



GOVERNMENT OF TAMIL NADU  
2009

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# TAMIL NADU GOVERNMENT GAZETTE

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## Part IV—Section 4

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**ACTS OF PARLIAMENT ASSENTED TO BY THE PRESIDENT  
GOVERNMENT OF INDIA**

**MINISTRY OF LAW AND JUSTICE**

**(Legislative Department)**

*New Delhi, the 5th January, 2009.*

The following Act of Parliament received the assent of the President on the 2nd January, 2009 and is hereby published for general information:—

**THE GOVERNORS (EMOLUMENTS, ALLOWANCES AND PRIVILEGES)  
AMENDMENT ACT, 2008**

**ACT No. 1 OF 2009**

*An Act further to amend the Governors (Emoluments, Allowances and Privileges) Act, 1982.*

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

1. This Act may be called the Governors (Emoluments, Allowances and Privileges) Amendment Act, 2008.

Short title.

43 of 1982.

2. In the Governors (Emoluments, Allowances and Privileges) Act, 1982 (hereinafter referred to as the principal Act), in section 2, in clause (c), for the words “spouse and the dependent children”, the words “spouse, dependent children and the dependent parents” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of January, 2007.

Amendment of section 2.

3. In section 3 of the principal Act, for the words “rupees thirty-six thousand per mensem”, the words “rupees one lakh ten thousand per mensem” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of January, 2006.

Amendment of section 3.

Powers to  
remove  
difficulties.

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

Provided that no order shall be made under this section after the expiry of two years from the date on which this Act comes into force.

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

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*

*New Delhi, the 9th January, 2009.*

The following Act of Parliament received the assent of the President on the 7th January, 2009 and is hereby published for general information:—

THE CONSTITUTION (SCHEDULED TRIBES) (UNION TERRITORIES) ORDER  
(AMENDMENT) ACT, 2008

**ACT No. 2 OF 2009**

*An Act further to amend the Constitution (Scheduled Tribes) (Union Territories) Order, 1951.*

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

1. This Act may be called the Constitution (Scheduled Tribes) (Union Territories) Order (Amendment) Act, 2008. Short title.

2. In the Schedule to the Constitution (Scheduled Tribes) (Union Territories) Order, 1951, in PART I.—*Lakshadweep*, the following proviso and *Explanation* shall be inserted at the end, namely:— Amendment  
of Part I of  
Constitution  
(Scheduled  
Tribes)  
(Union  
Territories)  
Order, 1951.

'Provided that the children who are born to inhabitants of Lakshadweep in any other place in the mainland of India shall be deemed to be inhabitants born in the islands if such children settle permanently in the islands. Reg. 4 of 1994.

*Explanation.*— The term “settle permanently” shall have the same meaning as defined under clause 3(1)(d) of the Lakshadweep Panchayats Regulation, 1994.'

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*



*New Delhi, the 9th January, 2009.*

The following Act of Parliament received the assent of the President on the 7th January, 2009 and is hereby published for general information:—

THE POST-GRADUATE INSTITUTE OF MEDICAL EDUCATION AND  
RESEARCH, CHANDIGARH (AMENDMENT) ACT, 2008

**ACT No. 3 OF 2009**

*An Act further to amend the the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966*

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

1. (1) This Act may be called the Post-Graduate Institute of Medical Education and Research, Chandigarh (Amendment) Act, 2008. Short title and commencement.

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

51 of 1966. 2. In the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966 (hereinafter referred to as the principal Act), for section 23, the following section shall be substituted, namely:— Substitution of new section for section 23.

“23. Notwithstanding anything contained in any other law for the time being in force, the Institute shall have power to grant medical, dental or nursing degrees, diplomas and other academic distinctions and titles under this Act.”. Grant of medical, dental or nursing degrees, diplomas, etc., by the Institute.

Substitution of  
new section  
for section 24.

3. For section 24 of the principal Act, the following section shall be substituted,  
namely:—

Recognition  
of medical,  
dental and  
nursing  
qualifications  
granted by the  
Institute.

“24. Notwithstanding anything contained in the Indian Medical Council Act, 1956, the Dentists Act, 1948 and the Indian Nursing Council Act, 1947, the medical dental or nursing degrees or diplomas, as the case may be, granted by the Institute under this Act shall be recognised—

102 of 1956.  
16 of 1948.  
48 of 1947.

(a) medical qualifications for the purpose of the Indian Medical Council Act, 1956 and shall be deemed to be included in the First Schedule to that Act;

(b) dental qualifications for the purpose of the Dentists Act, 1948 and shall be deemed to be included in the Schedule to that Act; and

(c) nursing qualifications for the purpose of the Indian Nursing Council Act, 1947 and shall be deemed to be included in the Schedule to that Act.”.

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*



*New Delhi, the 9th January, 2009.*

The following Act of Parliament received the assent of the President on the 7th January, 2009 and is hereby published for general information:—

THE GRAM NYAYALAYAS ACT, 2008

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

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

CHAPTER II

GRAM NYAYALAYA

3. Establishment of Gram Nyayalayas.
4. Headquarters of Gram Nyayalaya.
5. Appointment of Nyayadhikari.
6. Qualifications for appointment of Nyayadhikari.
7. Salary, allowances and other terms and conditions of service of Nyayadhikari.
8. Nyayadhikari not to preside over proceedings in which he is interested.
9. Nyayadhikari to hold mobile courts and conduct proceedings in villages.
10. Seal of Gram Nyayalaya.

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JURISDICTION, POWERS AND AUTHORITY OF GRAM NYAYALAYA

11. Jurisdiction of Gram Nyayalaya.
12. Criminal jurisdiction.
13. Civil jurisdiction.
14. Power to amend Schedules.
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17. Duties of ministerial officers.

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PROCEDURE IN CRIMINAL CASES

18. Overriding effect of Act in criminal trial.
19. Gram Nyayalaya to follow summary trial procedure.
20. Plea bargaining before Gram Nyayalaya.
21. Conduct of cases in Gram Nyayalaya and legal aid to parties.
22. Pronouncement of judgment.

## CHAPTER V

## PROCEDURE IN CIVIL CASES

## SECTIONS

23. Overriding effect of Act in Civil Proceedings
24. Special procedure in civil disputes.
25. Execution of decrees and orders of Gram Nyayalaya.
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40. Power of State Government to make rules.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

## THE GRAM NYAYALAYAS ACT, 2008

**ACT No. 4 OF 2009**

*An Act to provide for the establishment of Gram Nyayalayas at the grass roots level for the purposes of providing access to justice to the citizens at their doorsteps and to ensure that opportunities for securing justice are not denied to any citizen be reason of social, economic or other disabilities and for matters connected therewith or incidental thereto.*

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Gram Nyayalayas Act, 2008.

(2) It extends to the whole of India except the State of Jammu and Kashmir, the State of Nagaland, the State of Arunachal Pradesh, the State of Sikkim and to the tribal areas.

Short title,  
extent and  
commencement.

*Explanation.*—In this sub-section, the expression “tribal areas” means the areas specified in Parts I, II, IIA and III of the Table below paragraph 20 of the Sixth Schedule to the Constitution within the State of Assam, the State of Meghalaya, the State of Tripura and the State of Mizoram, respectively.

(3) It shall come into force on such date as the Central Government may, by notification published in the Official Gazette, appoint; and different dates may be appointed for different States.

Definitions.

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

(a) “Gram Nyayalaya” means a court established under sub-section (1) of section 3;

(b) “Gram Panchayat” means an institution (by whatever name called) of self-government constituted, at the village level, under article 243B of the Constitution, for the rural areas;

(c) “High Court” means,—

(i) in relation to any State, the High Court for that State;

(ii) in relation to a Union territory to which the jurisdiction of the High Court for a State has been extended by law, that High Court;

(iii) in relation to any other Union territory, the highest Court of criminal appeal for that territory other than the Supreme Court of India;

(d) “notification” means a notification published in the Official Gazette and the expression “notified” shall be construed accordingly;

(e) “Nyayadhikari” means the presiding officer of a Gram Nyayalaya appointed under section 5;

(f) “Panchayat at intermediate level” means an institution (by whatever name called) of self-government constituted, at the intermediate level, under article 243B of the Constitution, for the rural areas in accordance with the provisions of Part IX of the Constitution;

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

(h) “Schedule” means the Schedule appended to this Act;

(i) “State Government”, in relation to a Union territory, means the administrator thereof appointed under article 239 of the Constitution;

(j) words and expressions used herein and not defined but defined in the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 shall have the meanings respectively assigned to them in those Codes.

5 of 1908.  
2 of 1974.

## CHAPTER II

### GRAM NYAYALAYA

Establishment  
of Gram  
Nyayalayas.

3. (1) For the purpose of exercising the jurisdiction and powers conferred on a Gram Nyayalaya by this Act, the State Government, after consultation with the High Court, may, by notification, establish one or more Gram Nyayalayas for every Panchayat at intermediate level or a group of contiguous Panchayats at intermediate level in a district or where there is no Panchayat at intermediate level in any State, for a group of contiguous Gram Panchayats.

(2) The State Government shall, after consultation with the High Court, specify, by notification, the local limits of the area to which the jurisdiction of a Gram Nyayalaya shall extend and may, at any time, increase, reduce or alter such limits.

(3) The Gram Nyayalayas established under sub-section (1) shall be in addition to the courts established under any other law for the time being in force.

4. The headquarters of every Gram Nyayalaya shall be located at the headquarters of the intermediate Panchayat in which the Gram Nyayalaya is established or such other place as may be notified by the State Government. Headquarters of Gram Nyayalaya.
5. The State Government shall, in consultation with the High Court, appoint a Nyayadhikari for every Gram Nyayalaya. Appointment of Nyayadhikari.
6. (1) A person shall not be qualified to be appointed as a Nyayadhikari unless he is eligible to be appointed as a Judicial Magistrate of the first class. Qualifications for appointment of Nyayadhikari.
- (2) While appointing a Nyayadhikari, representation shall be given to the members of the Scheduled Castes, the Scheduled Tribes, women and such other classes or communities as may be specified by notification, by the State Government from time to time.
7. The salary and other allowances payable to, and the other terms and conditions of service of, a Nyayadhikari shall be such as may be applicable to the Judicial Magistrate of the first class. Salary, allowances and other terms and conditions of service of Nyayadhikari.
8. The Nyayadhikari shall not preside over the proceedings of a Gram Nyayalaya in which he has any interest or is otherwise involved in the subject matter of the dispute or is related to any party to such proceedings and in such a case, the Nyayadhikari shall refer the matter to the District Court or the Court of Session, as the case may be, for transferring it to any other Nyayadhikari. Nyayadhikari not to preside over proceedings in which he is interested.
9. (1) The Nyayadhikari shall periodically visit the villages falling under his jurisdiction and conduct trial or proceedings at any place which he considers is in close proximity to the place where the parties ordinarily reside or where the whole or part of the cause of action had arisen: Nyayadhikari to hold mobile courts and conduct proceedings in villages.
- Provided that where the Gram Nyayalaya decides to hold mobile court outside its headquarters, it shall give wide publicity as to the date and place where it proposes to hold mobile court.
- (2) The State Government shall extend all facilities to the Gram Nyayalaya including the provision of vehicles for holding mobile court by the Nyayadhikari while conducting trial or proceedings outside its headquarters.
10. Every Gram Nyayalaya established under this Act shall use a seal of the court in such form and dimensions as may be prescribed by the High Court with the approval of the State Government. Seal of Gram Nyayalaya.

## CHAPTER III

## JURISDICTION, POWERS AND AUTHORITY OF GRAM NYAYALAYA

- 2 of 1974.  
5 of 1908. 11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or the Code of Civil Procedure, 1908 or any other law for the time being in force, the Gram Nyayalaya shall exercise both civil and criminal jurisdiction in the manner and to the extent provided under this Act. Jurisdiction of Gram Nyayalaya.
- 2 of 1974. 12. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force, the Gram Nyayalaya may take cognizance of an offence on a complaint or on a police report and shall— Criminal jurisdiction.
- (a) try all offences specified in Part I of the First Schedule; and
- (b) try all offences and grant relief, if any, specified under the enactments included in Part II of that Schedule.

(2) Without prejudice to the provisions of sub-section (1), the Gram Nyayalaya shall also try all such offences or grant such relief under the State Acts which may be notified by the State Government under sub-section (3) of section 14.

Civil jurisdiction.

13. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law for the time being in force, and subject to sub-section (2), the Gram Nyayalaya shall have jurisdiction to—

5 of 1908.

(a) try all suits or proceedings of a civil nature falling under the classes of disputes specified in Part I of the Second Schedule;

(b) try all classes of claims and disputes which may be notified by the Central Government under sub-section (1) of section 14 and by the State Government under sub-section (3) of the said section.

(2) The pecuniary limits of the Gram Nyayalaya shall be such as may be specified by the High Court, in consultation with the State Government, by notification, from time to time.

Power to amend Schedules.

14. (1) Where the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, add to or omit any item in Part I or Part II of the First Schedule or Part II of the Second Schedule, as the case may be, and it shall be deemed to have been amended accordingly.

(2) Every notification issued under sub-section (1) shall be laid before each House of Parliament.

(3) If the State Government is satisfied that it is necessary or expedient so to do, it may, in consultation with the High Court, by notification, add to any item in Part III of the First Schedule or Part III of the Second Schedule or omit from it any item in respect of which the State Legislature is competent to make laws and thereupon the First Schedule or the Second Schedule, as the case may be, shall be deemed to have been amended accordingly.

(4) Every notification issued under sub-section (3) shall be laid before the State Legislature.

Limitation.

15. (1) The provisions of the Limitation Act, 1963 shall be applicable to the suits triable by the Gram Nyayalaya.

36 of 1963.

(2) The provisions of Chapter XXXVI of the Code of Criminal Procedure, 1973 shall be applicable in respect of the offences triable by the Gram Nyayalaya.

2 of 1974.

Transfer of pending proceedings.

16. (1) The District Court or the Court of Session, as the case may be, with effect from such date as may be notified by the High Court, may transfer all the civil or criminal cases, pending before the courts subordinate to it, to the Gram Nyayalaya competent to try or dispose of such cases.

(2) The Gram Nyayalaya may, in its discretion, either retry the cases or proceed from the stage at which it was transferred to it.

Duties of ministerial officers.

17. (1) The State Government shall determine the nature and categories of the officers and other employees required to assist a Gram Nyayalaya in the discharge of its functions and provide the Gram Nyayalaya with such officers and other employees as it may think fit.

(2) The salaries and allowances payable to, and other conditions of service of, the officers and other employees of the Gram Nyayalaya shall be such as may be prescribed by the State Government.

