The minimum manning scale applicable to different class or category of mechanically propelled inland vessels, categorised under this Act or such other laws for the time being in force in India, shall be such as may be prescribed by the Central Government.

5

Appointment
and duties of
examiners.

36. (1) The State Government may appoint examiners, in accordance with the criteria and qualifications, as may be prescribed by the Central Government, for the purpose of examining the qualifications of persons desirous of obtaining certificates under this Chapter to the effect that they are competent to undertake the responsibilities of and act as, masters, or as engineers or engine-drivers, or as such other persons, as the case may be, on the mechanically propelled inland vessels.

10

(2) The examiners shall evaluate the persons who have undergone the training required for qualifying as masters, or as engineers or engine-drivers, or as such other persons, as the case may be, and shall report the list of successful candidates who possess the required qualifications to the Central Government or such other officer appointed or authorised by notification by the State Government.

15

Grant of
certificate of
competency.

37. (1) The State Government may evaluate the report provided by the examiners, and upon confirmation as to the correctness of such report; shall grant to every candidate; who is reported by the examiners to possess the required qualifications, with the certificate of competency, certifying that the candidate specified in the report is competent to serve, in such capacity as may be specified therein, on any class or category or whole of the mechanically propelled inland vessel as specified in the certificate.

20

(2) The State Government shall require for further examination or a re-examination of all or any of the candidates, if it is found that the report submitted by examiners is defective, or there exists reason to believe that such a report has been unduly made.

25

(3) The certificate of competency shall be in such form and manner as may be prescribed by the Central Government.

Certificate of
service.

38. (1) The State Government may, on an application, without examination, grant a certificate of service to any person who has served as a master, or as an engineer, of a vessel of the Coast Guard, Indian Navy or regular Army for such period as may be prescribed in this behalf by the Central Government, to the effect that he is competent to act, as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver or in such capacity as may be specified therein, as the case may be, on board the mechanically propelled inland vessel.

30

(2) For the purposes of granting of certificate of service under sub-section (1), the State Government shall verify the certificate, certifying the competence of the applicant as issued by the Coast Guard, Indian Navy or regular Army, as submitted to it by such applicant along with his application.

35

(3) Notwithstanding anything contained herein, the State Government may by recording reasons thereof, refuse granting of certificate of service under sub-section (1).

40

(4) A certificate of service so granted under sub-section (1), shall be in such form and manner; and shall be subject to such conditions, as may be prescribed by the Central Government, and shall have the same effect as a certificate of competency granted under section 37.

Effect of
certificate of
competency
or certificate
of service.

39. Subject to the provisions of this Act and such conditions as may be prescribed by the Central Government, a certificate of competency or certificate of service shall be valid throughout India.

45

40. (1) If the holder of any certificate issued under this Chapter is found to have acted in contravention to the provisions of this Act or the rules made thereunder; the said certificate shall be liable to be suspended or cancelled.

Suspension and cancellation of certificate.

5 (2) The State Government or any officer appointed or authorised under this Chapter shall issue notice to the holder of certificate and shall provide him an opportunity of being heard before suspension or cancellation of certificates issued under this Chapter.

10 (3) Notwithstanding anything contained in sub-section (2), the State Government or any officer appointed or authorised under this Chapter, may suspend or cancel the certificate of competency or the certificate of service granted under this Chapter by recording reasons thereof.

(4) If a certificate issued under the provisions of this Chapter is suspended or cancelled, the holder of such certificate shall deliver it to the State Government or such officer, appointed or authorised by that Government by notification in Official Gazette under this Chapter.

15 41. (1) The State Government shall maintain registers in electronic format to record, the details and data of the certificate, and the respective certificates, issued under this Chapter in such form and manner as may be prescribed by it.

Registry of certificate holders and central registry.

20 (2) The State Government shall report and update the Central Government with the information on data and details of certificates issued, granted, cancelled or suspended or such other remarks, made by the respective authority in regular intervals, as may be prescribed by the Central Government.

(3) The Central Government shall update the central data base with the reports and information received from all the State Governments under this Chapter in electronic format.

CHAPTER VII

SPECIAL CATEGORY VESSELS

25 42. (1) For the purposes of this Chapter, the Central Government may, by rules to be made in this behalf, specify the criteria and standards to identify any class or category of mechanically propelled inland vessels as special category vessels based on their design, construction, use, purpose, area of plying, source of energy or fuelling, or any other criteria or standards.

Special category vessels.

30 (2) The requirements of construction, design, survey, registration, manning, qualification, competency, or the requirements in addition to those contained elsewhere in this Act shall be such, as may be prescribed by the Central Government.

35 (3) The State Governments shall identify the mechanically propelled inland vessels as special category vessels based on the criteria and standards prescribed by the Central Government under sub-section (1).

43. (1) The State Government shall appoint or authorise such number of officers for the purpose of performing duties and implementing the provisions of this Chapter.

Appointment or authorisation of officers to implement provisions, grant certificate of fitness, etc.

40 (2) On an application made by owner, operator or master of any mechanically propelled inland vessel in such form as may be prescribed by the State Government, any officer appointed or authorised under sub-section (1), on being satisfied that such vessel complies with the provisions of this Act and falls under the special category vessels as identified in this Chapter, and subject to such other conditions including validity as may be prescribed by the State Government, may grant a certificate of fitness, in such form and manner as may be prescribed by that Government.

45 (3) The officer appointed or authorised under sub-section (1) may, for reasons to be recorded in writing, refuse to grant the certificate of fitness in respect of an application made under sub-section (2).

Safety of passengers or service users.

44. (1) The safety features, gears and such other measures by which any mechanically propelled inland vessel, identified as special category vessel under this Chapter, shall comply with and be equipped in accordance with the categorisation of such vessel, shall be such as may be prescribed by the State Government.

(2) The maximum carrying capacity of the vessel identified as special category vessel by specifying the safety loadline or the limits of loadline to keep them afloat, or such other criteria and conditions, other than those mentioned elsewhere in this Act for the safe voyage of such inland vessel, shall be such as may be prescribed by the State Government. 5

Inspection of vessel.

45. (1) The surveyor may, other than for the purpose of survey, at any reasonable time, go on board any special category vessel, and inspect the respective vessel including the hull, equipment and machinery or any part or properties of such vessel. 10

(2) The owner, operator, agent, master and any such person in-charge of the special category vessel, shall make available all necessary facilities to the surveyor for inspection and survey, and all such information regarding the vessel and her machinery and equipment, or any part thereof, respectively, as the surveyor or such other officer may reasonably require. 15

Suspension or cancellation of certificate of fitness.

46. (1) If any special category vessel does not comply with the provisions of this Act or the rules made thereunder, the State Government may issue notice to the owner or operator or master or any person in-charge of such vessel, for rectifying the non-compliance within such time as may be specified therein. 20

(2) In case of continuance of non-compliance by the owner or operator or master or any person in-charge of the special category vessel even after receipt of the notice issued under sub-section (1), the State Government may, after providing an opportunity of being heard and for reasons to be recorded in writing, suspend or cancel the certificate of fitness issued to such vessel under this Chapter. 25

(3) If the certificate of fitness of a special category vessel has been suspended or cancelled under sub-section (2), then such vessel shall cease to operate till the suspension is revoked, or in the event of cancellation, shall cease to operate till a new certificate of fitness is granted.

CHAPTER VIII

30

NAVIGATION SAFETY AND SIGNALS

Navigation safety, lights and signals.

47. (1) The specifications and requirements of signals and equipment based on classification and categorisation of mechanically propelled vessels, to be complied with by such vessels shall be such as may be prescribed by the Central Government.

(2) The fog and distress signals to be carried and used, the steering and sailing rules to be complied with and the different protocols for exhibition and display of different standards of lights, shapes and signals, by any mechanically propelled vessel plying in inland waters shall be such, as may be prescribed by the Central Government. 35

(3) The owner or master of every mechanically propelled vessel, while in the inland water limit, shall comply with the rules made under sub-sections (1) and (2), and shall not carry or exhibit any lights or shapes or use any fog or distress signals, other than that required to be exhibited under this Chapter or the rules made thereunder. 40

Obligation to ensure safe navigation.

48. (1) Every mechanically propelled vessel shall adopt necessary measures to prevent collision and to ensure safe navigation through inland waters.

(2) If any damage to person or property arises in the inland water limit due to non-observance of any of the rules made under this Chapter by any mechanically propelled vessel, the damage shall be deemed to have been occasioned by the wilful default of the person in-charge of such vessel at that time, unless it is shown to the satisfaction of the court that the circumstances of the case demanded deviance from the applicable rules. 45

49. The master of a mechanically propelled vessel, while in the inland water limit, on finding or encountering a dangerous derelict or any other hazard to navigation in the inland waterways, shall immediately send a signal to indicate the danger or distress, or any such information to other mechanically propelled vessels in the vicinity and to the concerned State Government:

Distress signal.

Provided that no fees or charges shall be levied on any mechanically propelled vessel, in using any device for communicating any information under this section.

50. (1) The master of any mechanically propelled vessel, while in the inland water limit, who has received any signal of distress from any vessel or aircraft within the inland water limit, shall proceed immediately to the assistance of the persons in distress by acknowledging the receipt of such signal to the vessel in distress.

Assistance to vessels in distress and persons in distress.

(2) Notwithstanding anything contained in sub-section (1), the master of a mechanically propelled vessel shall be released from the obligation to render assistance as provided in the said sub-section, if he is unable to do so, or in the special circumstances of the case, considers it unreasonable to act as provided in the said sub-section, or if the requirement for assistance is being complied with by other vessels, or the assistance is no longer required.

(3) The master of any mechanically propelled vessel, while in the inland water limit, shall render assistance to every person found in danger of being lost in the inland waters.

(4) The master of any mechanically propelled inland vessel may abstain from complying with sub-section (3), if in his judgment, he is unable to or, in the special circumstances of the case, such assistance may not be rendered without serious danger to his vessel, or to the persons on board and, in such event shall inform the respective authorities regarding his inability of such non-compliance.

51. (1) The Central Government shall, by rules made in this behalf, specify the class or category of mechanically propelled inland vessels to be equipped with navigation aids, life saving appliances, fire detection and extinguishing appliances and communication appliances.

Life saving, fire safety and communication appliances.

(2) The owner, operator or master of all mechanically propelled inland vessels shall comply with the requirements of navigation aids, life saving appliances, fire detection and extinguishing appliances and communication appliances as specified in sub-section (1).

(3) The State Government may appoint or authorise such officers as surveyors to inspect and ensure that the mechanically propelled inland vessels comply with the applicable requirements specified in sub-section (1).

(4) If the surveyor, on inspection, finds that the mechanically propelled inland vessel is not so provided with life saving and fire appliances in conformity with the provisions of this Act and the rules made thereunder, he shall issue a notice to the master or owner or operator in writing pointing out the deficiency, and unless the master or owner or operator complies with the said notice and report such compliance to the surveyor, the said vessel shall not proceed to conduct any voyage.

CHAPTER IX

PREVENTION OF POLLUTION CAUSED BY INLAND VESSEL

52. (1) The Central Government shall, by notification, designate the list of chemicals, any ingredients or substance carried as bunker or as cargo, or any substance in any form discharged from any mechanically propelled inland vessel, as pollutants.

Chemicals, etc., to be designated as pollutants.

(2) The owner or master of any mechanically propelled inland vessel shall discharge or dispose of the sewage and garbage in accordance with such standards and manner as may be prescribed by the Central Government.