(3) The officers and other employees of a Gram Nyayalaya shall perform such duties as may, from time to time, be assigned to them by the Nyayadhikari.

## CHAPTER IV

## PROCEDURE IN CRIMINAL CASES

- 2 of 1974. **18.** The provisions of this Act shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a Court of Judicial Magistrate of the first class. Overriding effect of Act in criminal trial.
- 2 of 1974. **19.** (1) Notwithstanding anything contained in sub-section (1) of section 260 or sub-section (2) of section 262 of the Code of Criminal Procedure, 1973, the Gram Nyayalaya shall try the offences in a summary way in accordance with the procedure specified in Chapter XXI of the said Code and the provisions of sub-section (1) of section 262 and sections 263 to 265 of the said Code, shall, so far as may be, apply to such trial. Gram Nyayalaya to follow summary trial procedure.
- 2 of 1974. (2) When, in the course of a summary trial, it appears to the Nyayadhikari that the nature of the case is such that it is undesirable to try it summarily, the Nyayadhikari shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided under the Code of Criminal Procedure, 1973.
- 2 of 1974. **20.** A person accused of an offence may file an application for plea bargaining in Gram Nyayalaya in which such offence is pending trial and the Gram Nyayalaya shall dispose of the case in accordance with the provisions of Chapter XXIA of the Code of Criminal Procedure, 1973. Plea bargaining before Gram Nyayalaya.
- 2 of 1974. **21.** (1) For the purpose of conducting criminal cases in the Gram Nyayalaya on behalf of the Government, the provisions of section 25 of the Code of Criminal Procedure, 1973 shall apply. Conduct of cases in Gram Nyayalaya and legal aid to parties.
- 2 of 1974. (2) Notwithstanding anything contained in sub-section (1), in a criminal proceeding before the Gram Nyayalaya, the complainant may engage an advocate of his choice at his expense to present the case of prosecution with the leave of the Gram Nyayalaya.
- 39 of 1987. (3) The State Legal Services Authority, constituted under section 6 of the Legal Services Authorities Act, 1987, shall prepare a panel of advocates and assign at least two of them to be attached to each Gram Nyayalaya so that their services may be provided by the Gram Nyayalaya to the accused unable to engage an advocate.
- 22.** (1) The judgment in every trial shall be pronounced by the Nyayadhikari in open court immediately after the termination of the trial or at any subsequent time, not exceeding fifteen days, of which notice shall be given to the parties. Pronouncement of judgment.
- (2) The Gram Nyayalaya shall deliver a copy of its judgment immediately to both the parties free of cost.

## CHAPTER V

## PROCEDURE IN CIVIL CASES

- 5 of 1908. **23.** The provisions of this Act shall have effect notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law, but save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before a Gram Nyayalaya; and for the purpose of the said provisions of the Code, the Gram Nyayalaya shall be deemed to be a civil court. Overriding effect of Act in civil proceedings.
- 24.** (1) Notwithstanding anything contained in any other law for the time being in force, every suit, claim or dispute under this Act shall be instituted by making an application to the Gram Nyayalaya in such form, in such manner, and accompanied by such fee, not exceeding rupees one hundred, as may be prescribed by the High Court, from time to time, in consultation with the State Government. Special procedure in civil disputes.

(2) Where a suit, claim or dispute has been duly instituted, a summons shall be issued by the Gram Nyayalaya, accompanied by a copy of the application made under sub-section (1), to the opposite party to appear and answer the claim by such date as may be specified therein and the same shall be served in such manner as may be prescribed by the High Court.

(3) After the opposite party files his written statement, the Gram Nyayalaya shall fix a date for hearing and inform all the parties to be present in person or through their advocates.

(4) On the date fixed for hearing, the Gram Nyayalaya shall hear both the parties in regard to their respective contentions and where the dispute does not require recording of any evidence, pronounce the judgment; and in case where it requires recording of evidence, the Gram Nyayalaya shall proceed further.

(5) The Gram Nyayalaya shall also have the power,—

(a) to dismiss any case for default or to proceed *ex parte*; and

(b) to set aside any such order of dismissal for default or any order passed by it for hearing the case *ex parte*.

(6) In regard to any incidental matter that may arise during the course of the proceedings, the Gram Nyayalaya shall adopt such procedure as it may deem just and reasonable in the interest of justice.

(7) The proceedings shall, as far as practicable, be consistent with the interests of justice and the hearing shall be continued on a day-to-day basis until its conclusion, unless the Gram Nyayalaya finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded in writing.

(8) The Gram Nyayalaya shall dispose of the application made under sub-section (1) within a period of six months from the date of its institution.

(9) The judgment in every suit, claim or dispute shall be pronounced in open court by the Gram Nyayalaya immediately after conclusion of hearing or at any subsequent time, not exceeding fifteen days, of which notice shall be given to the parties.

(10) The judgment shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision.

(11) A copy of the judgment shall be delivered free of cost to both the parties within three days from the date of pronouncement of the judgment.

Execution of decrees and orders of Gram Nyayalaya.

25. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the judgment passed by a Gram Nyayalaya shall be deemed to be a decree and it shall be executed by a Gram Nyayalaya as a decree of the civil court and for this purpose, the Gram Nyayalaya shall have all the powers of a civil court. 5 of 1908.

(2) The Gram Nyayalaya shall not be bound by the procedure in respect of execution of a decree as provided in the Code of Civil Procedure, 1908 and it shall be guided by the principles of natural justice. 5 of 1908.

(3) A decree may be executed either by the Gram Nyayalaya which passed it or by the other Gram Nyayalaya to which it is sent for execution.

Duty of Gram Nyayalaya to make efforts for conciliation and settlement of civil disputes.

26. (1) In every suit or proceeding, endeavour shall be made by the Gram Nyayalaya in the first instance, where it is possible to do so, consistent with the nature and circumstances of the case, to assist, persuade and conciliate the parties in arriving at a settlement in respect of the subject matter of the suit, claim or dispute and for this purpose, a Gram Nyayalaya shall follow such procedure as may be prescribed by the High Court.

(2) Where in any suit or proceeding, it appears to the Gram Nyayalaya at any stage that there is a reasonable possibility of a settlement between the parties, the Gram Nyayalaya may adjourn the proceeding for such period as it thinks fit to enable them to make attempts to effect such a settlement.



(3) Where any proceeding is adjourned under sub-section (2), the Gram Nyayalaya may, in its discretion, refer the matter to one or more Conciliators for effecting a settlement between the parties.

(4) The power conferred by sub-section (2) shall be in addition to, and not in derogation of, any other power of the Gram Nyayalaya to adjourn the proceeding.

27. (1) For the purposes of section 26, the District Court shall, in consultation with the District Magistrate, prepare a panel consisting of the names of social workers at the village level having integrity for appointment as Conciliators who possess such qualifications and experience as may be prescribed by the High Court.

Appointment of Conciliators.

(2) The sitting fee and other allowances payable to, and the other terms and conditions for engagement of, Conciliators shall be such as may be prescribed by the State Government.

28. The District Court having jurisdiction may, on an application made by any party or when there is considerable pendency of cases in one Gram Nyayalaya or whenever it considers necessary in the interests of justice, transfer any case pending before a Gram Nyayalaya to any other Gram Nyayalaya within its jurisdiction.

Transfer of civil disputes.

#### CHAPTER VI

##### PROCEDURE GENERALLY

29. The proceedings before the Gram Nyayalaya and its judgment shall, as far as practicable, be in one of the official languages of the State other than the English language.

Proceedings to be in the official language of the State.

30. A Gram Nyayalaya may receive as evidence any report, statement, document, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872.

Application of Indian Evidence Act, 1872.

1 of 1872.

31. In suits or proceedings before a Gram Nyayalaya, it shall not be necessary to record the evidence of witnesses at length, but the Nyayadhikari, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of substance of what the witness deposes, and such memorandum shall be signed by the witness and the Nyayadhikari and it shall form part of the record.

Record of oral evidence.

32. (1) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Gram Nyayalaya.

Evidence of formal character on affidavit.

(2) The Gram Nyayalaya may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding, summon and examine any such person as to the facts contained in his affidavit.

#### CHAPTER VII

##### APPEALS

33. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law, no appeal shall lie from any judgment, sentence or order of a Gram Nyayalaya except as provided hereunder.

Appeal in criminal cases.

(2) No appeal shall lie where—

(a) an accused person has pleaded guilty and has been convicted on such plea;

(b) the Gram Nyayalaya has passed only a sentence of fine not exceeding one thousand rupees.

(3) Subject to sub-section (2), an appeal shall lie from any other judgment, sentence or order of a Gram Nyayalaya to the Court of Session.

2 of 1974.

(4) Every appeal under this section shall be preferred within a period of thirty days from the date of judgment, sentence or order of a Gram Nyayalaya:

Provided that the Court of Session may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(5) An appeal preferred under sub-section (3) shall be heard and disposed of by the Court of Session within six months from the date of filing of such appeal.

(6) The Court of Session may, pending disposal of the appeal, direct the suspension of the sentence or order appealed against.

(7) The decision of the Court of Session under sub-section (5) shall be final and no appeal or revision shall lie from the decision of the Court of Session:

Provided that nothing in this sub-section shall preclude any person from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

Appeal in  
civil cases.

34. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law, and subject to sub-section (2), an appeal shall lie from every judgment or order, not being an interlocutory order, of a Gram Nyayalaya to the District Court. 5 of 1908.

(2) No appeal shall lie from any judgment or order passed by the Gram Nyayalaya—

(a) with the consent of the parties;

(b) where the amount or value of the subject matter of a suit, claim or dispute does not exceed rupees one thousand;

(c) except on a question of law, where the amount or value of the subject matter of such suit, claim or dispute does not exceed rupees five thousand.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Gram Nyayalaya:

Provided that the District Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(4) An appeal preferred under sub-section (1) shall be heard and disposed of by the District Court within six months from the date of filing of the appeal.

(5) The District Court may, pending disposal of the appeal, stay execution of the judgment or order appealed against.

(6) The decision of the District Court under sub-section (4) shall be final and no appeal or revision shall lie from the decision of the District Court:

Provided that nothing in this sub-section shall preclude any person from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

#### CHAPTER VIII

##### MISCELLANEOUS

Assistance of  
police to  
Gram  
Nyayalayas.

35. (1) Every police officer functioning within the local limits of jurisdiction of a Gram Nyayalaya shall be bound to assist the Gram Nyayalaya in the exercise of its lawful authority.

(2) Whenever the Gram Nyayalaya, in the discharge of its functions, directs a revenue officer or police officer or Government servant to provide assistance to the Gram Nyayalaya, he shall be bound to provide such assistance.

Nyayadhikaris  
and employ-  
ees, etc., to be  
public  
servants.

36. The Nyayadhikaris and the officers and other employees of the Gram Nyayalayas shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

37. The High Court may authorise any judicial officer superior in rank to the Nyayadhikari to inspect the Gram Nyayalayas within his jurisdiction once in every six months or such other period as the High Court may prescribe and issue such instructions, as he considers necessary and submit a report to the High Court.

Inspection of Gram Nyayalayas.

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

Power to remove difficulties.

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

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

39. (1) The High Court may, by notification, make rules for carrying out the provisions of this Act.

Power of High Court to make rules.

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

- (a) the form and dimensions of the seal of the Gram Nyayalaya under section 10;
- (b) the form, the manner and the fee for institution of suit, claim or proceeding under sub-section (1) of section 24;
- (c) manner of service on opposite party under sub-section (2) of section 24;
- (d) procedure for conciliation under sub-section (1) of section 26;
- (e) qualifications and experience of Conciliators under sub-section (1) of section 27;
- (f) the period for inspection of Gram Nyayalayas under section 37.

(3) Every notification issued by the High Court shall be published in the Official Gazette.

40. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

Power of State Government to make rules.

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

- (a) the salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees of the Gram Nyayalayas under sub-section (2) of section 17;
- (b) the sitting fee and other allowances payable to, and the other terms and conditions for engagement of, Conciliators under sub-section (2) of section 27.

(3) Every rule made by the State Government under this Act shall be laid as soon as may be after it is made, before the State Legislature.

## THE FIRST SCHEDULE

(See sections 12 and 14)

## PART I

## OFFENCES UNDER THE INDIAN PENAL CODE (45 OF 1860), ETC.

- (i) offences not punishable with death, imprisonment for life or imprisonment for a term exceeding two years;
- (ii) theft, under section 379, section 380 or section 381 of the Indian Penal Code (45 of 1860), where the value of the property stolen does not exceed rupees twenty thousand;
- (iii) receiving or retaining stolen property, under section 411 of the Indian Penal Code (45 of 1860), where the value of the property does not exceed rupees twenty thousand;
- (iv) assisting in the concealment or disposal of stolen property, under section 414 of the Indian Penal Code (45 of 1860), where the value of such property does not exceed rupees twenty thousand;
- (v) offences under sections 454 and 456 of the Indian Penal Code (45 of 1860);
- (vi) insult with intent to provoke a breach of the peace, under section 504, and criminal intimidation, punishable with imprisonment for a term which may extend to two years, or with fine, or with both, under section 506 of the Indian Penal Code (45 of 1860);
- (vii) abetment of any of the foregoing offences;
- (viii) an attempt to commit any of the foregoing offences, when such attempt is an offence.

## PART II

## OFFENCES AND RELIEF UNDER THE OTHER CENTRAL ACTS

- (i) any offence constituted by an act in respect of which a complaint may be made under section 20 of the Cattle-trespass Act, 1871 (1 of 1871);
- (ii) the Payment of Wages Act, 1936 (4 of 1936);
- (iii) the Minimum Wages Act, 1948 (11 of 1948);
- (iv) the Protection of Civil Rights Act, 1955 (22 of 1955);
- (v) order for maintenance of wives, children and parents under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);
- (vi) the Bonded Labour System (Abolition) Act, 1976 (19 of 1976);
- (vii) the Equal Remuneration Act, 1976 (25 of 1976);
- (viii) the Protection of Women from Domestic Violence Act, 2005 (43 of 2005).

## PART III

## OFFENCES AND RELIEF UNDER THE STATE ACTS

(To be notified by the State Government)

## THE SECOND SCHEDULE

(See sections 13 and 14)

## PART I

SUITS OF A CIVIL NATURE WITHIN THE JURISDICTION OF GRAM NYAYALAYAS

*(i) Civil Disputes:*

- (a) right to purchase of property;
- (b) use of common pasture;
- (c) regulation and timing of taking water from irrigation channel.

*(ii) Property Disputes:*

- (a) village and farm houses (Possession);
- (b) water channels;
- (c) right to draw water from a well or tube well.

*(iii) Other Disputes:*

- (a) claims under the Payment of Wages Act, 1936 (4 of 1936);
- (b) claims under the Minimum Wages Act, 1948 (11 of 1948);
- (c) money suits either arising from trade transaction or money lending;
- (d) disputes arising out of the partnership in cultivation of land;
- (e) disputes as to the use of forest produce by inhabitants of Gram Panchayats.

## PART II

CLAIMS AND DISPUTES UNDER THE CENTRAL ACTS NOTIFIED UNDER SUB-SECTION (1) OF SECTION 14  
BY THE CENTRAL GOVERNMENT

(To be notified by the Central Government)

## PART III

CLAIMS AND DISPUTES UNDER THE STATE ACTS NOTIFIED UNDER SUB-SECTION (3) OF SECTION 14 BY  
THE STATE GOVERNMENT

(To be notified by the State Government)

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*



*New Delhi, the 9th January, 2009.*

The following Act of Parliament received the assent of the President on the 7th January, 2009 and is hereby published for general information:—

**THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 2008**

**ACT No. 5 OF 2009**

*An Act further to amend the Code of Criminal Procedure, 1973.*

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

- |            |  |                               |
|------------|--|-------------------------------|
|            | 1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2008.  | Short title and commencement. |
|            | (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.                            |                               |
| 2 of 1974. | 2. In section 2 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), after clause (w), the following clause shall be inserted, namely:—   | Amendment of section 2.       |
|            | “(w) “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “victim” includes his or her guardian or legal heir;”. |                               |
|            | 3. In section 24 of the principal Act, in sub-section (8), the following proviso shall be inserted, namely:—   | Amendment of section 24.      |

“Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section.”.

Amendment  
of section 26.

4. In section 26 of the principal Act, in clause (a), the following proviso shall be inserted, namely:—

“Provided that any offence under section 376 and sections 376A to 376D of the Indian Penal Code shall be tried as far as practicable by a Court presided over by a woman.”. 45 of 1860

Amendment  
of section 41.

5. In section 41 of the principal Act,—

(i) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) who commits, in the presence of a police officer, a cognizable offence;

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:—

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary—

(a) to prevent such person from committing any further offence; or

(b) for proper investigation of the offence; or

(c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or

(d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or

(e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured,

and the police officer shall record while making such arrest, his reasons in writing.

(ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence;”;

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

“(2) Subject to the provisions of section 42, no person concerned in a non-cognizable offence or against whom a complaint has been made or credible information has been received or reasonable suspicion exists of his having so concerned, shall be arrested except under a warrant or order of a Magistrate.”.

Insertion of  
new sections  
41A, 41B, 41C  
and 41D.

6. After section 41 of the principal Act, the following new sections shall be inserted, namely:—



“41A. (1) The police officer may, in all cases where the arrest of a person is not required under the provisions of sub-section (1) of section 41, issue a notice directing the person against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence, to appear before him or at such other place as may be specified in the notice.

Notice of appearance before police officer.

(2) Where such a notice is issued to any person, it shall be the duty of that person to comply with the terms of the notice.

(3) Where such person complies and continues to comply with the notice, he shall not be arrested in respect of the offence referred to in the notice unless, for reasons to be recorded, the police officers is of the opinion that he ought to be arrested.

(4) Where such person, at any time, fails to comply with the terms of the notice, it shall be lawful for the police officer to arrest him for the offence mentioned in the notice, subject to such orders as may have been passed in this behalf by a competent Court.

41B. Every police officer while making an arrest shall—

Procedure of arrest and duties of officer making arrest.

(a) bear an accurate, visible and clear identification of his name which will facilitate easy identification;

(b) prepare a memorandum of arrest which shall be—

(i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made;

(ii) countersigned by the person arrested; and

(c) inform the person arrested, unless the memorandum is attested by a member of his family, that he has a right to have a relative or a friend named by him to be informed of his arrest.

41C. (1) The State Government shall establish a police control room—

Control room at districts.

(a) in every district; and

(b) at State level.

(2) The State Government shall cause to be displayed on the notice board kept outside the control rooms at every district, the names and addresses of the persons arrested and the name and designation of the police officers who made the arrests.

(3) The control room at the Police Headquarters at the State level shall collect from time to time, details about the persons arrested, nature of the offence with which they are charged and maintain a database for the information of the general public.

41D. When any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation.”.

Right of arrested person to meet an advocate of his choice during interrogation.

7. In section 46 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

Amendment of section 46.

“Provided that where a woman is to be arrested, unless the circumstances indicate to the contrary, her submission to custody on an oral intimation of arrest shall be presumed and, unless the circumstances otherwise require or unless the police officer is a female, the police officer shall not touch the person of the woman for making her arrest.”.

Substitution of new section for section 54.

Examination of arrested person by medical officer.

Insertion of new section 55A.

Health and safety of arrested person.

Insertion of new section 60A.

Arrest to be made strictly according to the Code.

Amendment of section 157.

Amendment of section 161.

Amendment of section 164.

Amendment of section 167.

8. For section 54 of the principal Act, the following section shall be substituted, namely:—

“54. (1) When any person is arrested, he shall be examined by a medical officer in the service of Central or State Government, and in case the medical officer is not available, by a registered medical practitioner soon after the arrest is made:

Provided that where the arrested person is a female, the examination of the body shall be made only by or under the supervision of a female medical officer, and in case the female medical officer is not available, by a female registered medical practitioner.

(2) The medical officer or a registered medical practitioner so examining the arrested person shall prepare the record of such examination, mentioning therein any injuries or marks of violence upon the person arrested, and the approximate time when such injuries or marks may have been inflicted.

(3) Where an examination is made under sub-section (1), a copy of the report of such examination shall be furnished by the medical officer or registered medical practitioner, as the case may be, to the arrested person or the person nominated by such arrested person.”

9. After section 55 of the principal Act, the following section shall be inserted, namely:—

“55A. It shall be the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused.”

10. After section 60 of the principal Act, the following section shall be inserted, namely:—

“60A. No arrest shall be made except in accordance with the provisions of this Code or any other law for the time being in force providing for arrest.”

11. In section 157 of the principal Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality.”

12. In section 161 of the principal Act, in sub-section (3), the following provisos shall be inserted, namely:—

“Provided that statement made under this sub-section may also be recorded by audio-video electronic means.”

13. In section 164 of the principal Act, in sub-section (1), for the proviso, the following provisos shall be substituted, namely:—

“Provided that any confession or statement made under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of an offence:

Provided further that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.”

14. In section 167 of the principal Act, in sub-section (2),—

(a) in the proviso,—

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

“(b) no Magistrate shall authorise detention of the accused in custody of the police under this section unless the accused is produced before him in person for the first time and subsequently every time till the accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the medium of electronic video linkage;”;

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

“*Explanation II*.— If any question arises whether an accused person was produced before the Magistrate as required under clause (b), the production of the accused person may be proved by his signature on the order authorising detention or by the order certified by the Magistrate as to production of the accused person through the medium of electronic video linkage, as the case may be.”;

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

“Provided further that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution.”.

15. In section 172 of the principal Act, after sub-section (I), the following sub-sections shall be inserted, namely:—

Amendment of section 172.

“(IA) The statements of witnesses recorded during the course of investigation under section 161 shall be inserted in the case diary.

(IB) The diary referred to in sub-section (I) shall be a volume and duly paginated.”.

16. In section 173 of the principal Act,—

Amendment of section 173.

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

“(IA) The investigation in relation to rape of a child may be completed within three months from the date on which the information was recorded by the officer in charge of the police station.”;

(b) in sub-section (2), after clause (g), the following clause shall be inserted, namely:—

“(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 376, 376A, 376B, 376C or 376D of the Indian Penal Code.”.

45 of 1860.

17. After section 195 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 195A.

“195A. A witness or any other person may file a complaint in relation to an offence under section 195A of the Indian Penal Code.”.

45 of 1860.

Procedure for witnesses in case of threatening, etc.

18. In section 198 of the principal Act, in sub-section (6), for the words “fifteen years of age”, the words “eighteen years of age” shall be substituted.

Amendment of section 198.

19. In section 242 of the principal Act, in sub-section (I), the following proviso shall be inserted, namely:—

Amendment of section 242.

“Provided that the Magistrate shall supply in advance to the accused, the statement of witnesses recorded during investigation by the police.”.

Amendment  
of section  
275.

20. In section 275 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that evidence of a witness under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of the offence.”.

Amendment  
of section  
309.

21. In section 309 of the principal Act,—

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

“Provided that when the inquiry or trial relates to an offence under sections 376 to 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible, be completed within a period of two months from the date of commencement of the examination of witnesses.”; 45 of 1860.

(b) in sub-section (2), after the third proviso and before *Explanation 1*, the following proviso shall be inserted, namely:— 45 of 1860.

“Provided also that—

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;

(c) where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.”.

Amendment  
of section  
313.

22. In section 313 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) The Court may take help of Prosecutor and Defence Counsel in preparing relevant questions which are to be put to the accused and the Court may permit filing of written statement by the accused as sufficient compliance of this section.”.

Amendment  
of section  
320.

23. In section 320 of the principal Act,—

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

“TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
1	2	3
Uttering words, etc., with deliberate intent to wound the religious feelings of any person.	298	The person whose religious feelings are intended to be wounded.
Voluntarily causing hurt.	323	The person to whom the hurt is caused.
Voluntarily causing hurt on provocation.	334	Ditto.

1	2	3
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Wrongfully restraining or confining any person.	341, 342	The person restrained or confined.
Wrongfully confining a person for three days or more	343	The person confined.
Wrongfully confining a person for ten days or more.	344	Ditto.
Wrongfully confining a person in secret.	346	Ditto.
Assault or use of criminal force.	352, 355, 358	The person assaulted or to whom criminal force is used.
Theft.	379	The owner of the property stolen.
Dishonest misappropriation of property.	403	The owner of the property misappropriated.
Criminal breach of trust by a carrier, wharfinger, etc.	407	The owner of the property in respect of which the breach of trust has been committed.
Dishonestly receiving stolen property knowing it to be stolen.	411	The owner of the property stolen.
Assisting in the concealment or disposal of stolen property, knowing it to be stolen.	414	Ditto.
Cheating.	417	The person cheated.
Cheating by personation.	419	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Fraudulent execution of deed of transfer containing false statement of consideration.	423	The person affected thereby.
Fraudulent removal or concealment of property.	424	Ditto.
Mischief, when the only loss or damage caused is loss or damage to a private person.	426, 427	The person to whom the loss or damage is caused.

1	2	3
Mischief by killing or maiming animal.	428	The owner of the animal.
Mischief by killing or maiming cattle, etc.	429	The owner of the cattle or animal.
Mischief by injury to works of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to private person.	430	The person to whom the loss or damage is caused.
Criminal trespass.	447	The person in possession of the property trespassed upon.
House-trespass.	448	Ditto.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark.	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	Ditto.
Knowingly selling, or exposing or possessing for sale or for manufacturing purpose, goods marked with a counterfeit property mark.	486	Ditto.
Criminal breach of contract of service.	491	The person with whom the offender has contracted.
Adultery.	497	The husband of the woman.
Enticing or taking away or detaining with criminal intent a married woman.	498	The husband of the woman and the woman.
Defamation, except such cases as are specified against section 500 of the Indian Penal Code (45 of 1860) in column 1 of the Table under sub-section (2).	500	The person defamed.
Printing or engraving matter, knowing it to be defamatory.	501	Ditto.
Sale of printed or engraved substance containing defamatory	502	Ditto.

1	2	3
matter, knowing it to contain such matter.		
Insult intended to provoke a breach of the peace.	504	The person insulted.
Criminal intimidation.	506	The person intimidated.
Inducing person to believe himself an object of divine displeasure.	508	The person induced.”;

(ii) in sub-section (2), for the TABLE the following TABLE shall be substituted, namely:—

“TABLE

Offence	Section of the Indian Penal Code applicable	Person by whom offence may be compounded
1	2	3
Causing miscarriage.	312	The woman to whom miscarriage is caused.
Voluntarily causing grievous hurt.	325	The person to whom hurt is caused.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft, by clerk or servant of property in possession of master.	381	The owner of the property stolen.
Criminal breach of trust	406	The owner of property in respect of which breach of trust has been committed.
Criminal breach of trust by a clerk or servant.	408	The owner of the property in respect of which the breach of trust has been committed.
Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	418	The person cheated.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	The person cheated.

1	2	3
Marrying again during the life-time of a husband or wife.	494	The husband or wife of the person so marrying.
Defamation against the President or the Vice-President or the Governor of a State or the Administrator of a Union territory or a Minister in respect of his public functions when instituted upon a complaint made by the Public Prosecutor.	500	The person defamed.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon.”;

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

"(3) When an offence is compoundable under this section, the abetment of such offence or an attempt to commit such offence (when such attempt is itself an offence) or where the accused is liable under sections 34 or 149 of the Indian Penal Code may be compounded in like manner."

45 of 1860.

Amendment  
of section  
327.

24. In section 327 of the principle Act,—

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

"Provided further that *in camera* trial shall be conducted as far as practicable by a woman Judge or Magistrate.";

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

"Provided that the ban on printing or publication of trial proceedings in relation to an offence of rape may be lifted, subject to maintaining confidentiality of name and address of the parties."

Amendment  
of section  
328.

25. In section 328 of the principal Act,—

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

"(1A) If the civil surgeon finds the accused to be of unsound mind, he shall refer such person to a psychiatrist or clinical psychologist for care, treatment and prognosis of the condition and the psychiatrist or clinical psychologist, as the case may be, shall inform the Magistrate whether the accused is suffering from unsoundness of mind or mental retardation:

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest government hospital; and

(b) a faculty member in psychiatry in the nearest medical college.”;

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

"(3) If such Magistrate is informed that the person referred to in sub-section (1A) is a person of unsound mind, the Magistrate shall further determine whether the unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate shall record a finding to that effect, and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without



questioning the accused, if he finds that no *prima facie* case is made out against the accused, he shall, instead of postponing the enquiry, discharge the accused and deal with him in the manner provided under section 330:

Provided that if the Magistrate finds that a *prima facie* case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the proceeding for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused, and order the accused to be dealt with as provided under section 330.

(4) If such Magistrate is informed that the person referred to in sub-section (1A) is a person with mental retardation, the Magistrate shall further determine whether the mental retardation renders the accused incapable of entering defence, and if the accused is found so incapable, the Magistrate shall order closure of the inquiry and deal with the accused in the manner provided under section 330."