(3) No mechanically propelled inland vessel shall cause pollution by discharging or dumping of pollutants designated under sub-section (1):

Provided that nothing in this sub-section shall apply to the discharge dump or emission of such oil or oily mixture, hazardous chemical or obnoxious substance or any other pollutant, as the case may be, from a mechanically propelled inland vessel for the purpose of securing the safety of any mechanically propelled inland vessel, preventing damage to another mechanically propelled inland vessel, cargo or saving of life at inland waters. 5

Certificate of prevention of pollution.

53. (1) The Central Government shall, by rules made in this behalf, specify the standards of construction and equipment of the mechanically propelled inland vessels to ensure compliance with the requirements of this Chapter.

(2) The State Government shall appoint or authorise such officers to ensure construction, installation and maintenance of equipment of all mechanically propelled inland vessels and issue certificate of prevention of pollution, in compliance with the provisions of this Chapter. 10

(3) Every mechanically propelled inland vessel, which has been constructed and equipped in compliance with this Chapter shall be issued with a certificate of prevention of pollution in such form, validity and content as may be prescribed by the Central Government. 15

(4) Every mechanically propelled inland vessel shall carry on board a valid certificate of prevention of pollution and shall furnish the same on demand by concerned officers appointed or authorised under this Chapter.

Reception facilities and containment of pollution.

54. (1) The Central Government shall, by rules made in this behalf, specify the conditions for construction, use and maintenance of reception facilities for the containment of pollution and removal of pollutants arising from spillage or discharge arising from mechanically propelled inland vessels at all cargo terminals or passenger terminals. 20

(2) The owner or operator of all cargo terminals or passenger terminals shall provide reception facilities to discharge oil, oily mixture, hazardous chemicals, sewage or obnoxious substances at such cargo or passenger terminal, as the case may be, in compliance of sub-section (1). 25

(3) The owner or operator of all cargo terminals or passenger terminals, providing reception facilities shall receive charges, at such rates as may be prescribed by the State Government.

(4) For the purposes of minimising the pollution already caused, or for preventing the imminent threat of pollution, the Central Government or such other officer appointed by the State Government may, by order in writing, direct the owner or operator of cargo or passenger terminal to provide or arrange for the provision of such pollution containment equipment and pollutant removing materials, at such cargo and passenger terminal, as may be specified in such order. 30

(5) The owner or operator of the passenger or cargo terminal shall submit a report of compliance to the Central Government or such other officer appointed under sub-section (4), in such form as may be prescribed by the State Government. 35

(6) The owner, operator or master of any mechanically propelled vessel used or plying within inland waters, shall discharge the pollutants at the port reception facilities in such manner as may be prescribed by the State Government. 40

Appointment of surveyor or officer to inspect.

55. (1) The State Government may appoint or authorise such officers as surveyors to inspect any cargo or passenger terminal lying within its respective jurisdiction.

(2) The surveyor authorised under sub-section (1) may, at any reasonable time, enter and inspect any cargo or passenger terminal to—

(a) ensure that the provisions of this Chapter are complied with; 45

(b) verify whether such cargo or passenger terminal is equipped for pollution containment and removal, in conformity with the order of the State Government or any of the rules made under this Chapter; and

(c) satisfy himself of the adequacy of the measures taken to prevent pollution.

(3) If the surveyor, on inspection, finds that the cargo or passenger terminal is not provided with the required pollution containment equipment and pollutant removing materials, he shall give a notice in writing pointing out the deficiencies and the recommended remedial measures to rectify such deficiency, that is identified during the inspection, to the owner or operator of such cargo or passenger terminal, as the case may be.

(4) No owner or operator of such cargo or passenger terminal, as the case may be, served with the notice under sub-section (3), shall proceed with any work at such cargo or passenger terminal, until he obtains a certificate signed by the surveyor to the effect that the cargo or passenger terminal, is properly provided with the required pollution containment equipment and pollutant removing materials in conformity with the rules made under this Chapter.

56. (1) The State Government shall direct any designated authority or such other authorised officer appointed under Chapter XIII to conduct investigation into incidents of pollution. Investigation into incidents of pollution.

(2) The State Government shall update the Central Government with such information or report of the court, if so directed by such court concerned, on incidents of pollution that occurs within its jurisdiction.

CHAPTER X
WRECK AND SALVAGE

57. The owner, operator, master or person in-charge of a vessel plying in inland waters shall not intentionally abandon, desert, dump, throw overboard or jettison the vessel or property or parts or cargo, so as to cause wreck. Prohibition against intentionally causing wreck.

58. (1) The State Government may, by notification, appoint or authorise any officer to act as receiver of wreck within the respective jurisdiction. Receivers of wreck.

(2) The owner, operator, master or person in-charge of vessel, property or cargo, which is wrecked, stranded or in distress or who has found any vessel, property or cargo wrecked, stranded or in distress in the inland waters, shall immediately inform, by all means of communication to the receiver of wreck in whose jurisdiction the vessel, property or cargo is found to be wrecked, stranded or in distress.

(3) The owner of the wreck, whose property or cargo, is wrecked or stranded or is in distress in the inland waters shall inform the receiver of wreck in writing of the finding thereof and of the marks by which such wreck can be distinguished, and in cases, where the wreck is in possession of any person other than the owner, operator, master or person in-charge of vessel, property or cargo, such person shall deliver such wreck to the receiver of wreck.

Explanation.—For the purposes of this Chapter, the word "person" shall have the meaning assigned to it in clause (42) of section 3 of the General Clauses Act, 1897.

59. For the purposes of this Chapter, the—

- (a) powers and functions of the receiver of wreck;
- (b) responsibilities and obligations of the owner, operator, master or person in-charge of vessel, property or cargo with respect to the wreck;
- (c) measures adopted for the removal of obstruction to navigation;
- (d) disposal of wreck, including its sale and proceeds of unsold property;
- (e) measures to be adopted for protection of wreck, fouling of government moorings;
- (f) rights and duties of salvors and performance of salvage operations or resolution of disputes pertaining to amount payable to salvors; and
- (g) such other matter, which the Central Government may deem necessary for the efficient administration and removal of wrecks,

Powers of Central Government to make rules for Chapter X.

shall be such as may be prescribed by the Central Government.

CHAPTER XI

LIABILITY AND LIMITATION OF LIABILITY

Liability under Act.	60. (1) The owner, operator, master, a member of crew or an insurer shall be liable for the offences and contraventions of the provisions of this Act or the rules made thereunder.	5
	(2) Where any person is beneficially interested otherwise than by way of mortgage or in the share in any mechanically propelled inland vessel registered in the name of some other person as owner, the person so interested, and the registered owner, shall be liable to all the pecuniary penalties imposed by this or any other Act on the owners of mechanically propelled inland vessels or shares therein.	
Apportionment of loss.	61. (1) Whenever by the fault of two or more mechanically propelled inland vessels, damage or loss is caused to one or more of them or to the cargo of one or more of them or to any property on board one or more of them, the liability to make good the damage or loss shall be in proportion to the degree in which each of such vessel was at fault:	10
	Provided that—	
	(a) if, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally;	15
	(b) nothing in this section shall operate so as to render any vessel liable for any loss or damage to which such vessel has not contributed;	
	(c) nothing in this section shall affect the liability of any person under any contract, or shall be construed as imposing any liability upon any person from which he is exempted by any contract or by the provisions of any law for the time being in force, or as affecting the right of any person to limit his liability in the manner provided by such law.	20
	(2) For the purposes of this Chapter, reference to damage or loss caused by the fault of a mechanically propelled inland vessel shall be construed as including reference to any salvage or other expenses, consequent upon that fault, recoverable under the provisions of any law for the time being in force by way of damages.	25
	(3) The person who has suffered damage or injured or his representative may apply to any court having appropriate jurisdiction on the claim, for the detention or attachment of the vessel.	30
Liability for personal injury, loss of life or pollution to environment.	62. (1) Where, loss of life or personal injuries is suffered, damage to property or pollution is caused by any person on any mechanically propelled inland vessel or any other vessel, owing to the fault of that vessel and of any other vessel or vessels, the liability of the owners of such vessels concerned shall be joint and several.	
	(2) No liability for any claim other than loss of life, personal injury or pollution, shall attach to the owner, operator, master, or a member of crew or insurer under this Chapter, if he proves that the cause for claim—	35
	(a) was a result of an act of war, hostility, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or	
	(b) was wholly caused by an act or omission with intent to cause such damage by any other person; or	40
	(c) was wholly caused by the negligence or other wrongful act of a State Government or other authority responsible for the maintenance of lights or other navigational aids in exercise of its functions in that behalf.	
Detention of mechanically propelled inland vessel.	63. The State Government may appoint or authorise any officer under this Chapter, for the purpose of detaining any mechanically propelled inland vessel in connection with a claim, or an offence under this Chapter, and the procedure thereof shall be such as may be prescribed by that Government.	45

64. (1) The owner, operator, master or any person in-charge of a vessel or member of crew of any mechanically propelled vessel may limit the extent of his liability for— Limitation of liability.

5 (a) claims in respect of loss of life or personal injury, or loss of, or damage to, property including damage to jetties, wharfs, harbour basins and waterways and aids to navigation, occurring on board or in direct connection with the operation of such vessels or with salvage operations, and consequential loss resulting therefrom;

(b) claims arising out of loss resulting from delay in the carriage of cargo and passengers or their luggage by inland waters;

10 (c) claims arising out of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of such vessel or salvage operations;

(d) claims in respect of the raising, removal, destruction or rendering harmless of a vessel or the cargo which is sunk, wrecked, stranded or abandoned;

15 (e) claims of a person, other than the person liable, in respect of measures taken by such person in order to avert or minimise loss and for further loss caused by such measure;

(f) claims for the loss of life or personal injury to passengers of such vessel brought by or on behalf of any person—

(i) under the contract of passenger carriage; or

20 (ii) who, with the consent of the carrier, is accompanying a vessel for live animals which are covered by a contract for the carriage of goods, carried in such vessel.

(2) Notwithstanding anything contained in this section, no person shall be entitled to limit his liability for—

25 (a) claims for salvage; or

(b) claims stipulated as exempted from the application of limitation of liability under any other law for the time being in force in India.

30 (3) Notwithstanding anything contained in this section, the act of invoking limitation of liability shall not be construed as constituting an admission of liability by any person who takes the defence.

(4) For the purposes of this Chapter, the liability of the owner or operator of a mechanically propelled inland vessel shall include the liability in an action brought against such vessels.

35 (5) The limits of liability and the criteria in determining compensation for any claim as provided under sub-section (1) shall be such as may be prescribed by the Central Government.

(6) The person entitled to limit liability under sub-section (1) may apply to the High Court of respective jurisdiction for constituting a limitation fund for the consolidated rate as provided for under this Chapter.

40 (7) Where a vessel or other property is detained in connection with a claim, covered under this Chapter, the High Court may order release of such vessel or other property, upon an application made by the person, who is entitled to limit their liability and by—

(a) ensuring that such person, who is entitled to constitute the limitation fund has submitted his availability in person to the jurisdiction of the High Court; or

45 (b) depositing sufficient fund or financial guarantee as determined by the High Court as security; or

(c) constituting the limitation fund,

as the case may be.

Non-
applicability
of limitation.

65. No person shall be entitled to limit the liability against any claim, if such claim has arisen due to intentional act or negligence of the person or his employee, who otherwise would have been entitled to limit his liability under this Chapter.