26. In section 329 of the principal Act,—

Amendment  
of section  
329.

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

"(1A) If during trial, the Magistrate or Court of Sessions finds the accused to be of unsound mind, he or it shall refer such person to a psychiatrist or clinical psychologist for care and treatment, and the psychiatrist or clinical psychologist, as the case may be shall report to the Magistrate or Court whether the accused is suffering from unsoundness of mind:

Provided that if the accused is aggrieved by the information given by the psychiatric or clinical psychologist, as the case may be, to the Magistrate, he may prefer an appeal before the Medical Board which shall consist of—

(a) head of psychiatry unit in the nearest government hospital; and

(b) a faculty member in psychiatry in the nearest medical college.";

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

"(2) If such Magistrate or Court is informed that the person referred to in sub-section (1A) is a person of unsound mind, the Magistrate or Court shall further determine whether unsoundness of mind renders the accused incapable of entering defence and if the accused is found so incapable, the Magistrate or Court shall record a finding to that effect and shall examine the record of evidence produced by the prosecution and after hearing the advocate of the accused but without questioning the accused, if the Magistrate or Court finds that no *prima facie* case is made out against the accused, he or it shall, instead of postponing the trial, discharge the accused and deal with him in the manner provided under section 330:

Provided that if the Magistrate or Court finds that a *prima facie* case is made out against the accused in respect of whom a finding of unsoundness of mind is arrived at, he shall postpone the trial for such period, as in the opinion of the psychiatrist or clinical psychologist, is required for the treatment of the accused.

(3) If the Magistrate or Court finds that a *prima facie* case is made out against the accused and he is incapable of entering defence by reason of mental retardation, he or it shall not hold the trial and order the accused to be dealt with in accordance with section 330."

27. For section 330 of the principal Act, the following section shall be substituted, namely:—

Substitution  
of new section  
for section 330

Release of person of unsound mind pending investigation or trial.

"330. (1) Whenever a person is found under section 328 or section 329 to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be, whether the case is one in which bail may be taken or not, order release of such person on bail:

Provided that the accused is suffering from unsoundness of mind or mental retardation which does not mandate in-patient treatment and a friend or relative undertakes to obtain regular out-patient psychiatric treatment from the nearest medical facility and to prevent from doing injury to himself or to any other person.

(2) If the case is one in which, in the opinion of the Magistrate or Court, as the case may be, bail cannot be granted or if an appropriate undertaking is not given, he or it shall order the accused to be kept in such a place where regular psychiatric treatment can be provided, and shall report the action taken to the State Government:

Provided that no order for the detention of the accused in a lunatic asylum shall be made otherwise than in accordance with such rules as the State Government may have made under the Mental Health Act, 1987.

14 of 1987.

(3) Whenever a person is found under section 328 or section 329 to be incapable of entering defence by reason of unsoundness of mind or mental retardation, the Magistrate or Court, as the case may be, shall keeping in view the nature of the act committed and the extent of unsoundness of mind or mental retardation, further determine if the release of the accused can be ordered:

Provided that—

(a) if on the basis of medical opinion or opinion of a specialist, the Magistrate or Court, as the case may be, decide to order discharge of the accused, as provided under section 328 or section 329, such release may be ordered, if sufficient security is given that the accused shall be prevented from doing injury to himself or to any other person;

(b) if the Magistrate or Court, as the case may be, is of opinion that discharge of the accused cannot be ordered, the transfer of the accused to a residential facility for persons of unsound mind or mental retardation may be ordered wherein the accused may be provided care and appropriate education and training."

Insertion of new section 357A.

Victim compensation scheme.

28. After section 357 of the principal Act, the following section shall be inserted, namely:—

"357A. (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit."

29. In section 372 of the principal Act, the following proviso shall be inserted, namely:—

Amendment  
of section 372.

"Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court."

30. In section 416 of the principal Act, the words "order the execution of the sentence to be postponed, and may, if it thinks fit" shall be omitted.

Amendment  
of section  
416.

31. After section 437 of the principal Act, the following section shall be inserted, namely:—

Insertion of  
new section  
437A.

"437A. (1) Before conclusion of the trial and before disposal of the appeal, the Court trying the offence or the Appellate Court, as the case may be, shall require the accused to execute bail bonds with sureties, to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgment of the respective Court and such bail bonds shall be in force for six months.

Bail to  
require  
accused to  
appear before  
next  
appellate  
Court.

(2) If such accused fails to appear, the bond stand forfeited and the procedure under section 446 shall apply."

32. In the Second Schedule to the principal Act, in Form No. 45, after the figures "437", the figures and letter "437A" shall be inserted.

Amendment  
of Form 45.

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*



*New Delhi, the 9th January, 2009.*

The following Act of Parliament received the assent of the President on the 7th January, 2009 and is hereby published for general information:—

THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

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## THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

## ACT No. 6 OF 2009

*An Act to make provisions for the formation and regulation of limited liability partnerships and for matters connected therewith or incidental thereto.*

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

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Limited Liability Partnership Act, 2008.

(2) It extends to the whole of India.

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

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

Short title,  
extent and  
commencement.

## Definitions.

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

(a) “address”, in relation to a partner of a limited liability partnership, means—

(i) if an individual, his usual residential address; and

(ii) if a body corporate, the address of its registered office;

(b) “advocate” means an advocate as defined in clause (a) of sub-section (1) of section 2 of the Advocates Act, 1961;

25 of 1961.

(c) “Appellate Tribunal” means the National Company Law Appellate Tribunal constituted under sub-section (1) of section 10FR of the Companies Act, 1956;

1 of 1956.

(d) “body corporate” means a company as defined in section 3 of the Companies Act, 1956 and includes —

1 of 1956.

(i) a limited liability partnership registered under this Act;

(ii) a limited liability partnership incorporated outside India; and

(iii) a company incorporated outside India,

but does not include—

(i) a corporation sole;

(ii) a co-operative society registered under any law for the time being in force; and

(iii) any other body corporate (not being a company as defined in section 3 of the Companies Act, 1956 or a limited liability partnership as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf;

1 of 1956.

(e) “business” includes every trade, profession, service and occupation;

(f) “chartered accountant” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

38 of 1949.

(g) “company secretary” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

56 of 1980.

(h) “cost accountant” means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

23 of 1959.

(i) “Court”, with respect to any offence under this Act, means the Court having jurisdiction as per the provisions of section 77;

(j) “designated partner” means any partner designated as such pursuant to section 7;

(k) “entity” means any body corporate and includes, for the purposes of sections 18, 46, 47, 48, 49, 50, 52 and 53, a firm setup under the Indian Partnership Act, 1932;

9 of 1932.

(l) “financial year”, in relation to a limited liability partnership, means the period from the 1st day of April of a year to the 31st day of March of the following year:

Provided that in the case of a limited liability partnership incorporated after the 30th day of September of a year, the financial year may end on the 31st day of March of the year next following that year;

(m) “foreign limited liability partnership” means a limited liability partnership formed, incorporated or registered outside India which establishes a place of business within India;

(n) "limited liability partnership" means a partnership formed and registered under this Act;

(o) "limited liability partnership agreement" means any written agreement between the partners of the limited liability partnership or between the limited liability partnership and its partners which determines the mutual rights and duties of the partners and their rights and duties in relation to that limited liability partnership;

(p) "name", in relation to a partner of a limited liability partnership, means—

(i) if an individual, his forename, middle name and surname; and

(ii) if a body corporate, its registered name;

(q) "partner", in relation to a limited liability partnership, means any person who becomes a partner in the limited liability partnership in accordance with the limited liability partnership agreement;

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

1 of 1956.

(s) "Registrar" means a Registrar, or an Additional, a Joint, a Deputy or an Assistant Registrar, having the duty of registering companies under the Companies Act, 1956;

(t) "Schedule" means a Schedule to this Act;

1 of 1956.

(u) "Tribunal" means the National Company Law Tribunal constituted under sub-section (1) of section 10FB of the Companies Act, 1956.

1 of 1956.

(2) Words and expressions used and not defined in this Act but defined in the Companies Act, 1956 shall have the meanings respectively assigned to them in that Act.

## CHAPTER II

### NATURE OF LIMITED LIABILITY PARTNERSHIP

3. (1) A limited liability partnership is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners.

Limited liability partnership to be body corporate.

(2) A limited liability partnership shall have perpetual succession.

(3) Any change in the partners of a limited liability partnership shall not affect the existence, rights or liabilities of the limited liability partnership.

9 of 1932.

4. Save as otherwise provided, the provisions of the Indian Partnership Act, 1932 shall not apply to a limited liability partnership.

Non-applicability of the Indian Partnership Act, 1932.

5. Any individual or body corporate may be a partner in a limited liability partnership:

Partners.

Provided that an individual shall not be capable of becoming a partner of a limited liability partnership, if—

(a) he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;

(b) he is an undischarged insolvent; or

(c) he has applied to be adjudicated as an insolvent and his application is pending.

6. (1) Every limited liability partnership shall have at least two partners.

Minimum number of partners.

(2) If at any time the number of partners of a limited liability partnership is reduced below two and the limited liability partnership carries on business for more than six months while the number is so reduced, the person, who is the only partner of the limited liability partnership during the time that it so carries on business after those six months and has the knowledge of the fact that it is carrying on business with him alone, shall be liable personally for the obligations of the limited liability partnership incurred during that period.

Designated partners.

7. (1) Every limited liability partnership shall have at least two designated partners who are individuals and at least one of them shall be a resident in India:

Provided that in case of a limited liability partnership in which all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such limited liability partnership or nominees of such bodies corporate shall act as designated partners.

*Explanation.*— For the purposes of this section, the term “resident in India” means a person who has stayed in India for a period of not less than one hundred and eighty-two days during the immediately preceding one year.

(2) Subject to the provisions of sub-section (1),—

(i) if the incorporation document—

(a) specifies who are to be designated partners, such persons shall be designated partners on incorporation; or

(b) states that each of the partners from time to time of limited liability partnership is to be designated partner, every such partner shall be a designated partner;

(ii) any partner may become a designated partner by and in accordance with the limited liability partnership agreement and a partner may cease to be a designated partner in accordance with limited liability partnership agreement.

(3) An individual shall not become a designated partner in any limited liability partnership unless he has given his prior consent to act as such to the limited liability partnership in such form and manner as may be prescribed.

(4) Every limited liability partnership shall file with the registrar the particulars of every individual who has given his consent to act as designated partner in such form and manner as may be prescribed within thirty days of his appointment.

(5) An individual eligible to be a designated partner shall satisfy such conditions and requirements as may be prescribed.

(6) Every designated partner of a limited liability partnership shall obtain a Designated Partner Identification Number (DPIN) from the Central Government and the provisions of sections 266A to 266G (both inclusive) of the Companies Act, 1956 shall apply *mutatis mutandis* for the said purpose. 1 of 1956.

Liabilities of designated partners.

8. Unless expressly provided otherwise in this Act, a designated partner shall be—

(a) responsible for the doing of all acts, matters and things as are required to be done by the limited liability partnership in respect of compliance of the provisions of this Act including filing of any document, return, statement and the like report pursuant to the provisions of this Act and as may be specified in the limited liability partnership agreement; and

(b) liable to all penalties imposed on the limited liability partnership for any contravention of those provisions.

Changes in designated partners.

9. A limited liability partnership may appoint a designated partner within thirty days of a vacancy arising for any reason and provisions of sub-section (4) and sub-section (5) of section 7 shall apply in respect of such new designated partner:

Provided that if no designated partner is appointed, or if at any time there is only one designated partner, each partner shall be deemed to be a designated partner.

Punishment for contravention of sections 7, 8 and 9.

10. (1) If the limited liability partnership contravenes the provisions of sub-section (1) of section 7, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees.

(2) If the limited liability partnership contravenes the provisions of sub-section (4) and sub-section (5) of section 7, section 8 or section 9, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

### CHAPTER III

#### INCORPORATION OF LIMITED LIABILITY PARTNERSHIP AND MATTERS INCIDENTAL THERETO

11. (1) For a limited liability partnership to be incorporated,—

Incorporation document.

(a) two or more persons associated for carrying on a lawful business with a view to profit shall subscribe their names to an incorporation document;

(b) the incorporation document shall be filed in such manner and with such fees, as may be prescribed with the Registrar of the State in which the registered office of the limited liability partnership is to be situated; and

(c) there shall be filed along with the incorporation document, a statement in the prescribed form, made by either an advocate, or a Company Secretary or a Chartered Accountant or a Cost Accountant, who is engaged in the formation of the limited liability partnership and by any one who subscribed his name to the incorporation document, that all the requirements of this Act and the rules made thereunder have been complied with, in respect of incorporation and matters precedent and incidental thereto.

(2) The incorporation document shall—

(a) be in a form as may be prescribed;

(b) state the name of the limited liability partnership;

(c) state the proposed business of the limited liability partnership;

(d) state the address of the registered office of the limited liability partnership;

(e) state the name and address of each of the persons who are to be partners of the limited liability partnership on incorporation;

(f) state the name and address of the persons who are to be designated partners of the limited liability partnership on incorporation;

(g) contain such other information concerning the proposed limited liability partnership as may be prescribed.

(3) If a person makes a statement under clause (c) of sub-section (1) which he—

(a) knows to be false; or

(b) does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees.

12. (1) When the requirements imposed by clauses (b) and (c) of sub-section (1) of section 11 have been complied with, the Registrar shall retain the incorporation document and, unless the requirement imposed by clause (a) of that sub-section has not been complied with, he shall, within a period of fourteen days—

Incorporation by registration.

(a) register the incorporation document; and

(b) give a certificate that the limited liability partnership is incorporated by the name specified therein.

(2) The Registrar may accept the statement delivered under clause (c) of sub-section (1) of section 11 as sufficient evidence that the requirement imposed by clause (a) of that sub-section has been complied with.

(3) The certificate issued under clause (b) of sub-section (1) shall be signed by the Registrar and authenticated by his official seal.

(4) The certificate shall be conclusive evidence that the limited liability partnership is incorporated by the name specified therein.

Registered office of limited liability partnership and change therein.

13. (1) Every limited liability partnership shall have a registered office to which all communications and notices may be addressed and where they shall be received.

(2) A document may be served on a limited liability partnership or a partner or designated partner thereof by sending it by post under a certificate of posting or by registered post or by any other manner, as may be prescribed, at the registered office and any other address specifically declared by the limited liability partnership for the purpose in such form and manner as may be prescribed.

(3) A limited liability partnership may change the place of its registered office and file the notice of such change with the Registrar in such form and manner and subject to such conditions as may be prescribed and any such change shall take effect only upon such filing.

(4) If the limited liability partnership contravenes any provisions of this section, the limited liability partnership and its every partner shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

Effect of registration.

14. On registration, a limited liability partnership shall, by its name, be capable of—

(a) suing and being sued;

(b) acquiring, owning, holding and developing or disposing of property, whether movable or immovable, tangible or intangible;

(c) having a common seal, if it decides to have one; and

(d) doing and suffering such other acts and things as bodies corporate may lawfully do and suffer.

Name.

15. (1) Every limited liability partnership shall have either the words “limited liability partnership” or the acronym “LLP” as the last words of its name.

(2) No limited liability partnership shall be registered by a name which, in the opinion of the Central Government is—

(a) undesirable; or

(b) identical or too nearly resembles to that of any other partnership firm or limited liability partnership or body corporate or a registered trade mark, or a trade mark which is the subject matter of an application for registration, of any other person under the Trade Marks Act, 1999.

47 of 1999.

Reservation of name.

16. (1) A person may apply in such form and manner and accompanied by such fee as may be prescribed to the Registrar for the reservation of a name set out in the application as—

(a) the name of a proposed limited liability partnership; or

(b) the name to which a limited liability partnership proposes to change its name.

(2) Upon receipt of an application under sub-section (1) and on payment of the prescribed fee, the Registrar may, if he is satisfied, subject to the rules prescribed by the Central Government in the matter, that the name to be reserved is not one which may be rejected on any ground referred to in sub-section (2) of section 15, reserve the name for a period of three months from the date of intimation by the Registrar.

Change of name of limited liability partnership.

17. (1) Notwithstanding anything contained in sections 15 and 16, where the Central Government is satisfied that a limited liability partnership has been registered (whether through inadvertence or otherwise and whether originally or by a change of name) under a name which—

(a) is a name referred to in sub-section (2) of section 15; or

(b) is identical with or too nearly resembles the name of any other limited liability partnership or body corporate or other name as to be likely to be mistaken for it,

the Central Government may direct such limited liability partnership to change its name, and the limited liability partnership shall comply with the said direction within three months after the date of the direction or such longer period as the Central Government may allow.

(2) Any limited liability partnership which fails to comply with a direction given under sub-section (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to five lakh rupees and the designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

18. (1) Any entity which already has a name similar to the name of a limited liability partnership which has been incorporated subsequently, may apply, in such manner as may be prescribed, to the Registrar to give a direction to any limited liability partnership, on a ground referred to in section 17 to change its name.

Application for direction to change name in certain circumstances.

(2) The Registrar shall not consider any application under sub-section (1) to give a direction to a limited liability partnership on the ground referred to in clause (b) of sub-section (1) of section 17 unless the Registrar receives the application within twenty-four months from the date of registration of the limited liability partnership under that name.

19. Any limited liability partnership may change its name registered with the Registrar by filing with him a notice of such change in such form and manner and on payment of such fees as may be prescribed.

Change of registered name.

20. If any person or persons carry on business under any name or title of which the words "Limited Liability Partnership" or "LLP" or any contraction or imitation thereof is or are the last word or words, that person or each of those persons shall, unless duly incorporated as limited liability partnership, be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

Penalty for improper use of words "limited liability partnership" or "LLP".

21. (1) Every limited liability partnership shall ensure that its invoices, official correspondence and publications bear the following, namely:—

Publication of name and limited liability.

(a) the name, address of its registered office and registration number of the limited liability partnership; and

(b) a statement that it is registered with limited liability.

(2) Any limited liability partnership which contravenes the provisions of sub-section (1) shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

#### CHAPTER IV

##### PARTNERS AND THEIR RELATIONS

22. On the incorporation of a limited liability partnership, the persons who subscribed their names to the incorporation document shall be its partners and any other person may become a partner of the limited liability partnership by and in accordance with the limited liability partnership agreement.

Eligibility to be partners.

23. (1) Save as otherwise provided by this Act, the mutual rights and duties of the partners of a limited liability partnership, and the mutual rights and duties of a limited liability partnership and its partners, shall be governed by the limited liability partnership agreement between the partners, or between the limited liability partnership and its partners.

Relationship of partners.

(2) The limited liability partnership agreement and any changes, if any, made therein shall be filed with the Registrar in such form, manner and accompanied by such fees as may be prescribed.

(3) An agreement in writing made before the incorporation of a limited liability partnership between the persons who subscribe their names to the incorporation document may impose obligations on the limited liability partnership, provided such agreement is ratified by all the partners after the incorporation of the limited liability partnership.

(4) In the absence of agreement as to any matter, the mutual rights and duties of the partners and the mutual rights and duties of the limited liability partnership and the partners shall be determined by the provisions relating to that matter as are set-out in the First Schedule.

Cessation of  
partnership  
interest.

24. (1) A person may cease to be a partner of a limited liability partnership in accordance with an agreement with the other partners or, in the absence of agreement with the other partners as to cessation of being a partner, by giving a notice in writing of not less than thirty days to the other partners of his intention to resign as partner.

(2) A person shall cease to be a partner of a limited liability partnership—

(a) on his death or dissolution of the limited liability partnership; or

(b) if he is declared to be of unsound mind by a competent court; or

(c) if he has applied to be adjudged as an insolvent or declared as an insolvent.

(3) Where a person has ceased to be a partner of a limited liability partnership (hereinafter referred to as “former partner”), the former partner is to be regarded (in relation to any person dealing with the limited liability partnership) as still being a partner of the limited liability partnership unless—

(a) the person has notice that the former partner has ceased to be a partner of the limited liability partnership; or

(b) notice that the former partner has ceased to be a partner of the limited liability partnership has been delivered to the Registrar.

(4) The cessation of a partner from the limited liability partnership does not by itself discharge the partner from any obligation to the limited liability partnership or to the other partners or to any other person which he incurred while being a partner.

(5) Where a partner of a limited liability partnership ceases to be a partner, unless otherwise provided in the limited liability partnership agreement, the former partner or a person entitled to his share in consequence of the death or insolvency of the former partner, shall be entitled to receive from the limited liability partnership —

(a) an amount equal to the capital contribution of the former partner actually made to the limited liability partnership; and

(b) his right to share in the accumulated profits of the limited liability partnership, after the deduction of accumulated losses of the limited liability partnership, determined as at the date the former partner ceased to be a partner.

(6) A former partner or a person entitled to his share in consequence of the death or insolvency of the former partner shall not have any right to interfere in the management of the limited liability partnership.

Registration of  
changes in  
partners.

25. (1) Every partner shall inform the limited liability partnership of any change in his name or address within a period of fifteen days of such change.

(2) A limited liability partnership shall—

(a) where a person becomes or ceases to be a partner, file a notice with the Registrar within thirty days from the date he becomes or ceases to be a partner; and

(b) where there is any change in the name or address of a partner, file a notice with the Registrar within thirty days of such change.



(3) A notice filed with the Registrar under sub-section (2)—

(a) shall be in such form and accompanied by such fees as may be prescribed;

(b) shall be signed by the designated partner of the limited liability partnership and authenticated in a manner as may be prescribed; and

(c) if it relates to an incoming partner, shall contain a statement by such partner that he consents to becoming a partner, signed by him and authenticated in the manner as may be prescribed.

(4) If the limited liability partnership contravenes the provisions of sub-section (2), the limited liability partnership and every designated partner of the limited liability partnership shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

(5) If any partner contravenes the provisions of sub-section (1), such partner shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

(6) Any person who ceases to be a partner of a limited liability partnership may himself file with the Registrar the notice referred to in sub-section (3) if he has reasonable cause to believe that the limited liability partnership may not file the notice with the Registrar and in case of any such notice filed by a partner, the Registrar shall obtain a confirmation to this effect from the limited liability partnership unless the limited liability partnership has also filed such notice:

Provided that where no confirmation is given by the limited liability partnership within fifteen days, the registrar shall register the notice made by a person ceasing to be a partner under this section.

## CHAPTER V

### EXTENT AND LIMITATION OF LIABILITY OF LIMITED LIABILITY PARTNERSHIP AND PARTNERS

26. Every partner of a limited liability partnership is, for the purpose of the business of the limited liability partnership, the agent of the limited liability partnership, but not of other partners.

Partner as agent.

27. (1) A limited liability partnership is not bound by anything done by a partner in dealing with a person if—

Extent of liability of limited liability partnership.

(a) the partner in fact has no authority to act for the limited liability partnership in doing a particular act; and

(b) the person knows that he has no authority or does not know or believe him to be a partner of the limited liability partnership.

(2) The limited liability partnership is liable if a partner of a limited liability partnership is liable to any person as a result of a wrongful act or omission on his part in the course of the business of the limited liability partnership or with its authority.

(3) An obligation of the limited liability partnership whether arising in contract or otherwise, shall be solely the obligation of the limited liability partnership.

(4) The liabilities of the limited liability partnership shall be met out of the property of the limited liability partnership.

28. (1) A partner is not personally liable, directly or indirectly for an obligation referred to in sub-section (3) of section 27 solely by reason of being a partner of the limited liability partnership.

Extent of liability of partner.

(2) The provisions of sub-section (3) of section 27 and sub-section (1) of this section shall not affect the personal liability of a partner for his own wrongful act or omission, but a

partner shall not be personally liable for the wrongful act or omission of any other partner of the limited liability partnership.

Holding out.

29. (1) Any person, who by words spoken or written or by conduct, represents himself, or knowingly permits himself to be represented to be a partner in a limited liability partnership is liable to any person who has on the faith of any such representation given credit to the limited liability partnership, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit:

Provided that where any credit is received by the limited liability partnership as a result of such representation, the limited liability partnership shall, without prejudice to the liability of the person so representing himself or represented to be a partner, be liable to the extent of credit received by it or any financial benefit derived thereon.

(2) Where after a partner's death the business is continued in the same limited liability partnership name, the continued use of that name or of the deceased partner's name as a part thereof shall not of itself make his legal representative or his estate liable for any act of the limited liability partnership done after his death.

Unlimited liability in case of fraud.

30. (1) In the event of an act carried out by a limited liability partnership, or any of its partners, with intent to defraud creditors of the limited liability partnership or any other person, or for any fraudulent purpose, the liability of the limited liability partnership and partners who acted with intent to defraud creditors or for any fraudulent purpose shall be unlimited for all or any of the debts or other liabilities of the limited liability partnership:

Provided that in case any such act is carried out by a partner, the limited liability partnership is liable to the same extent as the partner unless it is established by the limited liability partnership that such act was without the knowledge or the authority of the limited liability partnership.

(2) Where any business is carried on with such intent or for such purpose as mentioned in sub-section (1), every person who was knowingly a party to the carrying on of the business in the manner aforesaid shall be punishable with imprisonment for a term which may extend to two years and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

(3) Where a limited liability partnership or any partner or designated partner or employee of such limited liability partnership has conducted the affairs of the limited liability partnership in a fraudulent manner, then without prejudice to any criminal proceedings which may arise under any law for the time being in force, the limited liability partnership and any such partner or designated partner or employee shall be liable to pay compensation to any person who has suffered any loss or damage by reason of such conduct:

Provided that such limited liability partnership shall not be liable if any such partner or designated partner or employee has acted fraudulently without knowledge of the limited liability partnership.

Whistle blowing.

31. (1) The Court or Tribunal may reduce or waive any penalty leviable against any partner or employee of a limited liability partnership, if it is satisfied that—

(a) such partner or employee of a limited liability partnership has provided useful information during investigation of such limited liability partnership; or

(b) when any information given by any partner or employee (whether or not during investigation) leads to limited liability partnership or any partner or employee of such limited liability partnership being convicted under this Act or any other Act.

(2) No partner or employee of any limited liability partnership may be discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against the terms and conditions of his limited liability partnership or employment merely because of his providing information or causing information to be provided pursuant to sub-section (1).

## CHAPTER VI

## CONTRIBUTIONS

32. (1) A contribution of a partner may consist of tangible, movable or immovable or intangible property or other benefit to the limited liability partnership, including money, promissory notes, other agreements to contribute cash or property, and contracts for services performed or to be performed. Form of contribution.

(2) The monetary value of contribution of each partner shall be accounted for and disclosed in the accounts of the limited liability partnership in the manner as may be prescribed.

33. (1) The obligation of a partner to contribute money or other property or other benefit or to perform services for a limited liability partnership shall be as per the limited liability partnership agreement. Obligation to contribute.

(2) A creditor of a limited liability partnership, which extends credit or otherwise acts in reliance on an obligation described in that agreement, without notice of any compromise between partners, may enforce the original obligation against such partner.

## CHAPTER VII

## FINANCIAL DISCLOSURES

34. (1) The limited liability partnership shall maintain such proper books of account as may be prescribed relating to its affairs for each year of its existence on cash basis or accrual basis and according to double entry system of accounting and shall maintain the same at its registered office for such period as may be prescribed. Maintenance of books of account, other records and audit, etc.

(2) Every limited liability partnership shall, within a period of six months from the end of each financial year, prepare a Statement of Account and Solvency for the said financial year as at the last day of the said financial year in such form as may be prescribed, and such statement shall be signed by the designated partners of the limited liability partnership.

(3) Every limited liability partnership shall file within the prescribed time, the Statement of Account and Solvency prepared pursuant to sub-section (2) with the Registrar every year in such form and manner and accompanied by such fees as may be prescribed.

(4) The accounts of limited liability partnerships shall be audited in accordance with such rules as may be prescribed:

Provided that the Central Government may, by notification in the Official Gazette, exempt any class or classes of limited liability partnerships from the requirements of this sub-section.

(5) Any limited liability partnership which fails to comply with the provisions of this section shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

35. (1) Every limited liability partnership shall file an annual return duly authenticated with the Registrar within sixty days of closure of its financial year in such form and manner and accompanied by such fee as may be prescribed. Annual return.

(2) Any limited liability partnership which fails to comply with the provisions of this section shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees.

(3) If the limited liability partnership contravenes the provisions of this section, the designated partner of such limited liability partnership shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

Inspection of documents kept by Registrar.

36. The incorporation document, names of partners and changes, if any, made therein, Statement of Account and Solvency and annual return filed by each limited liability partnership with the Registrar shall be available for inspection by any person in such manner and on payment of such fee as may be prescribed.

Penalty for false statement.

37. If in any return, statement or other document required by or for the purposes of any of the provisions of this Act, any person makes a statement—

- (a) which is false in any material particular, knowing it to be false; or
- (b) which omits any material fact knowing it to be material,

he shall, save as otherwise expressly provided in this Act, be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five lakh rupees but which shall not be less than one lakh rupees.