CHAPTER XII

INSURANCE OF MECHANICALLY PROPELLED VESSELS PLYING IN INLAND WATERS 5

Insurance to
cover.

66. No mechanically propelled vessel shall be used for voyage in inland waters, unless there is in force—

(a) a policy of insurance which shall cover liability that may be incurred by the insured—

(i) in respect of the death of or bodily injury to any person or damage to any property caused by or arising out of the use of the mechanically propelled vessel; 10

(ii) in respect of liability of operational pollution and accidental pollution of inland waters;

(b) a policy of insurance in compliance of the Public Liability Insurance Act, 1991, if the mechanically propelled inland vessel is carrying or meant to carry, dangerous or hazardous goods; 15 6 of 1991.

(c) a policy of insurance covering the mechanically propelled vessel to—

(i) a value not less than the liability incurred; or

(ii) entitle it to be covered under limitation of liability as provided under this Act, a value not less than the specified and applicable limitation amount: 20

Provided that any policy of insurance issued with a value not less than the limitation of liability in force, immediately before the commencement of this Act, shall continue to be effective for a period of twelve months after such commencement or till the date of expiry of such policy, whichever is earlier. 25

Contractual
liability not to
cover.

67. Notwithstanding anything contained in this Chapter, a policy shall not be required to cover any contractual liability of the insured that arises due to any performance or non-performance of a contract or of agreement in the capacity of a service provider.

Issuance and
terms of
insurance
policy.

68. (1) For the purposes of section 66, the policy of insurance issued shall be a policy, which— 30

(a) is issued by an authorised insurer;

(b) insures the mechanically propelled inland vessel, any person or any classes of persons specified in the policy to the extent specified in section 66; and

(c) is a certificate of insurance issued by the insurer to the insured in such form and content, and subject to such conditions as may be prescribed by the Central Government. 35

(2) The terms and conditions to be incorporated in the contract of insurance entered between insurer and insured to cover the risks as provided in section 66 shall be such as may be prescribed by the Central Government.

Duty to
indemnify and
direct action
against insurer.

69. (1) Notwithstanding anything contained in any law for the time being in force, an insurer issuing a policy of insurance under this section shall be liable to indemnify the insured or any person, as specified in the policy in respect of any liability which the policy purports to cover in the case of the insured or that person. 40

(2) Any claim for compensation against the loss or damage under this Act and covered by the insurance may be brought directly against the insurer in respect of the liability incurred by the registered owner. 45

39 of 1925. **70.** Notwithstanding anything contained in section 306 of the Indian Succession Act, 1925, the death of a person in whose favour a certificate of insurance had been issued, if it occurs after the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.

Effect of death on certain causes of action.

71. When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person, then,—

Effect of certificate of insurance.

(a) if and so long as the policy described in the certificate has not been issued by the insurer to the insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and

(b) if the insurer has issued to the insured the policy described in the certificate, but the actual terms of the policy are less favourable to the person claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate, the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate.

72. Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter transfers to another person, the ownership of the mechanically propelled vessel covered under this Chapter, in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the mechanically propelled inland vessel is transferred with effect from the date of its transfer.

Transfer of certificate of insurance.

Explanation.—For the removal of doubts, it is hereby clarified that such deemed transfer shall include transfer of rights and liabilities covered under the said certificate of insurance and the policy of insurance.

73. The Central Government shall, by rules made in this behalf, specify the terms, conditions and procedures to be complied with by the insurers and insured including—

Powers of Central Government to make rules for Chapter XII.

(a) cover note of insurance and its validity;

(b) rights and duties of the insured;

(c) procedures and processes involved in processing of claims;

(d) duties and obligations of the insurers to satisfy the judgments and awards;

(e) rights of claimants, liability of the insured and the insurers in special circumstances such as the insured becomes insolvent and the procedures to be followed;

(f) procedures, processes and minimum terms of conditions for the settlement between the insurers and insured persons;

(g) procedures to be followed in the transfer of certificate of insurance; and

(h) such other matters directly or indirectly related to insurance of mechanically propelled vessels, for the purposes of effective implementation and administration of this Chapter.

CHAPTER XIII

INQUIRY INTO CASUALTY, ACCIDENT OR WRECK

74. (1) The State Government, may by notification, appoint any designated authority for the purposes of this Chapter.

Reporting of casualty, accident, wreck, etc.

(2) The owner, operator or master of a mechanically propelled inland vessel, shall give information of any wreck, abandonment, damage, casualty, accident, explosion or loss occurred to or on board such a vessel while in the inland waters, to the officer in-charge of the nearest police station and to the designated authority appointed under sub-section (1), in such form and manner as may be prescribed by the State Government.

5

(3) The designated authority shall at once report the contents of the information referred to in sub-section (2) to the District Magistrate.

(4) The officer in-charge of the police station shall, on receipt of information referred to in sub-section (2), investigate into the matter and submit a report to the jurisdictional Judicial Magistrate in accordance with the provisions of Chapter XII of the Code of Criminal Procedure, 1973.

10
2 of 1974.

(5) The Judicial Magistrate may, on receiving the report referred to in sub-section (4), take action as he may deem fit in accordance with the provisions of Chapter XVI.

Preliminary enquiry by designated authority and inquiry by District Magistrate.

75. (1) The designated authority may, in pursuance of the information referred to in sub-section (2) of section 74, conduct a preliminary enquiry and submit a report thereof to the District Magistrate, who shall transmit the same to the concerned State Government.

15

(2) The State Government may, on receipt of the report referred to in sub-section (1), if deemed necessary, direct the District Magistrate to submit an additional report to it and send a copy thereof to the Judicial Magistrate of the first class referred to in sub-section (4) of section 74 through the jurisdictional police.

20

(3) The powers of the District Magistrate referred to in sub-section (2) and the procedures to be followed by him in holding the inquiry for submission of additional report shall be such as may be prescribed by the State Government.

Assessors.

76. (1) For the purposes of this Chapter, the State Government may appoint and maintain a list of assessors, which may be revised from time to time.

25

(2) The State Government shall, by rules made in this behalf, specify the qualifications, criteria and consideration, fees or charges for the assessors, who are conversant with the maritime affairs and have experience in the merchant service or in the navigation of the mechanically propelled inland vessels and willing to act as an assessor.

(3) The District Magistrate may, for the purposes of assisting in the inquiry under this Chapter, appoint any number of assessors, from the list of assessors provided to him by the State Government.

30

(4) In every inquiry, other than the one specified in sub-section (3), the District Magistrate may, if he thinks fit, appoint an assessor, for the purposes of such inquiry, any person.

(5) Every person appointed as an assessor under this section shall assist the District Magistrate in the inquiry and deliver his opinion as may be sought for, which shall be recorded in the proceedings.

35

Report of District Magistrate to be notified by State Government.

77. (1) The District Magistrate shall, in the case of every inquiry under this Chapter, make a full report of the conclusions at which he has arrived, together with the evidence recorded and the written opinion of any assessor.

40

(2) The State Government shall, on receipt of the report referred to in sub-section (1) from the District Magistrate, cause it to be published by notification in its Official Gazette.

Powers of District Magistrate subsequent to inquiry.

78. (1) The District Magistrate may, after inquiry, recommend in his report for cancellation or suspension or confiscation of a certificate of competency or a certificate of service granted to a master, crew or engineer by the State Government under Chapter VI, if such District Magistrate finds that—

45

(a) the accident or casualty, including loss, stranding or abandonment of, or damage to, any mechanically propelled inland vessel, or loss of life, has been caused by the wrongful act or default of such master or engineer;

(b) such master or engineer is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct, or in a case of collision, has failed to render such assistance or give such information or notice as may be required under this Act.

5 (2) At the conclusion of the inquiry, or as soon thereafter as possible, the District Magistrate shall state in open sitting, the decision arrived at by him with respect to the cancellation or suspension or confiscation of any certificate of competency or a certificate of service and, if suspension is ordered, the period for which the certificate is suspended.

(3) Without prejudice to the provisions of this section, the District Magistrate may
10 also make such order and require such security in respect of the costs of the matter as he may deem fit and necessary in the circumstances of the case.

79. (1) The State Government, in whose jurisdiction the certificate of competency or a certificate of service was granted under Chapter VI, may cancel or suspend any such certificate or, in the event of the vessel being found in the jurisdiction of another State Government,
15 such State Government may confiscate the certificate, if,—

Power of State Government to suspend, cancel and confiscate certificate.

(a) on any inquiry made under this Chapter, the District Magistrate reports for cancellation or suspension or confiscation of that certificate under section 78; or

(b) the holder of such certificate is proved to have been convicted of any non-bailable offence; or

20 (c) the holder of such certificate is proved to have deserted his vessel or has absented himself without leave and without sufficient reason, from his vessel or from his duty; or

(d) in the case of a person holding any designation as provided by the certificate of competency or certificate of service, is or has become, in the opinion of the State Government, unfit to act in such designation, as the case may be.
25

(2) Every person whose certificate of competency or a certificate of service is suspended or cancelled under this Chapter shall deliver it to such person as the State Government, which suspended or cancelled it, may direct.

(3) If any State Government cancels, suspends or confiscates the certificate of
30 competency or a certificate of service granted under Chapter VI, the proceedings and the fact of confiscation and recommendation for suspension or cancellation, shall be reported to the State Government which has originally issued, granted or endorsed such certificates.

(4) The State Government may, at any time, revoke any order of suspension or cancellation or confiscation which it may have made under this Chapter, or grant a certificate
35 anew, for reasons to be recorded in writing, to any person whose certificate it has so cancelled and such certificate granted anew, shall have the same effect as a certificate of competency granted under this Act after examination.

CHAPTER XIV

REGULATION OF TRADE PRACTICES

40 80. The Central Government may, prescribe the minimum standards, terms and conditions to protect the interests of service providers and service users and to ensure safety of such persons.

Powers of Central Government to protect interests of service providers and service users.

Prohibited goods and dangerous goods.	81. The Central Government shall, by notification, declare the list of dangerous goods that may be carried subject to such conditions, as may be prescribed by it, and prohibited goods that are prohibited from being carried on any class or category of mechanically propelled inland vessels, while plying in the inland waters.	
Trade permission and endorsement of certificates of foreign vessels.	82. (1) No vessel registered in any country other than India shall be permitted to be used or employed for the purposes of, carriage of goods, transportation of passengers, storage units, accommodation, floating units or for such other purposes within the inland waters, unless such vessel has secured prior permission from the Central Government for its use or employment for such purposes and subject to such terms and conditions as may be prescribed by the Central Government:	5 10
	Provided that, where the Central Government has entered or in the event of that Government entering into bilateral or multilateral treaties pertaining to the inland navigation, whereby the permission is provided to the vessels belonging to foreign countries to ply within inland waters of India, the Central Government or the State Government, as the case may be, shall impose or apply such vessels belonging to the foreign countries, with the same conditions to the service providers in India.	15
	(2) For the purposes of sub-section (1), any certificate granted by any other foreign country in accordance with the provisions of any law for the time being in force in that country corresponding to the provisions as provided in Chapters IV, V and VI under this Act may, on payment of such fees as may be prescribed by the Central Government, for the grant of a similar certificate or licence under this Act, be endorsed by—	20
	(a) any State Government in India; or	
	(b) with the general or special sanction and subject to such other terms and conditions of such State Government, by any authority competent to grant a similar certificate under this Act.	25
	(3) Upon endorsement of any such certificate as provided in sub-section (2), it shall have effect for such period and to such extent as may be prescribed by the Central Government and shall be treated as if it had been granted under this Act.	
	CHAPTER XV	
	PILOTAGE, VESSEL DETENTION AND DEVELOPMENT FUND	30
Pilotage.	83. (1) The Central Government may, by notification, specify the requirement of pilotage in whole or part of inland waterways declared as national waterways.	
	(2) The State Government may, by notification, specify the requirement of pilotage in whole or part or any stretch of designated inland waterways or such passages that lie within the respective territory of such State Governments and in respect of which the Central Government has not specified under sub-section (1).	35
Certified master to be deemed pilot under Act 15 of 1908.	84. Subject to the provisions of section 83, every master of any mechanically propelled inland vessel, who possesses a master's certificate granted under this Act and in force, shall, in ports to which section 31 of the Indian Ports Act, 1908 has been extended, be deemed, for the purposes of that section, to be the pilot of the mechanically propelled inland vessel of which he is in-charge.	40
Vessel detention and forfeiture.	85. (1) The State Government or any officer authorised under this Act may, detain, forfeit or remove from the inland waters, any mechanically propelled inland vessel, which is required to be registered under the provisions of this Act, if found—	
	(a) plying or being used in inland waters without a valid certificate of registration;	45
	(b) plying without a valid certificate of survey;	
	(c) plying with passengers beyond the permitted carrying capacity;	

(d) to have not affixed the registration number assigned to such vessels as provided under this Act;

(e) not complying with the manning requirements under Chapter VI;

(f) not complying with the provisions of Chapter VIII;

5 (g) to act in contravention to the provisions of Chapter X;

(h) not in compliance with the provisions of Chapter XII;

(i) to carry dangerous goods or prohibited goods in contravention to the provisions of section 81 or the rules made thereunder.

10 (2) The owner, operator or any such person recognised as responsible for the vessel under detention, shall pay the respective and applicable fees and charges for the safe custody and maintenance of the detained or forfeited vessel, which shall be pre-condition for release of the vessel and which if unpaid, shall create a lien over such vessel to comply with the provisions of this Act.

15 (3) Upon compliance with the provisions of this Act and the rules made thereunder, and after rectifying the mistakes that lead to detention, the State Government shall, without any unreasonable delay, release the vessel and her custody to the owner, operator or any such person recognised as responsible for the vessel under this Act.

20 (4) Unless specifically provided elsewhere in this Act, the procedures for detention, formality, fees and conditions to be followed and observed by the concerned officer or authority or court, appointed or authorised or constituted under this Act, for the purpose of detaining a vessel, shall be such as may be prescribed by the State Government.

(5) An officer so authorised to enter any vessel may, for the purpose of enforcing the order of detention or forfeiture, call to his aid, any police officer or any other person authorised under this Act or such other laws in force in India.

25 **86.** (1) There shall be a Fund constituted by the State Government to be called the Development Fund, to be utilised for—

Constitution
of
Development
Fund.

(a) meeting emergency preparedness;

30 (b) meeting containment of pollution caused by discharge of oil, mixtures, obnoxious substances, chemicals and other noxious and harmful substances, to preserve and protect inland waters;

(c) supporting, part or whole of expenses of owners or economically backward sector involved in activities of trade and living depending solely on inland waters;

(d) removal of unidentified wreck or obstruction affecting and impeding navigation; and

35 (e) boosting up development works of inland water navigation with respect to safety and convenience of conveyance.

(2) For the purposes of constitution of the Development Fund under sub-section (1), endeavour shall be made to design schemes of contribution from—

(a) the State Government;

40 (b) stake holders;

(c) the amount collected from sale of wreck or cargo or remains thereof after deducting the expenses incurred;

45 (d) excess fund out of judicial sale of vessels or any property or cargo after meeting the expenses incurred or set-off against the court to meet damages or functioning of the court or administrative machinery; and

(e) part or proportionate disbursement of fees collected by the respective State Government as provided in this Chapter.

CHAPTER XVI

OFFENCES AND PENALTIES

Offences and penalties.

87. (1) Whoever, contravenes any of the provisions of this Act, shall be punishable with penalty as mentioned in the third column of the Table provided in sub-section (2). 5

(2) The classification of offences for contravention of the provisions of this Act and the corresponding penalties therefor shall be as provided in the following Table, namely:—

Section	Offence	Penalty	
(1)	(2)	(3)	
8	Any owner, operator or construction yard, found guilty of construction, alteration or modification of mechanically propelled inland vessel in contravention of section 8.	Fine which may extend to ten thousand rupees for every non-compliance found.	10
14 (1)	Owner, operator or master of any mechanically propelled inland vessel, using such vessel, without a valid certificate of survey has acted in contravention of sub-section (1) of section 14.	Fine which may extend to ten thousand rupees for the first offence and twenty-five thousand rupees for subsequent offences.	15 20
18 (1)	Owner, operator or master of any mechanically propelled inland vessel proceeding on any voyage or use a mechanically propelled inland vessel required to be registered, for any service, without a valid certificate of registration and in contravention of sub-section (1) of section 18.	Fine which may extend to ten thousand rupees for the first offence and fifty thousand rupees for subsequent offences.	25 30
19 (1)	Owner or master who does not carry a valid certificate of registration or not making the same available for inspection, has acted in contravention of sub-section (1) of section 19.	Fine which may extend to ten thousand rupees for every non-compliance found.	35
24 (3)	Owner not displaying the official number on the conspicuous part of a vessel has acted in contravention of sub-section (3) of section 24.	Fine which may extend to ten thousand rupees.	40
27	Owner, operator or any person responsible for the operation of the vessel, has acted in contravention of section 27.	Fine which may extend to ten thousand rupees for the first offence and twenty-five thousand rupees for subsequent offences.	45

	(1)	(2)	(3)
5	28 (2)	Owner, operator or master of any mechanically propelled inland vessel not registering the details of alterations that are mandated to be registered as specified in sub-section (2) of section 28.	Fine which may extend to ten thousand rupees for the first offence and twenty-five thousand rupees for subsequent offences.
10	29	Owner or operator of any mechanically propelled inland vessel, who does not comply with the requirements or has acted in contravention of section 29.	Fine which may extend to five hundred rupees for every day of non-compliance.
15	30	Owner of any mechanically propelled inland vessel, has acted in contravention of section 30.	Fine which may extend to ten thousand rupees per day or imprisonment which may extend to one year, or with both.
20	32 (1)	Owner of any mechanically propelled inland vessel, has acted in contravention of sub-section (1) of section 32.	Fine which may extend to five thousand rupees for every day of non-compliance.
25	34 (2)	Owner or operator on whose vessel, persons under the age of eighteen years are employed, has acted in contravention of sub-section (2) of section 34.	Fine which may extend to five thousand rupees for every day of non-compliance or imprisonment not exceeding six months, or with both.
30	35	Owner or operator of any mechanically propelled inland vessel without complying with the specified minimum manning scale has acted in contravention to section 35.	Fine which may extend to ten thousand rupees for the first offence and twenty-five thousand rupees for subsequent offences.
35	40 (1) and (4)	The holders of certificate of competency, has acted in contravention to the provisions of this Act or not surrendered the suspended, cancelled or varied certificate issued under non-submission of suspended or cancelled certificates.	Fine up to five thousand rupees per day or imprisonment extending up to six months, or with both.
40	44	Owner or operator or any person responsible for the operation of special category vessel, which does not comply with the provisions of Chapter VII.	Fine which may extend to ten thousand rupees for every day of non-compliance or imprisonment extending up to six months, or with both.
45	47	Owner, operator or master of any mechanically propelled vessel registered, recognised or identified under this Act, for not equipping the vessels or exhibiting the lights and signals specified under Chapter VIII.	Fine which may extend to ten thousand rupees for the first offence and twenty-five thousand rupees for subsequent offences.
50			

(1)	(2)	(3)	
48	Owner, operator or master not ensuring safe navigation or causing damage due to non-observance of regulations.	Fine which may extend to twenty-five thousand rupees.	
49 and 50 (1)	Owner, operator or master of any mechanically propelled vessel plying in inland waters abstaining from proceeding to render assistance after answering to the distress signal.	Fine which may extend to ten thousand rupees.	5
51 (2)	The owner, operator or master of any mechanically propelled inland vessel proceeding to conduct any voyage without complying with the requirements of navigation aids, life-saving appliances, fire detection and extinguishing appliances and communication appliances as specified under sub-section (2) of section 51.	Fine which may extend up to fifty thousand rupees.	10
52 (2) and (3)	The owner, operator or master of any mechanically propelled vessel causing pollution by discharging or dumping of pollutants in inland waters.	Fine which may extend to fifty thousand rupees.	15
53 (4)	The owner, operator or master of any mechanically propelled vessel, who are required under this Act to possess a valid prevention of pollution certificate, plying or using the vessel without the said valid certificate.	Fine which may extend to twenty-five thousand rupees.	20
54 (2) and (5)	The owner or operator of any reception facility who does not comply with the standards and obligations stipulated.	Fine which may extend to fifty thousand rupees.	25
55 (4)	The owner or operator of the terminal who operates without complying with the notice issued under sub-section (4) of section 55.	Fine which may extend to ten thousand rupees per day of non-compliance beyond period of notice.	30
57	Any owner, operator or any person who intentionally cause wreck within inland waters.	Fine amounting to fifty thousand rupees and imprisonment which may extend to three years.	35
58 (2)	Any person who is guilty of offence committed by contravention of sub-section (2) of section 58.	Fine which may extend to ten thousand rupees.	40

	(1)	(2)	(3)
5	66	Any owner or master plying any mechanically propelled inland vessel without a valid insurance as provided under section 66.	Fine which may extend to ten thousand rupees and detention of the vessel till certificate of insurance is procured.
	74 (2)	The owner, operator or master of any mechanically propelled inland vessel not complying with sub-section (2) of section 74.	Fine which may extend to ten thousand rupees.
10	79 (2)	Any person who holds a certificate issued under Chapter VI and fails to surrender suspended or cancelled certificates.	Fine which may extend to ten thousand rupees for every day of non-submission.
15	80	Any person, in the capacity of a service provider or a service user, who acts in contravention of section 80.	Fine which may extend to fifty thousand rupees.
20	82	Master or operator of any foreign vessels acting in contravention of sub-section (1) of section 82.	Fine which may extend to fifty thousand rupees or imprisonment which may extend to one year, or with both.
25	83	Owner, operator or master of mechanically propelled inland vessel, who does not comply with the requirement of pilotage in contravention of section 83.	Fine which may extend to fifty thousand rupees or imprisonment which may extend to three years, or with both.
30	97	Any person employed on inland vessel for neglect or refusal to join or desertion of vessel in violation of his obligation as provided under section 97.	Forfeiture of a sum not exceeding two days' pay, and in addition for every twenty-four hours of absence, either a sum not exceeding six days' pay or any expenses properly incurred in hiring a substitute, from his wages and also to imprisonment which may extend to two months.
35			
40	102	Any person found guilty of causing obstruction or has acted in contravention of section 102.	Fine which may extend to fifty thousand rupees or imprisonment which may extend to three years, or with both.

(3) Any person who acts in contravention of the provisions of this Act or the rules made thereunder, but for which an offence is not specifically provided in this Act, shall be punishable with fine not exceeding three lakh rupees or with imprisonment up to a term which may extend to three years, or with both.