Power of Registrar to obtain information.

38. (1) In order to obtain such information as the Registrar may consider necessary for the purposes of carrying out the provisions of this Act, the Registrar may require any person including any present or former partner or designated partner or employee of a limited liability partnership to answer any question or make any declaration or supply any details or particulars in writing to him within a reasonable period.

(2) In case any person referred to in sub-section (1) does not answer such question or make such declaration or supply such details or particulars asked for by the Registrar within a reasonable time or time given by the Registrar or when the Registrar is not satisfied with the reply or declaration or details or particulars provided by such person, the Registrar shall have power to summon that person to appear before him or an inspector or any other public officer whom the Registrar may designate, to answer any such question or make such declaration or supply such details, as the case may be.

(3) Any person who, without lawful excuse, fails to comply with any summons or requisition of the Registrar under this section shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees.

Compounding of offences.

39. The Central Government may compound any offence under this Act which is punishable with fine only, by collecting from a person reasonably suspected of having committed the offence, a sum which may extend to the amount of the maximum fine prescribed for the offence.

Destruction of old records.

40. The Registrar may destroy any document filed or registered with him in physical form or in electronic form in accordance with such rules as may be prescribed.

Enforcement of duty to make returns, etc.

41. (1) If any limited liability partnership is in default in complying with—

(a) any provisions of this Act or of any other law which requires the filing in any manner with the Registrar of any return, account or other document or the giving of notice to him of any matter; or

(b) any request of the Registrar to amend or complete and resubmit any document or to submit a fresh document,

and fails to make good the default within fourteen days after the service on the limited liability partnership of a notice requiring it to be done, the Tribunal may, on application by the Registrar, make an order directing that limited liability partnership or its designated partners or its partners to make good the default within such time as specified in the order.

(2) Any such order may provide that all the costs of and incidental to the application shall be borne by that limited liability partnership.

(3) Nothing in this section shall limit the operation of any other provision of this Act or any other law imposing penalties in respect of any default referred to in this section on that limited liability partnership.

## CHAPTER VIII

## ASSIGNMENT AND TRANSFER OF PARTNERSHIP RIGHTS

42. (1) The rights of a partner to a share of the profits and losses of the limited liability partnership and to receive distributions in accordance with the limited liability partnership agreement are transferable either wholly or in part.

Partner's transferable interest.

(2) The transfer of any right by any partner pursuant to sub-section (1) does not by itself cause the disassociation of the partner or a dissolution and winding up of the limited liability partnership.

(3) The transfer of right pursuant to this section does not, by itself, entitle the transferee or assignee to participate in the management or conduct of the activities of the limited liability partnership, or access information concerning the transactions of the limited liability partnership.

## CHAPTER IX

## INVESTIGATION

43. (1) The Central Government shall appoint one or more competent persons as inspectors to investigate the affairs of a limited liability partnership and to report thereon in such manner as it may direct if—

Investigation of the affairs of limited liability partnership.

(a) the Tribunal, either *suo motu*, or on an application received from not less than one-fifth of the total number of partners of limited liability partnership, by order, declares that the affairs of the limited liability partnership ought to be investigated; or

(b) any Court, by order, declares that the affairs of a limited liability partnership ought to be investigated.

(2) The Central Government may appoint one or more competent persons as inspectors to investigate the affairs of a limited liability partnership and to report on them in such manner as it may direct.

(3) The appointment of inspectors pursuant to sub-section (2) may be made,—

(a) if not less than one-fifth of the total number of partners of the limited liability partnership make an application along with supporting evidence and security amount as may be prescribed; or

(b) if the limited liability partnership makes an application that the affairs of the limited liability partnership ought to be investigated; or

(c) if, in the opinion of the Central Government, there are circumstances suggesting—

(i) that the business of the limited liability partnership is being or has been conducted with an intent to defraud its creditors, partners or any other person, or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive or unfairly prejudicial to some or any of its partners, or that the limited liability partnership was formed for any fraudulent or unlawful purpose; or

(ii) that the affairs of the limited liability partnership are not being conducted in accordance with the provisions of this Act; or

(iii) that, on receipt of a report of the Registrar or any other investigating or regulatory agency, there are sufficient reasons that the affairs of the limited liability partnership ought to be investigated.

44. An application by partners of the limited liability partnership under clause (a) of sub-section (1) of section 43 shall be supported by such evidence as the Tribunal may require for the purpose of showing that the applicants have good reason for requiring the investigation

Application by partners for investigation.

and the Central Government may, before appointing an inspector, require the applicants to give security, of such amount as may be prescribed, for payment of costs of the investigation.

Firm, body corporate or association not to be appointed as inspector.

45. No firm, body corporate or other association shall be appointed as an inspector.

Power of inspectors to carry out investigation into affairs of related entities, etc.

46. (1) If an inspector appointed by the Central Government to investigate the affairs of a limited liability partnership thinks it necessary for the purposes of his investigation to investigate also the affairs of an entity which has been associated in the past or is presently associated with the limited liability partnership or any present or former partner or designated partner of the limited liability partnership, the inspector shall have the power to do so and shall report on the affairs of the other entity or partner or designated partner, so far as he thinks that the results of his investigation thereof are relevant to the investigation of the affairs of the limited liability partnership.

(2) In the case of any entity or partner or designated partner referred to in sub-section (1), the inspector shall not exercise his power of investigating into, and reporting on, its or his affairs without first having obtained the prior approval of the Central Government thereto:

Provided that before according approval under this sub-section, the Central Government shall give the entity or partner or designated partner a reasonable opportunity to show cause why such approval should not be accorded.

Production of documents and evidence.

47. (1) It shall be the duty of the designated partner and partners of the limited liability partnership—

(a) to preserve and to produce before an inspector or any person authorised by him in this behalf with the previous approval of the Central Government, all books and papers of, or relating to, the limited liability partnership or, as the case may be, the other entity, which are in their custody or power; and

(b) otherwise to give to the inspector all assistance in connection with the investigation which they are reasonably able to give.

(2) The inspector may, with the previous approval of the Central Government, require any entity other than an entity referred to in sub-section (1) to furnish such information to, or produce such books and papers before him or any person authorised by him in this behalf, with the previous approval of that Government, as he may consider necessary, if the furnishing of such information or the production of such books and papers is relevant or necessary for the purposes of his investigation.

(3) The inspector may keep in his custody any books and papers produced under sub-section (1) or sub-section (2) for thirty days and thereafter shall return the same to the limited liability partnership, other entity or individual by whom or on whose behalf the books and papers are produced:

Provided that the inspector may call for the books and papers if they are needed again:

Provided further that if certified copies of the books and papers produced under sub-section (2) are furnished to the inspector, he shall return those books and papers to the entity or person concerned.

(4) An inspector may examine on oath—

(a) any of the persons referred to in sub-section (1);

(b) with the previous approval of the Central Government, any other person in relation to the affairs of the limited liability partnership or any other entity, as the case may be; and

(c) may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.

(5) If any person fails without reasonable cause or refuses—

(a) to produce before an inspector or any person authorised by him in this behalf with the previous approval of the Central Government any book or paper which it is his duty under sub-section (1) or sub-section (2) to produce; or

(b) to furnish any information which is his duty under sub-section (2) to furnish ;  
or

(c) to appear before the inspector personally when required to do so under sub-section (4) or to answer any question which is put to him by the inspector in pursuance of that sub-section; or

(d) to sign the notes of any examination,

he shall be punishable with fine which shall not be less than two thousand rupees but which may extend to twenty-five thousand rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.

(6) The notes of any examination under sub-section (4) shall be taken down in writing and signed by the person whose examination was made on oath and a copy of such notes shall be given to the person so examined on oath and thereafter be used as an evidence by the inspector.

48. (1) Where in the course of investigation, the inspector has reasonable ground to believe that the books and papers of, or relating to, the limited liability partnership or other entity or partner or designated partner of such limited liability partnership may be destroyed, mutilated, altered, falsified or secreted, the inspector may make an application to the Judicial Magistrate of the first class, or, as the case may be, the Metropolitan Magistrate, having jurisdiction, for an order for the seizure of such books and papers.

Seizure of documents by inspector.

(2) After considering the application and hearing the inspector, if necessary, the Magistrate may, by order, authorise the inspector —

(a) to enter, with such assistance, as may be required, the place or places where such books and papers are kept;

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

(c) to seize books and papers which the inspector considers it necessary for the purposes of his investigation.

(3) The inspector shall keep in his custody the books and papers seized under this section for such period not later than the conclusion of the investigation as he considers necessary and thereafter shall return the same to the concerned entity or person from whose custody or power they were seized and inform the Magistrate of such return:

Provided that the books and papers shall not be kept seized for a continuous period of more than six months:

Provided further that the inspector may, before returning such books and papers as aforesaid, place identification marks on them or any part thereof.

(4) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code.

2 of 1974.

49. (1) The inspectors may, and if so directed by the Central Government, shall make interim reports to that Government, and on the conclusion of the investigation, shall make a final report to the Central Government and any such report shall be written or printed, as the Central Government may direct.

Inspector's report.

## (2) The Central Government—

(a) shall forward a copy of any report (other than an interim report) made by the inspectors to the limited liability partnership at its registered office, and also to any other entity or person dealt with or related to the report; and

(b) may, if it thinks fit, furnish a copy thereof, on request and on payment of the prescribed fee, to any person or entity related to or affected by the report.

## Prosecution.

**50.** If, from the report under section 49, it appears to the Central Government that any person in relation to the limited liability partnership or in relation to any other entity whose affairs have been investigated, has been guilty of any offence for which he is liable, the Central Government may prosecute such person for the offence; and it shall be the duty of all partners, designated partners and other employees and agents of the limited liability partnership or other entity, as the case may be, to give the Central Government all assistance in connection with the prosecution which they are reasonably able to give.

## Application for winding up of limited liability partnership.

**51.** If any such limited liability partnership is liable to be wound up under this Act or any other law for the time being in force, and it appears to the Central Government from any such report under section 49 that it is expedient to do so by reason of any such circumstances as are referred to in sub-clause (i) or sub-clause (ii) of clause (c) of sub-section (3) of section 43, the Central Government may, unless the limited liability partnership is already being wound up by the Tribunal, cause to be presented to the Tribunal by any person authorised by the Central Government in this behalf, a petition for the winding up of the limited liability partnership on the ground that it is just and equitable that it should be wound up.

## Proceedings for recovery of damages or property.

**52.** If, from any report under section 49, it appears to the Central Government that proceedings ought, in the public interest, to be brought by the limited liability partnership or any entity whose affairs have been investigated,—

(a) for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation, or the management of the affairs, of such limited liability partnership or such other entity; or

(b) for the recovery of any property of such limited liability partnership or such other entity, which has been misapplied or wrongfully retained,

the Central Government may itself bring proceedings for that purpose.

## Expenses of investigation.

**53.** (1) The expenses of, and incidental to, an investigation by an inspector appointed by the Central Government under this Act shall be defrayed in the first instance by the Central Government; but the following persons shall, to the extent mentioned below, be liable to reimburse the Central Government in respect of such expenses, namely:—

(a) any person who is convicted on a prosecution, or who is ordered to pay damages or restore any property in proceedings brought by virtue of section 52, may, in the same proceedings, be ordered to pay the said expenses to such extent as may be specified by the court convicting such person, or ordering him to pay such damages or restore such property, as the case may be;

(b) any entity in whose name proceedings are brought as aforesaid shall be liable, to the extent of the amount or value of any sums or property recovered by it as a result of the proceedings; and

(c) unless, as a result of the investigation, a prosecution is instituted in pursuance of section 50,—

(i) any entity, a partner or designated partner or any other person dealt with by the report of the inspector shall be liable to reimburse the Central Government in respect of the whole of the expenses, unless and except in so far as, the Central Government otherwise directs; and



(ii) the applicants for the investigation, where the inspector was appointed in pursuance of the provisions of clause (a) of sub-section (1) of section 43, shall be liable to such extent, if any, as the Central Government may direct.

(2) Any amount for which a limited liability partnership or other entity is liable by virtue of clause (b) of sub-section (1) shall be a first charge on the sums or property mentioned in that clause.

(3) The amount of expenses in respect of which any limited liability partnership, other entity, a partner or designated partner or any other person is liable under sub-clause (i) of clause (c) of sub-section (1) to reimburse the Central Government shall be recoverable as arrears of land revenue.

(4) For the purposes of this section, any costs or expenses incurred by the Central Government or in connection with the proceedings brought by virtue of section 52 shall be treated as expenses of the investigation giving rise to the proceedings.

54. A copy of any report of any inspector or inspectors appointed under the provisions of this Act, authenticated in such manner, if any, as may be prescribed, shall be admissible in any legal proceeding as evidence in relation to any matter contained in the report.

Inspector's report to be evidence.

## CHAPTER X

### CONVERSION INTO LIMITED LIABILITY PARTNERSHIP

55. A firm may convert into a limited liability partnership in accordance with the provisions of this Chapter and the Second Schedule.

Conversion from firm into limited liability partnership.

56. A private company may convert into a limited liability partnership in accordance with the provisions of this Chapter and the Third Schedule.

Conversion from private company into limited liability partnership.

57. An unlisted public company may convert into a limited liability partnership in accordance with the provisions of this Chapter and the Fourth Schedule.

Conversion from unlisted public company into limited liability partnership.

58. (1) The Registrar, on satisfying that a firm, private company or an unlisted public company, as the case may be, has complied with the provisions of the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be, shall, subject to the provisions of this Act and the rules made thereunder, register the documents submitted under such Schedule and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act:

Registration and effect of conversion.

Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Firms or Registrar of Companies, as the case may be, with which it was registered under the provisions of the Indian Partnership Act, 1932 or the Companies Act, 1956, as the case may be, about the conversion and of the particulars of the limited liability partnership in such form and manner as may be prescribed.

9 of 1932.  
1 of 1956.

(2) Upon such conversion, the partners of the firm, the shareholders of private company or unlisted public company, as the case may be, the limited liability partnership to which such firm or such company has converted, and the partners of the limited liability partnership shall be bound by the provisions of the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be, applicable to them.

(3) Upon such conversion, on and from the date of certificate of registration, the effects of the conversion shall be such as specified in the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be.