(4) Where the owner or master of any mechanically propelled inland vessel is convicted of an offence under this Act or any rule made thereunder, committed on board, or in relation

to that mechanically propelled vessel, and is sentenced to pay a fine, the Magistrate who passes the sentence may direct the amount of the fine to be levied by distress and sale of the mechanically propelled vessel, or its appurtenance so much thereof as is necessary.

(5) Where an inland vessel has been used in contravention of the provisions of this Act or the rules made thereunder, the details of the offence, the offender and the vessel shall be recorded in such form and manner, as may be specified by the Central Government by notification. 5

(6) The State Government shall appoint courts not inferior to that of a Magistrate of the first class, for the purpose of conducting trial of any person who is charged of any offence as provided under this Act or the rules made thereunder. 10

Offences by company, limited liability partnership firm or any such arrangement.

88. (1) Where an offence under this Act has been committed by a company or a limited liability partnership firm or any such arrangement, every person who, at the time the offence was committed was in-charge of, and was responsible to the company or the limited liability partnership firm or any such arrangement, for the conduct of the business, and the company or the limited liability partnership firm or any such arrangement, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: 15

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company or a limited liability partnership firm or any such arrangement and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or partner or other officer of the company or the limited liability partnership firm or any such arrangement, as the case may be, such director, manager, secretary or partner or other officer, as the case may be; shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 20 25

Fees, additional fee, payment and collection.

89. (1) Unless otherwise specified, the State Government shall collect, the fees and additional fees for the services provided under this Act and any other charges or payment made to it against payments towards penalties, at such rates and intervals, as may be prescribed by the State Government. 30

(2) The State Government shall appoint or authorise such officers, or constitute such offices within its jurisdictions, by notification, to act as single point collection offices within the districts or ports, considering proximity and convenience of remittance.

(3) The procedures, forms and format of receipts, maintenance of accounts and any other matter that is necessary for the purpose of the remittance, collection, accounts and accountability of collected fees, additional fees, charges or payment against penalties of pecuniary nature shall be such as may be prescribed by the State Government. 35

(4) The owner, operators or their representatives, as the case may be, shall remit the fees or additional fees in such manner and at such rates as may be prescribed by the State Government. 40

(5) All fees payable under this Act may be recovered as fine under this Act.

Cognizance of offence.

90. No court shall take cognizance of any offence under this Act, except on a complaint in writing made by the Central Government or any officer authorised by the State Government, as the case may be, for this purpose.

CHAPTER XVII

45

NON-MECHANICALLY PROPELLED INLAND VESSEL

Local self-governance.

91. (1) The State Government may authorise any of its department (herein in this Chapter referred to as the authorised department) to administer and implement the provisions of this Chapter.

(2) The office of the authorised department shall be located at such places which are accessible to owners, operators of non-mechanically propelled inland vessel and service users of such vessels.

(3) The offices of the authorised department shall in the order of hierarchy of power, be at district, taluk and panchayat or village level, or any other hierarchy as may be prescribed by the State Government, and shall exercise the powers and functions as may be prescribed by that Government, which shall include the powers and functions to—

(a) enrol the non-mechanically propelled inland vessel under this Chapter;

(b) collate data with regard to the non-mechanically propelled inland vessel enrolled under this Act and report it to the higher authority in the hierarchy of power;

(c) administer the welfare fund constituted under this Chapter in accordance with such authority and obligation;

(d) advise and conduct awareness programmes for assisting the owners, operators or service users of non-mechanically propelled inland vessel enrolled under this Act; and

(e) perform such other functions as may be assigned under this Act or the rules made thereunder.

92. (1) The owner or operator may enrol, by submitting the details of the ownership of non-mechanically propelled inland vessel, undertaking that the vessel is put into motion by solely employing human labour and such other details as may be prescribed by the State Government, at the office of the authorised department, which is located nearest to the place of residence of the owner or area of plying of the non-mechanically propelled inland vessel, in such form and manner as may be prescribed by the State Government.

Obligation to enrol.

(2) The form prescribed by the State Government under sub-section (1) shall be published in the respective vernacular language, apart from Hindi or English, as the case may be.

(3) For the purposes of identification and categorisation of non-mechanically propelled inland vessels, to be enrolled in accordance with the provisions of sub-section (1), the State Government shall publish such criteria for categorisation which may include the size, purpose of employment, age, construction, design or such other criteria of the vessels.

(4) The enrolment of non-mechanically propelled inland vessels shall be a prerequisite for such vessels to be entitled for the benefits and preferential treatment accorded under this Chapter.

(5) The details of the enrolled vessels shall be recorded in the registry of enrolment and be reported by the offices of lowest order in the hierarchy of power to the highest hierarchy and the collated list of enrolled vessels shall be maintained by the office of District Magistrate or such officer appointed or authorised under this Chapter, for the said purpose.

(6) The State Government shall maintain a central data base to record the details of the non-mechanically propelled inland vessel enrolled within the respective jurisdiction, in such form and manner as may be prescribed by it.

(7) The lowest ranking officer of the office of the authorised department shall report of any change to the registry of enrolment maintained by him and bring to the notice of the authority higher in the hierarchical order, and the changes shall be brought out accordingly, in every such register maintained by the respective authorities including the central data base maintained by the Principal Secretary or Secretary of the State Government.

93. (1) The officer of the authorised department appointed or authorised to maintain the registry under this Chapter, shall issue a certificate of enrolment to the non-mechanically propelled inland vessels that have enrolled in the registry of enrolment.

Certificate of enrolment and marking of vessel.

(2) The certificate of enrolment shall be issued, in such form and manner as may be prescribed by the respective State Government, and details to be specified in such certificate shall include—

- (a) name, permanent address as given in the Unique Identification Document issued by Unique Identification Authority of India, electoral identification document or such other document of the owner, as may be prescribed by the State Government; 5
- (b) details such as year of construction, laying of keel or such other information;
- (c) details of design, if identified or categorised under this Chapter;
- (d) details of officer issuing or granting the certificate; and
- (e) number given to the vessels enrolled by the issuing authority. 10

(3) The authorised department in every State shall issue a number to the non-mechanically propelled inland vessel enrolled within the respective jurisdiction, which shall be unique for the purpose of identification of enrolment with the authorised department of the respective State.

(4) The number so issued under sub-section (3) shall be exhibited on a conspicuous part of the non-mechanically propelled inland vessel in such form and manner as may be prescribed by the respective State Government. 15

Standards of construction and safety.

94. (1) The basic minimum standards that may be reasonably observed during the construction of any non-mechanically propelled inland vessel, shall be such as may be prescribed by the State Government. 20

(2) Notwithstanding anything contained in sub-section (1), the State Government shall specify, the standards of construction, which any class or category of non-mechanically propelled inland vessel shall comply with, in such manner as may be prescribed by it:

Provided that the standards prescribed by the State Government shall be in harmony with the traditional knowledge and practices passed on as customary or ancestral means that are applied by skilled and talented persons involved in the designing and construction of non-mechanically propelled inland vessel. 25

(3) The State Government may specify the minimum safety gears and equipment by notification in the Official Gazette with which the non-mechanically propelled inland vessel shall be equipped with for the purpose of ensuring safety of such vessels. 30

(4) The State Government may provide for standards of overhauling, modifying, altering or refitting the non-mechanically propelled inland vessel for the purpose of ensuring safe navigation.

(5) The non-mechanically propelled inland vessels enrolled under this Act, shall comply with the safety standards as stipulated under this Chapter or the rules made in this regard. 35

(6) For the purposes of ensuring safe navigation of non-mechanically propelled inland vessels, the State Government may, by notification, specify the routes, areas or stretch of inland waters that are prohibited from being used or subject to such terms and conditions, for the navigation of non-mechanically propelled inland vessel.

Power of State Government to make rules to regulate non-mechanically propelled inland vessels.

95. (1) The State Government may, by rules made in this behalf, specify the measures to regulate non-mechanically propelled inland vessels. 40

(2) For the purposes of sub-section (1), the State Government may make rules for the following, namely:—

- (a) for prevention and minimising pollution caused by the non-mechanically propelled inland vessels; 45
- (b) for removal of obstructions to safe navigation;

(c) measures that may be adopted to avert accidents and casualty; and

(d) any other measure which the State Government may deem fit in implementing the provisions of this Chapter.

5 **96.** (1) Every State Government shall, by notification, constitute a welfare fund at district level, for allocation of such fund to assist the non-mechanically propelled inland vessels enrolled under this Chapter.

Constitution of welfare fund.

10 (2) Any officer appointed or authorised under this Chapter to be in-charge of the fund for the non-mechanically propelled inland vessel shall, with the previous approval in writing of the respective State Government or such other authority appointed for the said purpose, utilise the fund to—

(a) create awareness and conduct knowledge dissemination sessions for educating the owner, operator and service user on improvements required for safe navigation;

(b) provide equipment and devices of safety and navigation at a subsidised rate;

15 (c) provide support or relief during casualties, accidents or such emergencies; and

(d) for such other purposes as it may deem fit.

CHAPTER XVIII

MISCELLANEOUS

20 **97.** No person employed or engaged in any capacity on board a mechanically propelled vessel shall—

Desertion and absence without leave.

(a) neglect or refuse, without reasonable cause, to join his mechanically propelled vessel or to proceed on any voyage in his vessel;

25 (b) cause to be absent from his vessel or from his duty at any time without leave and without sufficient cause;

(c) desert from his mechanically propelled vessel;

(d) fail to act or behave with discipline befitting his duty and mandate.

98. (1) The Central Government may make rules for—

General powers of Central Government to make rules.

30 (a) implementation of standards for the use of special category of vessels within inland waterways;

(b) providing the requirements and standards of—

(i) river information services;

(ii) vessel traffic and transport management, safety and information services;

35 (iii) vessel tracing and tracking information;

(iv) to tackle calamities and furtherance of emergency preparedness;

(v) to quarantine the vessels and to adopt such other measures to effectively control any epidemic or disease of contagious nature;

(c) enforcing standards to avoid and tackle pollution arising in inland waterways;

40 (d) exemption, inclusion or extension of the application of any or all the provisions of this Act to any vessel registered, recognised or identified and intended to ply, or plying in the inland waters;

(e) any other matter as it may deem fit and necessary in the proper implementation of this Act for the purposes of ensuring safe navigation, safety of life and prevention of pollution caused by inland vessel.

(2) For the purposes of administration of the notifications mentioned in sub-section (1), the Central Government or the State Government, as the case may be, shall authorise or appoint officers by notification. 5

Emergency preparedness.

99. (1) Every State Government may, appoint or authorise the advisory committee or officers, by notification, to take adequate measures, as may be prescribed by the State Government, to minimise or counter emergency.

(2) The owner, operator, master, crew or any other person connected with inland vessel plying in inland waters shall upon finding or apprehending a situation of crisis, which could adversely affect or is adversely affecting the safety of navigation, safety of human life or preservation of inland waters, inform or report the advisory committee or such other officers, appointed under sub-section (1) having respective jurisdiction or jurisdictions over such crisis that is found or is anticipated to affect adversely. 10 15

(3) The advisory committee or officers, who are appointed or authorised under sub-section (1), on receipt of information under sub-section (2), or as directed by the Central Government or the State Government or on their own initiative, may record the crisis as emergency and, shall adopt such measures as prescribed under sub-section (1), and such other measures which are feasible and in best of the judgment necessary to minimise or counter such emergency. 20

(4) The advisory committee or officers, appointed or authorised under sub-section (1) may request the navy, coast guard, any other emergency force, or any inland vessel available for such assistance as necessary.

(5) No mechanically propelled inland vessel directed or acting voluntarily in rendering assistance as mentioned in sub-section (4) shall be bound by the provisions of this Act or the rules made thereunder. 25

(6) Any mechanically propelled inland vessel acting voluntarily, for the purpose of saving life or vessel or providing basic amenities, shall report to the advisory committee or officers appointed or authorised under sub-section (1) regarding the presence and reasons for the acts in writing, at the earliest possible. 30

(7) The advisory committee or officers appointed or authorised under sub-section (1) shall disburse all basic amenities necessary and essential as it may deem fit, to the persons or vessels affected by such emergency.

(8) The advisory committee or officers appointed or authorised under sub-section (1) shall report to the Central Government or the State Government, the complete description of the events, consequences and such measures adopted under sub-section (3) and the effectiveness of such measures in countering the emergency. 35

Removal of lawful obstruction.

100. (1) If any obstruction or impediment to the navigation of any inland water has been lawfully made or has become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the authorised officer shall report the same for the information of the State Government and shall, with the sanction of the State Government, cause the same to be removed or altered, making reasonable compensation to the person suffering damage by such removal or alteration. 40

(2) Any dispute arising out of or concerning such compensation shall be determined according to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. 45 30 of 2013.

Validity of certificates issued under laws other than this Act.

101. (1) Every certificate issued in respect of any person or vessel, under any other enactment in force in India, by the Central Government, shall be valid and effective as a certificate issued under this Act and the relevant provisions of this Act shall apply in relation to such persons or vessel as they apply to, any person who has been issued with a certificate 50

under Chapter VI or any mechanically propelled inland vessel registered, recognised or identified under this Act.

(2) Notwithstanding anything contained herein, the State Government may impose additional conditions and requirements for the purpose of recognition of certificates as provided under sub-section (1).

102. No person shall wilfully cause obstruction or attempt to obstruct any authority or officer appointed under this Act in exercise of the respective functions and powers conferred upon such authority or officer, or in the discharge of any duty imposed by or under this Act; by abstinence, failure to facilitate inspection, or restraining or physically objecting the entry or movement or non-production of books or records as and when demanded by such authority or authorised officers.

Obstruction to officer appointed or authorised.

103. Whoever contravenes any of the provisions of this Act or the rules made thereunder, shall be triable for the offence in any place where he may be found or at the place of occurrence or at the place in the State where the offence has been committed or a place which the Central Government or the State Government, as the case may be, by notification, specify in this behalf, or any other place in which he might be tried under any other enactment for the time being in force.

Place of trial.

2 of 1974.

104. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on an application of the accused person, either before or after the institution of any prosecution, be compounded by competent authority or in the event of the matter being referred to the court of competent jurisdiction, such offence may be compounded by the competent authority with the permission of such court.

Composition of offences.

(2) The competent authority referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the appropriate Government.

(3) Every application for the compounding of an offence shall be made in such manner as may be prescribed.

(4) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(5) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought by the competent authority referred to in sub-section (1) in writing, to the notice of the court in which the prosecution is pending and on such notice of the composition of the offence being given, the person against whom the offence is so compounded shall be discharged.

(6) Any person who fails to comply with an order made by the competent authority referred to in sub-section (1), shall be liable to pay a sum equivalent to twenty per cent. of the maximum fine provided for the offence, in addition to such fine.

(7) No offence punishable under the provisions of this Act shall be compounded except under and in accordance with the provisions of this section.

105. (1) Unless otherwise provided in this Act, any person aggrieved by an order made by the officers or authorities under this Act, may appeal to the State Government against refusal, suspension, cancellation, detention, removal or such other order, issued under this Act, within thirty days from the date of receipt of such order.

Appeal.

(2) The State Government shall cause notice of every such appeal to be given to concerned officers or authorities whose order is made the subject matter of the appeal, and after giving an opportunity to the appellant; shall pass appropriate order by recording reasons thereof, which shall be final.

Power of
Central
Government
to make rules.

106. (1) For the purposes of effective implementation of the provisions of this Act, the Central Government shall, subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— 5

(a) the centralised record to be maintained in e-portal, for recording the data and details of vessel, vessel registration, crew, manning, certificates issued, reception facilities and such other data to be recorded under clause (f) of section 3;

(b) the requirements for compliance to be specified in a cover note for the purpose of issuance of certificate of insurance under clause (g) of section 3; 10

(c) the procedure to be laid down and rates to be specified so as to calculate the rate of extent of liability within which the owner or such other persons entitled under this Act, may limit the liability or be permitted to limit or cap the liability arising out of claims under clause (t) of section 3;

(d) the standard and number of persons required for safe manning and navigation of vessels under clause (z) of section 3; 15

(e) the classification, criteria for such classification and standards of design, construction, fitness and crew accommodation to classify or categorise any mechanically propelled inland vessel under sub-section (1) of section 7;

(f) the manner of carrying out construction and any alteration or modification of mechanically propelled inland vessels with the prior approval of design from the designated authority under section 8; 20

(g) the standards for type and periodicity of surveys for all mechanically propelled inland vessels, which are newly constructed and already in service under sub-section (1) and the form and content of request for survey to be submitted by the applicant under sub-section (2) of section 9; 25

(h) the minimum criteria and qualifications for the appointment of surveyors, which the State Governments shall adopt in the appointment of surveyors under section 10;

(i) the form of application for conducting survey to be submitted by owners, masters or construction yard under sub-section (1) of section 11; 30

(j) the form and contents of the declaration of survey of a mechanically propelled inland vessel and the time period for which such certificate shall be valid, under sub-section (1) of section 12;

(k) the form of the certificate of survey including any particulars or terms and conditions under sub-section (3) of section 12; 35

(l) the form of provisional certificate of survey and the period of validity provided under sub-section (1) of section 13;

(m) the terms and conditions to be complied with for permitting any mechanically propelled vessels registered under such laws of countries other than India; which shall only be permitted to ply within the inland waters under clause (c) of sub-section (2) of section 18; 40

(n) the form, contents or particulars of the book of registry as provided under sub-section (1) of section 21;

(o) the form and manner for maintenance of central data base for inland vessels by the officers appointed by the Central Government under section 22; 45

(p) the functions to be performed by the officers appointed by the Central Government under section 22;

5 (q) the form and manner of making application for registration of a mechanically propelled inland vessel and the particulars along with which such application is to be made under sub-section (1) of section 23;

(r) the list of documents to be submitted or adduced by the applicants for registration under sub-section (2) of section 23;

(s) the form and content of certificate of registration under sub-section (2) of section 24;

10 (t) the form of application, fee and the manner of issuance of provisional certificate of registration under sub-section (2) of section 27;

15 (u) the procedures to be complied with by the owner of any mechanically propelled inland vessel who ceases to be the owner or applies for the requirement of transfer of registry or any such circumstances leading to change of the registered address under sub-section (2) of section 29;

(v) the procedures for validating the transfer of mechanically propelled inland vessel from India to outside India under section 30;

20 (w) the time within which the owner of the mechanically propelled inland vessel shall report to the Registrar of Inland Vessels of the place where such vessel is registered, if that vessel is declared missing, destroyed, lost, abandoned or has been rendered permanently unfit for service or destined for scrapping or dismantling or sold abroad;

(x) the form of instrument creating the security for a mortgage for a loan or other valuable consideration under sub-section (1) of section 33;

25 (y) the manner and conditions governing mortgage and its procedures under sub-section (2) of section 33;

(z) the standards for qualification, training, training institute, examination and grant of competency certificates under sub-section (1) of section 34;

30 (za) the minimum manning scale applicable to different class or category of mechanically propelled inland vessels, categorised under this Act or such other laws for the time being in force in India, under section 35;

(zb) the criteria and qualifications for appointment of examiners under sub-section (1) of section 36;

(zc) the form, contents and particulars of certificate of competency specified under sub-section (3) of section 37;

35 (zd) the period of validity of certificate of service issued under sub-section (1) of section 38;

(ze) the form of certificate of service and the conditions subject to which such certificate is issued under sub-section (4) of section 38;

40 (zf) the conditions subject to which the certificate of competency shall be valid throughout India under section 39;

(zg) the intervals and manner in which the State Government shall report and update the Central Government with the information on data and details of certificates issued, granted, cancelled or suspended or such other remarks, made by the respective authority under sub-section (2) of section 41;

45 (zh) the criteria and standards to identify any class or category of mechanically propelled inland vessels as special category vessels based on their design, construction,

use, purpose, area of plying, source of energy or fuelling or any other criteria under sub-section (1) of section 42;

(zi) the requirements of construction, design, survey, registration, manning, qualification, competency, or the requirements in addition to those contained elsewhere in this Act under sub-section (2) of section 42; 5

(zj) the specifications and requirements of signals and equipment based on classification and categorisation of mechanically propelled vessels, to be complied with by such vessels under sub-section (1) of section 47;

(zk) the fog and distress signals to be carried and used, the steering and sailing rules to be complied with and the different protocols for exhibition and display of different standards of lights, shapes and signals, by any mechanically propelled vessel plying in inland waters under sub-section (2) of section 47; 10

(zl) the class or category of mechanically propelled inland vessels to be equipped with navigation aids, life saving appliances, fire detection and extinguishing appliances and communication appliances under sub-section (1) of section 51; 15

(zm) the standards to be followed by the owner or master of any mechanically propelled inland vessel and the manner for discharge or dispose of sewage and garbage under sub-section (2) of section 52;

(zn) the standards of construction and equipment of the mechanically propelled inland vessels to ensure compliance with the requirements of the provisions of Chapter IX under sub-section (1) of section 53; 20

(zo) the form, validity and content of prevention of pollution certificate under sub-section (3) of section 53;

(zp) the conditions for construction, use and maintenance of reception facilities for the containment of pollution and removal of pollutants arising from spillage or discharge arising from mechanically propelled inland vessels at all cargo terminals or passenger terminals under sub-section (1) of section 54; 25

(zq) the purposes for Chapter X as specified in clauses (a) to (g) of section 59;

(zr) the limits of liability and the criteria in determining compensation for any claim specified in sub-section (5) of section 64; 30

(zs) the form, content, and the conditions subject to which a certificate of insurance is issued by the insurer to the insured under clause (c) of sub-section (1) of section 68;

(zt) the terms and conditions to be incorporated in the contract of insurance entered between insurer and insured to cover the risks, as provided in section 66, under sub-section (2) of section 68; 35

(zu) the terms, conditions and procedures to be complied with by insurers and insured including those specified in clauses (a) to (h) therein, under section 73;

(zv) minimum standards, terms and conditions to protect the interests and to ensure safety of service providers and service users under section 80;

(zw) the conditions for carrying the list of dangerous goods under section 81; 40

(zx) the terms and conditions subject to which permission of the Central Government is granted for use or employment of a vessel, registered in any country other than India, for the purposes of, carriage of goods, transportation of passengers, storage units, accommodation, floating units or for such other purposes within the inland waters under sub-section (1) of section 82; 45

(zy) the fees for grant of a certificate or licence under this Act similar to any certificate granted by any other foreign country in accordance with the provisions of any law for the time being in force in that country under sub-section (2) of section 82;

(zz) the period and extent of validity of certificate granted under sub-section (2) of section 82, as specified in sub-section (3) of the said section;

5 (zza) any other matter which is required to be, or may be, prescribed under the provisions of this Act for the purpose of implementation and administration of such provisions.