(4) Notwithstanding anything contained in any other law for the time being in force, on and from the date of registration specified in the certificate of registration issued under the Second Schedule, the Third Schedule or the Fourth Schedule, as the case may be,—

(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;

(b) all tangible (movable or immovable) and intangible property vested in the firm or the company, as the case may be, all assets, interests, rights, privileges, liabilities, obligations relating to the firm or the company, as the case may be, and the whole of the undertaking of the firm or the company, as the case may be, shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and

(c) the firm or the company, as the case may be, shall be deemed to be dissolved and removed from the records of the Registrar of Firms or Registrar of Companies, as the case may be.

## CHAPTER XI

### FOREIGN LIMITED LIABILITY PARTNERSHIPS

Foreign limited liability partnerships.

59. The Central Government may make rules for provisions in relation to establishment of place of business by foreign limited liability partnerships within India and carrying on their business therein by applying or incorporating, with such modifications, as appear appropriate, the provisions of the Companies Act, 1956 or such regulatory mechanism with such composition as may be prescribed.

1 of 1956.

## CHAPTER XII

### COMPROMISE, ARRANGEMENT OR RECONSTRUCTION OF LIMITED LIABILITY PARTNERSHIPS

Compromise, or arrangement of limited liability partnerships.

60. (1) Where a compromise or arrangement is proposed—

(a) between a limited liability partnership and its creditors; or

(b) between a limited liability partnership and its partners,

the Tribunal may, on the application of the limited liability partnership or of any creditor or partner of the limited liability partnership, or, in the case of a limited liability partnership which is being wound up, of the liquidator, order a meeting of the creditors or of the partners, as the case may be, to be called, held and conducted in such manner as may be prescribed or as the Tribunal directs.

(2) If a majority representing three-fourths in value of the creditors, or partners, as the case may be, at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Tribunal, by order be binding on all the creditors or all the partners, as the case may be, and also on the limited liability partnership, or in the case of a limited liability partnership which is being wound up, on the liquidator and contributories of the limited liability partnership:

Provided that no order sanctioning any compromise or arrangement shall be made by the Tribunal unless the Tribunal is satisfied that the limited liability partnership or any other person by whom an application has been made under sub-section (1) has disclosed to the Tribunal, by affidavit or otherwise, all material facts relating to the limited liability partnership, including the latest financial position of the limited liability partnership and the pendency of any investigation proceedings in relation to the limited liability partnership.

(3) An order made by the Tribunal under sub-section (2) shall be filed by the limited liability partnership with the Registrar within thirty days after making such an order and shall have effect only after it is so filed.

(4) If default is made in complying with sub-section (3), the limited liability partnership, and every designated partner of the limited liability partnership shall be punishable with fine which may extend to one lakh rupees.

(5) The Tribunal may, at any time after an application has been made to it under this section, stay the commencement or continuation of any suit or proceeding against the limited liability partnership on such terms as the Tribunal thinks fit, until the application is finally disposed of.

61. (1) Where the Tribunal makes an order under section 60 sanctioning a compromise or an arrangement in respect of a limited liability partnership, it—

Power of Tribunal to enforce compromise or arrangement.

(a) shall have power to supervise the carrying out of the compromise or an arrangement; and

(b) may, at the time of making such order or at any time thereafter, give such directions in regard to any matter or make such modifications in the compromise or arrangement as it may consider necessary for the proper working of the compromise or arrangement.

(2) If the Tribunal aforesaid is satisfied that a compromise or an arrangement sanctioned under section 60 cannot be worked satisfactorily with or without modifications, it may, either on its own motion or on the application of any person interested in the affairs of the limited liability partnership, make an order for winding up the limited liability partnership, and such an order shall be deemed to be an order made under section 64 of this Act.

62. (1) Where an application is made to the Tribunal under section 60 for sanctioning of a compromise or arrangement proposed between a limited liability partnership and any such persons as are mentioned in that section, and it is shown to the Tribunal that—

Provisions for facilitating reconstruction or amalgamation of limited liability partnerships.

(a) compromise or arrangement has been proposed for the purposes of, or in connection with, a scheme for the reconstruction of any limited liability partnership or limited liability partnerships, or the amalgamation of any two or more limited liability partnerships; and

(b) under the scheme the whole or any part of the undertaking, property or liabilities of any limited liability partnership concerned in the scheme (in this section referred to as a “transferor limited liability partnership”) is to be transferred to another limited liability partnership (in this section referred to as the “transferee limited liability partnership”),

the Tribunal may, either by the order sanctioning the compromise or arrangement or by a subsequent order, make provisions for all or any of the following matters, namely:—

(i) the transfer to the transferee limited liability partnership of the whole or any part of the undertaking, property or liabilities of any transferor limited liability partnership;

(ii) the continuation by or against the transferee limited liability partnership of any legal proceedings pending by or against any transferor limited liability partnership;

(iii) the dissolution, without winding up, of any transferor limited liability partnership;

(iv) the provision to be made for any person who, within such time and in such manner as the Tribunal directs, dissent from the compromise or arrangement; and

(v) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out:

Provided that no compromise or arrangement proposed for the purposes of, or in connection with, a scheme for the amalgamation of a limited liability partnership, which is being wound up, with any other limited liability partnership or limited liability

partnerships, shall be sanctioned by the Tribunal unless the Tribunal has received a report from the Registrar that the affairs of the limited liability partnership have not been conducted in a manner prejudicial to the interests of its partners or to public interest:

Provided further that no order for the dissolution of any transferor limited liability partnership under clause (iii) shall be made by the Tribunal unless the Official Liquidator has, on scrutiny of the books and papers of the limited liability partnership, made a report to the Tribunal that the affairs of the limited liability partnership have not been conducted in a manner prejudicial to the interests of its partners or to public interest.

(2) Where an order under this section provides for the transfer of any property or liabilities, then, by virtue of the order, that property shall be transferred to and vest in, and those liabilities shall be transferred to and become the liabilities of, the transferee limited liability partnership; and in the case of any property, if the order so directs, freed from any charge which is, by virtue of the compromise or arrangement, to cease to have effect.

(3) Within thirty days after the making of an order under this section, every limited liability partnership in relation to which the order is made shall cause a certified copy thereof to be filed with the Registrar for registration.

(4) If default is made in complying with the provisions of sub-section (3), the limited liability partnership, every designated partner of the limited liability partnership shall be punishable with fine which may extend to fifty thousand rupees.

*Explanation.*— In this section “property” includes property, rights and powers of every description; and “liabilities” includes duties of every description.

### CHAPTER XIII

#### WINDING UP AND DISSOLUTION

Winding up and dissolution.

63. The winding up of a limited liability partnership may be either voluntary or by the Tribunal and limited liability partnership, so wound up may be dissolved.

Circumstances in which limited liability partnership may be wound up by Tribunal.

64. A limited liability partnership may be wound up by the Tribunal,—

(a) if the limited liability partnership decides that limited liability partnership be wound up by the Tribunal;

(b) if, for a period of more than six months, the number of partners of the limited liability partnership is reduced below two;

(c) if the limited liability partnership is unable to pay its debts;

(d) if the limited liability partnership has acted against the interests of the sovereignty and integrity of India, the security of the State or public order;

(e) if the limited liability partnership has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any five consecutive financial years; or

(f) if the Tribunal is of the opinion that it is just and equitable that the limited liability partnership be wound up.

Rules for winding up and dissolution.

65. The Central Government may make rules for the provisions in relation to winding up and dissolution of limited liability partnerships.

### CHAPTER XIV

#### MISCELLANEOUS

Business transactions of partner with limited liability partnership.

66. A partner may lend money to and transact other business with the limited liability partnership and has the same rights and obligations with respect to the loan or other transactions as a person who is not a partner.

1 of 1956.	67. (1) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of the Companies Act, 1956 specified in the notification--	Application of the provisions of the Companies Act
	(a) shall apply to any limited liability partnership; or	
	(b) shall apply to any limited liability partnership with such exception, modification and adaptation, as may be specified, in the notification.	
	(2) A copy of every notification proposed to be issued under sub-section (1) shall be laid in draft 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 disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.	
	68. (1) Any document required to be filed, recorded or registered under this Act may be filed, recorded or registered in such manner and subject to such conditions as may be prescribed.	Electronic filing of documents.
21 of 2000.	(2) A copy of or an extract from any document electronically filed with or submitted to the Registrar which is supplied or issued by the Registrar and certified through affixing digital signature as per the Information Technology Act, 2000 to be a true copy of or extract from such document shall, in any proceedings, be admissible in evidence as of equal validity with the original document.	
	(3) Any information supplied by the Registrar that is certified by the Registrar through affixing digital signature to be a true extract from any document filed with or submitted to the Registrar shall, in any proceedings, be admissible in evidence and be presumed, unless evidence to the contrary is adduced, to be a true extract from such document.	
	69. Any document or return required to be filed or registered under this Act with the Registrar, if, is not filed or registered in time provided therein, may be filed or registered after that time upto a period of three hundred days from the date within which it should have been filed, on payment of additional fee of one hundred rupees for every day of such delay in addition to any fee as is payable for filing of such document or return:	Payment of additional fee.
	Provided that such document or return may, without prejudice to any other action or liability under this Act, also be filed after such period of three hundred days on payment of fee and additional fee specified in this section.	
	70. In case a limited liability partnership or any partner or designated partner of such limited liability partnership commits any offence, the limited liability partnership or any partner or designated partner shall, for the second or subsequent offence, be punishable with imprisonment as provided, but in case of offences for which fine is prescribed either along with or exclusive of imprisonment, with fine which shall be twice the amount of fine for such offence.	Enhanced punishment.
	71. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.	Application of other laws not barred.
	72. (1) The Tribunal shall exercise such powers and perform such functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.	Jurisdiction of Tribunal and Appellate Tribunal.
1 of 1956.	(2) Any person aggrieved by an order or decision of Tribunal may prefer an appeal to the Appellate Tribunal and the provisions of sections 10FQ, 10FZA, 10G, 10GD, 10GE and 10GF of the Companies Act, 1956 shall be applicable in respect of such appeal.	
	73. Whoever fails to comply with any order made by the Tribunal under any provision of this Act shall be punishable with imprisonment which may extend to six months and shall also be liable to a fine which shall not be less than fifty thousand rupees.	Penalty on non-compliance of any order passed by Tribunal.

General penalties.

74. Any person guilty of an offence under this Act for which no punishment is expressly provided shall be liable to a fine which may extend to five lakh rupees but which shall not be less than five thousand rupees and with a farther fine which may extend to fifty rupees for every day after the first day after which the default continues.

Power of Registrar to strike defunct limited liability partnership off register.

75. Where the Registrar has reasonable cause to believe that a limited liability partnership is not carrying on business or its operation, in accordance with the provisions of this Act, the name of limited liability partnership may be struck off the register of limited liability partnerships in such manner as may be prescribed:

Provided that the Registrar shall, before striking off the name of any limited liability partnership under this section, give such limited liability partnership a reasonable opportunity of being heard.

Offences by limited liability partnerships.

76. Where an offence under this Act committed by a limited liability partnership is proved —

(a) to have been committed with the consent or connivance of a partner or partners or designated partner or designated partners of the limited liability partnership; or

(b) to be attributable to any neglect on the part of the partner or partners or designated partner or designated partners of that limited liability partnership,

the partner or partners or designated partner or designated partners of the limited liability partnership, as the case may be, as well as that limited liability partnership shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Jurisdiction of Court.

77. Notwithstanding any provision to the contrary in any Act for the time being in force, the Judicial Magistrate of the first class or, as the case may be, the Metropolitan Magistrate shall have jurisdiction to try any offence under this Act and shall have power to impose punishment in respect of said offence.

Power to alter Schedules.

78. (1) The Central Government may, by notification in the Official Gazette, alter any of the provisions contained in any of the Schedules to this Act.

(2) Any alteration notified under sub-section (1) shall have effect as if enacted in the Act and shall come into force on the date of the notification, unless the notification otherwise directs.

(3) Every alteration made by the Central Government under sub-section (1) 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 alteration, or both Houses agree that the alteration should not be made, the alteration 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 in pursuance of that alteration.

Power to make rules.

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

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

(a) form and manner of prior consent to be given by designated partner under sub-section (3) of section 7;

(b) the form and manner of particulars of every individual agreeing to act as designated partner of limited liability partnership under sub-section (4) of section 7;

(c) the conditions and requirements relating to the eligibility of an individual to become a designated partner under sub-section (5) of section 7;

- (d) the manner of filing the incorporation document and payment of fees payable thereof under clause (b) of sub-section (1) of section 11;
- (e) the form of statement to be filed under clause (c) of sub-section (1) of section 11;
- (f) the form of incorporation document under clause (a) of sub-section (2) of section 11;
- (g) the information to be contained in the incorporation document concerning the proposed limited liability partnership under clause (g) of sub-section (2) of section 11;
- (h) the manner of serving the documents on a limited liability partnership or a partner or a designated partner and the form and manner in which any other address may be declared by the limited liability partnership under sub-section (2) of section 13;
- (i) the form and manner of notice to the Registrar and the conditions in respect of change of registered office under sub-section (3) of section 13;
- (j) the form and manner of application and amount of fee payable to the Registrar under sub-section (1) of section 16;
- (k) the manner in which names will be reserved by the Registrar under sub-section (2) of section 16;
- (l) the manner in which an application may be made by an entity under sub-section (1) of section 18;
- (m) the form and manner of notice of change of name of limited liability partnership and the amount of fee payable under section 19;
- (n) the form and manner of the limited liability partnership agreement and the changes made therein and the amount of fee payable under sub-section (2) of section 23;
- (o) the form of notice, the amount of fee payable and the manner of authentication of the statement under clauses (a), (b) and (c) of sub-section (3) of section 25;
- (p) the manner of accounting and disclosure of monetary value of contribution of a partner under sub-section (2) of section 32;
- (q) the books of account and the period of their maintenance under sub-section (1) of section 34;
- (r) the form of Statement of Account and Solvency under sub-section (2) of section 34;
- (s) the form, manner, fee and time of filing of Statement of Account and Solvency under sub-section (3) of section 34;
- (t) the audit of accounts of a limited liability partnership under sub-section (4) of section 34;
- (u) the form and manner of annual return and fee payable under sub-section (1) of section 35;
- (v) the manner and amount of fee payable for inspection of incorporation document, names of partners and changes made therein, Statement of Account and Solvency and annual return under section 36;
- (w) the destruction of documents by Registrar in any form under section 40;
- (x) the amount required as security under clause (a) of sub-section (3) of section 43;

- (y) the amount of security to be given under section 44;
- (z) the fee payable for furnishing a copy under clause (b) of sub-section (2) of section 49;
- (za) the manner of authentication of report of inspector under section 54;
- (zb) the form and manner of particulars about conversion under the proviso to sub-section (1) of section 58;
- (zc) in relation to establishment of place of business and carrying on business in India by foreign limited liability partnerships and regulatory mechanism and composition under section 59;
- (zd) the manner of calling, holding and conducting meeting under sub-section (1) of section 60;
- (ze) in relation to winding up and dissolution of limited liability partnerships under section 65;
- (zf) the manner and conditions for filing document electronically under sub-section (1) of section 68;
- (zg) the manner for striking off the names of limited liability partnerships from the register under section 75;
- (zh) the form and manner of statement containing particulars and amount of fee payable under sub-paragraph (a) of paragraph 4 of the Second Schedule;
- (zi) the form and manner of particulars about conversion under the proviso to paragraph 5 of the Second Schedule;
- (zj) the form and manner of the statement and the amount of fee payable under sub-paragraph (a) of paragraph 3 of the Third Schedule;
- (zk) the form and manner of particulars about conversion under the proviso to paragraph 4 of the Third Schedule;
- (zl) the form and manner of the statement and amount of fee payable under sub-paragraph (a) of paragraph 4 of the Fourth Schedule; and
- (zm) the form and manner of particulars about conversion under the proviso to paragraph 5 of the Fourth Schedule.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, 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.