107. (1) The State Government may, after previous publication, make rules for the provisions specified to be administered by it under this Act or as delegated to it by the Central Government for the purposes of effective implementation of the provisions of this Act. Power of State Government to make rules.

10 (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 requirements for the appointment of qualified persons as pilots under clause (zk) of section 3;

15 (b) the fee for issuance of certificate of survey under sub-section (2) of section 12;

(c) the manner and conditions subject to which any mechanically propelled inland vessel, which has been issued with a provisional certificate of survey or endorsement may proceed on voyage or use in service, temporarily, pending the issue of certificate of survey under sub-section (2) of section 13;

20 (d) the manner of issue the notice of suspension of certificate of survey to the owner, operator, master, or construction yard under sub-section (2) of section 15;

(e) the functions to be performed by the Registrar of Inland Vessels in respect to the port or place of registry for which he is appointed under sub-section (2) of section 20;

25 (f) the manner and period in which the Registrar of Inland Vessels shall report the details of the book of registry or entries made therein, to the State Government at regular intervals, under sub-section (2) of section 21;

(g) the fee for granting the certificate of registration to the applicant under sub-section (1) of section 24;

30 (h) other particulars to be contained in the certificate of registration under clause (e) of sub-section (2) of section 24;

(i) the conspicuous part of the vessel where the owner shall display the official number under sub-section (3) of section 24;

35 (j) the form and manner in which the registered owner shall apply for a duplicate certificate to the Registrar of Inland Vessels under sub-section (1) of section 26;

(k) the fees or additional fees for applying for a duplicate certificate to the Registrar of Inland Vessels under sub-section (2) of section 26;

40 (l) the form, manner and period within which the owner, operator or master of the mechanically propelled inland vessel shall make an application, for entry of alterations or modifications made, in the certificate of registration, under sub-section (1) of section 28;

(m) the fee for applying to the Registrar of Inland Vessels for registration of alterations under sub-section (2) of section 28;

(n) the conditions to be complied with and the period for such compliance to be stated in the notice of suspension issued by the Registrar of Inland Vessels under sub-section (4) of section 31;

(o) the form and manner for maintenance of registers to record, the details and data of the certificate, and the certificates specified therein, under sub-section (1) of section 41; 5

(p) the form of application, form of certificate of fitness and such other conditions including validity, subject to which and the manner of granting the certificate of fitness under sub-section (2) of section 43;

(q) the safety features, gears and such other measures by which any mechanically propelled inland vessel, identified as special category vessel, shall comply with and be equipped in accordance with the categorisation of such vessel, under sub-section (1) of section 44; 10

(r) the maximum carrying capacity of the vessel identified as special category vessel by specifying the safety waterline or the limits of load water line to keep them afloat, or such other criteria and conditions, for the safe voyage of such inland vessel under sub-section (2) of section 44; 15

(s) the rates of charges to be received by the owner or operator of all cargo terminals or passenger terminals, providing reception facilities shall receive charges under sub-section (3) of section 54; 20

(t) the form of report of compliance to be submitted by the owner or operator of the passenger or cargo terminal under sub-section (5) of section 54;

(u) the manner in which the owner, operator or master of any mechanically propelled vessel used or plying within inland waters, shall discharge the pollutants at the port reception facilities under sub-section (6) of section 54; 25

(v) the procedure for detaining any mechanically propelled inland vessel in connection with a claim, or an offence under section 63;

(w) the form and manner of giving information of any wreck, abandonment, damage, casualty, accident, explosion or loss occurred to or on board such a vessel while in the inland waters, to the officer in-charge of the nearest police station and to the designated authority appointed under sub-section (2) of section 74; 30

(x) the powers of the District Magistrate and the procedures to be followed in holding inquiry under sub-section (3) of section 75;

(y) the qualifications, criteria and consideration, fees or charges for the assessors, who have experience in the merchant service or in the navigation of the mechanically propelled inland vessels under sub-section (2) of section 76; 35

(z) the procedures for detention, formality, fees and conditions, if not specified in this Act, to be followed and observed by the concerned officer or authority or court, appointed or authorised or constituted under this Act, for the purpose of detaining a vessel, under sub-section (4) of section 85; 40

(za) the rates of fees and additional fees to be charged for the services provided under this Act, and any other charges or payment made to it against penalties of pecuniary nature to be collected by the State Government, and the intervals at which such fees, charges or penalties shall be collected, under sub-section (1) of section 89;

(zb) the procedures, forms and format of receipts, maintenance of accounts and any other matter that is necessary for the purpose of the remittance, collection, accounts and accountability of collected fees, additional fees, charges or payment against penalties of pecuniary nature under sub-section (3) of section 89;

5 (zc) the manner and rates of fees or additional fees, the owner, operators or their representatives, as the case may be, shall remit under sub-section (4) of section 89;

(zd) the hierarchy of the offices of the authorised department and the powers and functions to be exercised by such offices under sub-section (3) of section 91;

10 (ze) the authority and obligation to administer the welfare fund constituted for the purposes of Chapter XVII under clause (c) of sub-section (3) of section 91;

(zf) such other details to be submitted by the owner or operator of non-mechanically propelled inland vessel at the office of the authorised department and the form and manner of making such submission, under sub-section (1) of section 92;

15 (zg) the form and manner of central data base to record the details of non-mechanically propelled inland vessels under sub-section (6) of section 92;

(zh) the form and manner of issuance of certificate of enrolment and such other document containing details of the owner, to be specified in the said certificate, under sub-section (2) of section 93;

20 (zi) the form and manner of exhibiting a number issued to a non-mechanically propelled inland vessel under sub-section (4) of section 93;

(zj) the basic minimum standards that may be reasonably observed during the construction of any non-mechanically propelled inland vessel under sub-section (1) of section 94;

25 (zk) the manner of complying with the standards of construction specified by the State Government, by any class or category of non-mechanically propelled inland vessel under sub-section (2) of section 94;

(zl) the measures to regulate the non-mechanically propelled inland vessel under section 95;

30 (zm) the measures to be taken by the advisory committee or officers authorised in this behalf to minimise or counter emergency under sub-section (1) of section 99;

(zn) for the purposes of implementation and administration of Chapter XVII of this Act, pertaining to non-mechanically propelled inland vessels;

35 (zo) any other matter which is required to be, or may be, prescribed under the provisions of this Act.

108. The Central Government may, for carrying into execution of this Act in the State, give directions to the State Government, and the State Government shall abide by such directions.

Power of Central Government to give directions.

40 **109.** (1) No suit, prosecution or other legal proceeding shall lie against any person or officer appointed or authorised under this Act, in respect of anything done or intended to be done in good faith under this Act.

Protection of action taken in good faith.

(2) For the purpose of claiming immunity under sub-section (1), the officers appointed or authorised under this Act, shall perform and carry out the respective functions and responsibilities, with utmost care and due diligence.

45 **110.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of a period of three years, from the commencement of this Act.

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

Consistency with other laws.

111. (1) The provisions of this Act shall be in addition to, and not be construed in derogation of the provisions of any other law, and shall be construed as consistent with such law, for the time being in force. 5

(2) In the event of any conflict between a provision of this Act and a provision of any other law for the time being in force in the whole of India or restricted to the application within the territory of any State, the provision of this Act shall prevail to the extent of such conflict. 10

Suspension or alteration of application and operation of Act.

112. (1) The Central Government may, by notification, declare that all or any of the provisions, under this Act or the rules made thereunder—

(a) other than that provided for safety, manning and prevention of pollution, shall not apply to any specified class or category of the mechanically propelled inland vessels; or 15

(b) shall apply to any specified class or category of the mechanically propelled inland vessels with such modifications, as may be specified in the notification.

(2) Notwithstanding anything contained in this section, the Central Government may, by notification, suspend or relax to a specified extent, either indefinitely or for such period as may be specified in that notification, the operation of all or any of the provisions of this Act. 20

Laying of rules and notifications.

113. (1) Every rule made or notification issued under this Act, by the Central Government shall be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification. 25 30

(2) Every rule made or notification issued under this Act by the State Government shall, as soon as after it is made or issued, be laid before the State Legislature.

Repeal and savings.

114. (1) The Inland Vessels Act, 1917 is hereby repealed. 1 of 1917.

(2) Notwithstanding the repeal of the enactment referred to in sub-section (1),— 35

(a) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under the enactment hereby repealed shall, if it is not inconsistent with the provisions of this Act, continue to be in force unless and until revoked, and shall have effect as if it had been issued, made or granted under the corresponding provision of this Act; 40

(b) any officer appointed and anybody elected or constituted under any enactment hereby repealed shall continue and shall be deemed to have been appointed, elected or constituted unless specifically removed or replaced by appointment of officer or offices, as the case may be, under this Act;

(c) any document referring to the enactment hereby repealed shall be constructed as referring to this Act or to the corresponding provision of this Act; 45

(d) any fine levied or penalty imposed under the enactment hereby repealed may be recovered as if it had been levied under this Act;

(e) any offence committed under the enactment hereby repealed may be prosecuted and punished as if it had been committed under this Act;

(f) sailing vessels or sailing boats registered under the enactment hereby repealed shall be deemed to have been registered under the Act;

5 (g) mortgages of any mechanically propelled inland vessels recorded in any register book maintained at any port in India under the enactment hereby repealed shall be deemed to have been recorded in the register book under the corresponding provision of this Act;

10 (h) any licence, certificate of competency or service, certificate of survey, licenses or any other certificate or document issued, made or granted under the enactment hereby repealed and in force at the commencement of this Act shall be deemed to have been issued, made or granted under this Act and shall, unless cancelled under this Act, continue in force until the date shown in the certificate or document, as the case may be.

15 (3) The matters specifically provided in this section, shall not be held to prejudice or
X of 1897. affect the general application of section 6 of the General Clauses Act, 1897.

LOK SABHA

A

BILL

to promote economical and safe transportation and trade through inland waters, to bring uniformity in application of law relating to inland waterways and navigation within the country, to provide for safety of navigation, protection of life and cargo, and prevention of pollution that may be caused by the use or navigation of inland vessels, to ensure transparency and accountability of administration of inland water transportation, to strengthen procedures governing the inland vessels, their construction, survey, registration, manning, navigation and such other matters connected therewith or incidental thereto.

(As passed by Lok Sabha)

MGIPMRND—508LS—29-07-2021.

Bill No. 101 of 2021

THE ESSENTIAL DEFENCE SERVICES BILL, 2021

A

BILL

to provide for the maintenance of essential defence services so as to secure the security of nation and the life and property of public at large 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:—

1. (1) This Act may be called the Essential Defence Services Act, 2021.

(2) It extends to the whole of India.

5 (3) It shall be deemed to have come into force on the 30th day of June, 2021.

Short title,
extent and
commencement.

Definitions.

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

(a) "essential defence services" means—

(i) any service in any establishment or undertaking dealing with production of goods or equipment required for any purpose connected with defence; 5

(ii) any service in any establishment of, or connected with, the armed forces of the Union or in any other establishment or installation connected with defence;

(iii) any service in any section of any establishment connected with defence, on the working of which the safety of such establishment or employee employed therein depends; 10

(iv) any other service, as the Central Government may, by notification in the Official Gazette, declare to be essential defence services, the cessation of work of which would prejudicially affect the—

(I) production of defence equipment or goods; or 15

(II) operation or maintenance of any industrial establishment or unit engaged in production of goods or equipment required for any purpose connected with defence; or

(III) repair or maintenance of products connected with defence;

(b) "strike" means the cessation of work, go-slow, sit down, stay-in, token strike, sympathetic strike or mass casual leave, by a body of persons engaged in the essential defence services, acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so engaged to continue to work or to accept employment, and includes— 20

(i) refusal to work overtime, where such work is necessary for the maintenance of the essential defence services; 25

(ii) any other conduct which is likely to result in, or results in, cessation or retardation or disruption of work in the essential defence services.

(2) Words and expressions used herein and not defined but defined in the Industrial Disputes Act, 1947, shall have the meanings respectively assigned to them in that Act. 30 14 of 1947.

Power to prohibit strikes in essential defence services.

3. (1) If the Central Government is satisfied that in the—

(a) public interest; or

(b) interest of the sovereignty and integrity of India; or

(c) security of any State; or

(d) public order; or 35

(e) decency; or

(f) morality,

it is necessary or expedient so to do, it may, by general or special order, prohibit strikes in the essential defence services.

(2) An order made under sub-section (1) shall be published in such manner as the Central Government may deem fit to bring it to the notice of the persons affected by such order. 40

(3) An order made under sub-section (1) shall be in force for six months, but the Central Government may, by a like order, extend it for any period not exceeding six months, if it is satisfied that in the public interest it is necessary or expedient so to do. 45

(4) Upon the issue of an order made under sub-section (1)—

(a) no person engaged in the essential defence services shall go or remain on strike;

5 (b) any strike declared or commenced, whether before or after the issue of such order, by persons engaged or employed in such services shall be illegal.

4. Where any order has been issued under sub-section (1) of section 3, any police officer may take all such measures as such officer may deem fit including the use of police force, if he considers necessary, to remove any person, whose presence in any area connected with the—

Removal of persons.

10 (a) defence equipment production services; or

(b) operation or maintenance of any industrial establishment or unit engaged in production or manufacturing of goods or equipment required for any purpose connected with defence; or

(c) repair or maintenance of products connected with defence,

15 would be prejudicial to the functioning, safety or maintenance of the essential defence services.

5. (1) Any person—

(a) who commences a strike which is illegal under this Act or goes or remains on, otherwise takes part in, any such strike; or

20 (b) who instigates or incites other persons to commence, or go or remain on, or otherwise take part in, any such strike,

shall be liable to disciplinary action (including dismissal) in accordance with the same provisions as are applicable for the purpose of taking such disciplinary action (including dismissal) on any other ground under the terms and conditions of service applicable to him in relation to his employment.

Dismissal of employees participating in illegal strikes.

(2) Notwithstanding anything contained in any other law for the time being in force or under the terms and conditions of service applicable to any person employed in the essential defence services, before dismissing any person under sub-section (1), no inquiry shall be necessary if the authority empowered to dismiss or remove such person is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry.

30 6. Any person, who commences a strike which is illegal under this Act or goes or remains on, or otherwise takes part in, any such strike, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees, or with both.

Penalty for illegal strikes.

7. Any person, who instigates or incites other persons to take part in, or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifteen thousand rupees, or with both.

Penalty for instigation, etc.

40 8. Any person, who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifteen thousand rupees, or with both.

Penalty for giving financial aid to illegal strikes.

9. (1) If the Central Government is satisfied that in the—

45 (a) public interest; or

(b) interest of the sovereignty and integrity of India; or

(c) security of any State; or

Power to prohibit lock-outs in any industrial establishment or unit engaged in essential defence services.

- (d) public order; or
- (e) decency; or
- (f) morality,

it is necessary or expedient so to do, it may by general or special order, prohibit lock-outs in the industrial establishments or units engaged in the essential defence services. 5

(2) An order made under sub-section (1) shall be published in such manner as the Central Government may deem fit to bring it to the notice of the persons affected by such order.

(3) An order made under sub-section (1) shall be in force for six months, but the Central Government may, by a like order extend it for any period not exceeding six months, if it is satisfied that in the public interest it is necessary so to do. 10

(4) Upon the issue of an order under sub-section (1),—

(a) no employer engaged in the essential defence services shall commence any lock-out; and

(b) any lock-out declared or commenced, whether before or after the issue of such order, by any employer engaged in the essential defence services shall be illegal. 15

(5) Any employer of an industrial establishment or unit engaged in the essential defence services, who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this section, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees, or with both. 20

Power to prohibit lay-off in any industrial establishment or unit engaged in essential defence services.

10. (1) If the Central Government is satisfied that in the—

- (a) public interest; or
- (b) interest of the sovereignty and integrity of India; or 25
- (c) security of any State; or
- (d) public order; or
- (e) decency; or
- (f) morality,

it is necessary or expedient so to do, it may, by general or special order, prohibit lay-off, on any ground other than shortage of power or natural calamity, of any workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of any industrial establishment or unit engaged in the essential defence services. 30

(2) An order made under sub-section (1) shall be published in such manner as the Central Government may deem fit to bring it to the notice of the persons affected by the order. 35

(3) An order made under sub-section (1) shall be in force for six months, but the Central Government may, by a like order, extend it for any period not exceeding six months, if it is satisfied that in the public interest it is necessary or expedient so to do.

(4) Upon the issue of an order under sub-section (1),— 40

(a) no employer in relation to an establishment to which such order applies shall lay-off or continue the lay-off any workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of any industrial establishment or unit engaged in the essential defence services, unless such lay-off is

due to shortage of power or natural calamity, and any laying-off or continuation of laying-off shall, unless such laying-off or continuation of laying-off is due to shortage of power or natural calamity, be illegal;

(b) a workman whose laying-off is illegal under clause (a) shall be entitled to all the benefits under any law for the time being in force as if he had not been laid-off.

(5) Any employer, of an industrial establishment or unit engaged in the essential defence services, who lays-off or continues the laying-off of any workman shall, if such laying-off or continuation of laying-off is illegal under this section, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees, or with both.

2 of 1974. **11.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any police officer may arrest without warrant any person who is reasonably suspected to have committed any offence under this Act. Power to arrest without warrant.

2 of 1974. **12.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be tried in a summary way by any Metropolitan Magistrate or any Judicial Magistrate of the first class, specially empowered in this behalf by the State Government and the provisions of sections 262 to 265 (inclusive) of the said Code shall, as far as may be, apply to such trial: Offences to be tried summarily.

20 Provided that in a case of conviction for any offence in a summary trial under this section, it shall be lawful for such Magistrate to pass a sentence of imprisonment for any term for which such offence is punishable under this Act.

2 of 1974. **13.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act shall be cognizable and non-bailable. Cognizance of offences.

25 **14.** Any reference in this Act to any law which is not in force in any area and to any authority under such law shall, in relation to that area, be construed as a reference to the corresponding law in force in that area and to the corresponding authority under such corresponding law. Reference of other laws in certain areas.

30 **15.** No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer for anything which is in good faith done or intended to be done under this Act. Protection of action taken in good faith.

14 of 1947. **16.** The provisions of this Act and of any order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force. Act to override other laws.

35 **17.** In the Industrial Disputes Act, 1947, in section 2, in clause (n), in sub-clause (ia), for the words "or dock", the words "or dock or any industrial establishment or unit engaged in essential defence services" shall be substituted. Amendment of Act 14 of 1947.

40 **18.** Every notification issued under this Act shall be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in such notification or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything 45 previously done under that notification. Laying of notifications before Parliament.

Ord. 7 of 2021. **19.** (1) The Essential Defence Services Ordinance, 2021 is hereby repealed. Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Indian Ordnance Factories is the oldest and largest industrial setup which functions under the Department of Defence Production of the Ministry of Defence. The ordnance factories form an integrated base for indigenous production of defence hardware and equipment, with the primary objective of self reliance in equipping the armed forces with state of the art battlefield equipments. In order to improve autonomy, accountability and efficiency in ordnance supplies, the Government decided to convert the Ordnance Factory Board into one or more one hundred per cent. Government owned corporate entity or entities to be registered under the provisions of the Companies Act, 2013.

2. Against the said decision, the recognised federations of the employees gave a notice for an indefinite strike. The conciliation proceedings initiated by the Government at the level of Chief Labour Commissioner failed in the meeting held on the 15th June, 2021. On the 16th June, 2021, the Government decided to convert the Ordnance Factory Board into seven Defence Public Sector Undertakings.

3. In spite of the Government's assurance to take care of the conditions of service of the employees of the Ordnance Factory Board, the recognised federations of the employees have reiterated their intention to go on indefinite strike from 26th July, 2021.

4. Since, it is essential that an uninterrupted supply of ordnance items to the armed forces be maintained for the defence preparedness of the country and the ordnance factories continue to function without any disruptions, especially in view of the prevailing situation on the northern front of the country, it was felt necessary that the Government should have power to meet the emergency created by such attempts and ensure the maintenance of essential defence services in all establishments connected with defence, in public interest or interest of the sovereignty and integrity of India or security of any State or decency or morality.

5. As Parliament was not in session and urgent legislation was required to be made, the President promulgated the Essential Defence Services Ordinance, 2021 on the 30th June, 2021, which, *inter alia*, provides for the following, namely:—

(a) to define the expressions "essential defence services" and "strike";

(b) to empower the Central Government to prohibit strike in essential defence services;

(c) to provide for disciplinary action, including dismissal, against employees participating in strike;

(d) to provide for penalties for illegal strikes, instigation thereof and providing for financial aid to such illegal strikes;

(e) confer power on any police officer to arrest without warrant any person who is reasonably suspected to have committed any offence under the proposed legislation.

6. The Essential Defence Services Bill, 2021 seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 13th July, 2021.

RAJNATH SINGH.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 2 of the Bill empowers the Central Government to declare, by notification in the Official Gazette, any other service other than those specified in the said sub-clause to be essential defence services, the cessation of work of which would prejudicially affect the production of defence equipment or goods; or the operation or maintenance of any industrial establishment or unit engaged in production of goods or equipment required for any purpose connected with defence; or repair or maintenance of products connected with defence.

2. Sub-clause (1) of clause 3 of the Bill empowers the Central Government to prohibit strikes in the essential defence services by general or special order, if it is satisfied that in the public interest; or interest of the sovereignty and integrity of India; or security of any State; or public order; or decency; or morality, it is necessary or expedient so to do.

3. Sub-clause (1) of clause 9 of the Bill empowers the Central Government to prohibit lock-outs in any industrial establishment or unit engaged in essential defence services by general or special order, if it is satisfied that in the public interest; or interest of the sovereignty and integrity of India; or security of any State; or public order; or decency; or morality, it is necessary or expedient so to do.

4. Sub-clause (1) of clause 10 of the Bill empowers the Central Government to prohibit lay-off on any ground other than shortage of power or natural calamity, of any workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of any industrial establishment or unit engaged in the essential defence services, by general or special order, if it is satisfied that in the public interest; or interest of the sovereignty and integrity of India; or security of any State; or public order; or decency; or morality, it is necessary or expedient so to do.

5. The matters in respect of which the aforementioned notification or orders may be issued are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACT FROM THE INDUSTRIAL DISPUTES ACT, 1947
(14 OF 1947)

Definitions. * * * * *

2. In this Act, unless there is anything repugnant in the subject or context,—

 * * * * *

 (n) "public utility service" means—

 * * * * *

 (ia) any service in, or in connection with the working of, any major
port or dock;

 * * * * *

LOKSABHA

A

BILL

to provide for the maintenance of essential defence services so as to secure the security of nation and the life and property of public at large and for matters connected therewith or incidental thereto.

(Shri Rajnath Singh, Minister of Defence)

MGIPMRND—329LS—16-07-2021.