Power to  
remove  
difficulties.

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

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

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



of 1956. **81. Until the Tribunal and the Appellate Tribunal are constituted under the provisions of the Companies Act, 1956, the provisions of this Act shall have effect subject to the following modifications, namely:—** **Transitional provisions.**

(a) for the word "Tribunal" occurring in clause (b) of sub-section (1) of section 41, clause (a) of sub-section (1) of section 43 and section 44, the words "Company Law Board" had been substituted;

(b) for the word "Tribunal" occurring in section 51 and in sections 60 to 64, the words "High Court" had been substituted;

(c) for the words "Appellate Tribunal" occurring in sub-section (2) of section 72, the words "High Court" had been substituted.

**THE FIRST SCHEDULE**

[See section 23(4)]

PROVISIONS REGARDING MATTERS RELATING TO MUTUAL RIGHTS AND DUTIES OF PARTNERS AND LIMITED LIABILITY PARTNERSHIP AND ITS PARTNERS APPLICABLE IN THE ABSENCE OF ANY AGREEMENT ON SUCH MATTERS

1. The mutual rights and duties of the partners and the mutual rights and duties of the limited liability partnership and its partners shall be determined, subject to the terms of any limited liability partnership agreement or in the absence of any such agreement on any matter, by the provisions in this Schedule.
2. All the partners of a limited liability partnership are entitled to share equally in the capital, profits and losses of the limited liability partnership.
3. The limited liability partnership shall indemnify each partner in respect of payments made and personal liabilities incurred by him —
  - (a) in the ordinary and proper conduct of the business of the limited liability partnership; or
  - (b) in or about anything necessarily done for the preservation of the business or property of the limited liability partnership.
4. Every partner shall indemnify the limited liability partnership for any loss caused to it by his fraud in the conduct of the business of the limited liability partnership.
5. Every partner may take part in the management of the limited liability partnership.
6. No partner shall be entitled to remuneration for acting in the business or management of the limited liability partnership.
7. No person may be introduced as a partner without the consent of all the existing partners.
8. Any matter or issue relating to the limited liability partnership shall be decided by a resolution passed by a majority in number of the partners, and for this purpose, each partner shall have one vote. However, no change may be made in the nature of business of the limited liability partnership without the consent of all the partners.
9. Every limited liability partnership shall ensure that decisions taken by it are recorded in the minutes within thirty days of taking such decisions and are kept and maintained at the registered office of the limited liability partnership.
10. Each partner shall render true accounts and full information of all things affecting the limited liability partnership to any partner or his legal representatives.
11. If a partner, without the consent of the limited liability partnership, carries on any business of the same nature as and competing with the limited liability partnership, he must account for and pay over to the limited liability partnership all profits made by him in that business.
12. Every partner shall account to the limited liability partnership for any benefit derived by him without the consent of the limited liability partnership from any transaction concerning the limited liability partnership, or from any use by him of the property, name or any business connection of the limited liability partnership.
13. No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners.
14. All disputes between the partners arising out of the limited liability partnership agreement which cannot be resolved in terms of such agreement shall be referred for arbitration as per the provisions of the Arbitration and Conciliation Act, 1996.

## THE SECOND SCHEDULE

(See section 55)

## CONVERSION FROM FIRM INTO LIMITED LIABILITY PARTNERSHIP

1. In this Schedule, unless the context otherwise requires, —
- (a) "firm" means a firm as defined in section 4 of the Indian Partnership Act, 1932;
- (b) "convert", in relation to a firm converting into a limited liability partnership, means a transfer of the property, assets, interests, rights, privileges, liabilities, obligations and the undertaking of the firm to the limited liability partnership in accordance with this Schedule.
2. (1) A firm may convert into a limited liability partnership by complying with the requirements as to the conversion set out in this Schedule.
- (2) Upon such conversion, the partners of the firm shall be bound by the provisions of this Schedule that are applicable to them.
3. A firm may apply to convert into a limited liability partnership in accordance with this Schedule if and only if the partners of the limited liability partnership into which the firm is to be converted, comprise, all the partners of the firm and no one else.
4. A firm may apply to convert into a limited liability partnership by filing with the Registrar —
- (a) a statement by all of its partners in such form and manner and accompanied by such fee as the Central Government may prescribe, containing the following particulars, namely:—
- (i) the name and registration number, if applicable, of the firm; and
- (ii) the date on which the firm was registered under the Indian Partnership Act, 1932 or under any other law, if applicable, and
- (b) incorporation document and statement referred to in section 11.
5. On receiving the documents referred to in paragraph 4, the Registrar shall subject to the provisions of this Act, register the documents and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act.
- Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform, the concerned Registrar of Firms with which it was registered under the provisions of the Indian Partnership Act, 1932 about the conversion and of the particulars of the limited liability partnership in such form and manner as the Central Government may prescribe.
6. (1) Nothing in this Schedule shall be construed as to require the Registrar to register any limited liability partnership if he is not satisfied with the particulars or other information furnished under the provisions of this Act.
- Provided that an appeal may be made before the Tribunal in case of refusal of registration by the Registrar.
- (2) The Registrar may, in any particular case, require the documents referred to in paragraph 4 to be verified in such manner, as he considers fit.
7. On and from the date of registration specified in the certificate of registration issued under paragraph 5,—
- (a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;

Interpretation.

9 of 1932

Conversion from firm into limited liability partnership

Eligibility for conversion.

Statements to be filed.

9 of 1932.

Registration of conversion

9 of 1932.

Registrar may refuse to register.

Refusal of registration.

(b) all tangible (movable and immovable) property as well as intangible property vested in the firm, all assets, interests, rights, privileges, liabilities, obligations relating to the firm and the whole of the undertaking of the firm shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and

(c) the firm shall be deemed to be dissolved and if earlier registered under the Indian Partnership Act, 1932 removed from the records maintained under that Act. 9 of 1932.

Registration in relation to property.

8. If any property to which sub-paragraph (b) of paragraph 7 applies is registered with any authority, the limited liability partnership shall, as soon as practicable after the date of registration, take all necessary steps as required by the relevant authority to notify the authority of the conversion and of the particulars of the limited liability partnership in such medium and form as the authority may specify.

Pending proceedings.

9. All proceedings by or against the firm which are pending in any Court or Tribunal or before any authority on the date of registration may be continued, completed and enforced by or against the limited liability partnership.

Continuance of conviction, ruling, order or judgment.

10. Any conviction, ruling, order or judgment of any Court, Tribunal or other authority in favour of or against the firm may be enforced by or against the limited liability partnership.

Existing agreements.

11. Every agreement to which the firm was a party immediately before the date of registration, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that date as if—

(a) the limited liability partnership were a party to such an agreement instead of the firm; and

(b) for any reference to the firm, there were substituted in respect of anything to be done on or after the date of registration a reference to the limited liability partnership.

Existing contracts, etc.

12. All deeds, contracts, schemes, bonds, agreements, applications, instruments and arrangements subsisting immediately before the date of registration relating to the firm or to which the firm is a party, shall continue in force on and after that date as if they relate to the limited liability partnership and shall be enforceable by or against the limited liability partnership as if the limited liability partnership were named therein or were a party thereto instead of the firm.

Continuance of employment.

13. Every contract of employment to which paragraph 11 or paragraph 12 applies shall continue to be in force on or after the date of registration as if the limited liability partnership were the employer thereunder instead of the firm.

Existing appointment, authority or power.

14. (1) Every appointment of the firm in any role or capacity which is in force immediately before the date of registration shall take effect and operate from that date as if the limited liability partnership were appointed.

(2) Any authority or power conferred on the firm which is in force immediately before the date of registration shall take effect and operate from that date as if it were conferred on the limited liability partnership.

Application of paragraphs 7 to 14.

15. The provisions of paragraphs 7 to 14 (both inclusive) shall apply to any approval, permit or licence issued to the firm under any other Act which is in force immediately before the date of registration of the limited liability partnership, subject to the provisions of such other Act under which such approval, permit or licence has been issued.

Partner liable for liabilities and obligations of firm before conversion.

16. (1) Notwithstanding anything in paragraphs 7 to 14 (both inclusive), every partner of a firm that has converted into a limited liability partnership shall continue to be personally liable (jointly and severally with the limited liability partnership) for the liabilities and obligations of the firm which were incurred prior to the conversion or which arose from any contract entered into prior to the conversion.

(2) If any such partner discharges any liability or obligation referred to in sub-paragraph (1), he shall be entitled (subject to any agreement with the limited liability partnership to the contrary) to be fully indemnified by the limited liability partnership in respect of such liability or obligation.

17. (1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following:

Notice of  
conversion in  
correspondence.

(a) a statement that it was, as from the date of registration, converted from a firm into a limited liability partnership; and

(b) the name and registration number, if applicable, of the firm from which it was converted.

(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.

## THE THIRD SCHEDULE

(See section 56)

## CONVERSION FROM PRIVATE COMPANY INTO LIMITED LIABILITY PARTNERSHIP

Interpretation.

1. In this Schedule, unless the context otherwise requires, —

(a) "company" means a private company as defined in clause (iii) of sub-section (1) of section 3 of the Companies Act, 1956;

1 of 1956.

(b) "convert", in relation to a private company converting into a limited liability partnership, means a transfer of the property, assets, interests, rights, privileges, liabilities, obligations and the undertaking of the private company to the limited liability partnership in accordance with this Schedule.

Eligibility for conversion of private companies into limited liability partnership.

2. (1) A company may convert into a limited liability partnership by complying with the requirements as to the conversion set out in this Schedule.

(2) A company may apply to convert into a limited liability partnership in accordance with this Schedule if and only if—

(a) there is no security interest in its assets subsisting or in force at the time of application; and

(b) the partners of the limited liability partnership to which it converts comprise all the shareholders of the company and no one else.

(3) Upon such conversion, the company, its shareholders, the limited liability partnership into which the company has converted and the partners of that limited liability partnership shall be bound by the provisions of this Schedule that are applicable to them.

Statements to be filed.

3. A company may apply to convert into a limited liability partnership by filing with the Registrar —

(a) a statement by all its shareholders in such form and manner to be accompanied by such fees as the Central Government may prescribe, containing the following particulars, namely:—

(i) the name and registration number of the company;

(ii) the date on which the company was incorporated; and

(b) incorporation document and statement referred to in section 11.

Registration of conversion.

4. On receiving the documents referred to in paragraph 3, the Registrar shall, subject to the provisions of this Act and the rules made thereunder, register the documents and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act:

Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Companies with which it was registered under the provisions of the Companies Act, 1956 about the conversion and of the particulars of the limited liability partnership in such form and manner as the Central Government may prescribe.

1 of 1956.

Registrar may refuse to register.

5. (1) Nothing in this Schedule shall be construed as to require the Registrar to register any limited liability partnership if he is not satisfied with the particulars or other information furnished under the provisions of this Act:

Provided that an appeal may be made before the Tribunal in case of refusal of registration by the Registrar.

(2) The Registrar may, in any particular case, require the documents referred to in paragraph 3 to be verified in such manner, as he considers fit.

<p>6. On and from the date of registration specified in the certificate of registration issued under paragraph 4..</p>	<p>Effect of registration.</p>
<p>(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;</p>	
<p>(b) all tangible (movable or immovable) and intangible property vested in the company, all assets, interests, rights, privileges, liabilities, obligations relating to the company and the whole of the undertaking of the company shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and</p>	
<p>(c) the company shall be deemed to be dissolved and removed from the records of the Registrar of Companies.</p>	
<p>7. If any property to which clause (b) of paragraph 6 applies is registered with any authority, the limited liability partnership shall, as soon as practicable, after the date of registration, take all necessary steps as required by the relevant authority to notify the authority of the conversion and of the particulars of the limited liability partnership in such form and manner as the authority may determine.</p>	<p>Registration in relation to property.</p>
<p>8. All proceedings by or against the company which are pending before any Court, Tribunal or other authority on the date of registration may be continued, completed and enforced by or against the limited liability partnership.</p>	<p>Pending proceedings.</p>
<p>9. Any conviction, ruling, order or judgment of any Court, Tribunal or other authority in favour of or against the company may be enforced by or against the limited liability partnership.</p>	<p>Continuance of conviction, ruling, order or judgment.</p>
<p>10. Every agreement to which the company was a party immediately before the date of registration, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that date as if --</p>	<p>Existing agreements.</p>
<p>(a) the limited liability partnership were a party to such an agreement instead of the company; and</p>	
<p>(b) for any reference to the company, there were substituted in respect of anything to be done on or after the date of registration a reference to the limited liability partnership.</p>	
<p>11. All deeds, contracts, schemes, bonds, agreements, applications, instruments and arrangements subsisting immediately before the date of registration relating to the company or to which the company is a party shall continue in force on and after that date as if they relate to the limited liability partnership and shall be enforceable by or against the limited liability partnership as if the limited liability partnership were named therein or were a party thereto instead of the company.</p>	<p>Existing contracts, etc.</p>
<p>12. Every contract of employment to which paragraph 10 or paragraph 11 applies shall continue in force on or after the date of registration as if the limited liability partnership were the employer thereunder instead of the company.</p>	<p>Continuance of employment.</p>
<p>13. (1) Every appointment of the company in any role or capacity which is in force immediately before the date of registration shall take effect and operate from that date as if the limited liability partnership were appointed.</p>	<p>Existing appointment, authority or power.</p>
<p>(2) Any authority or power conferred on the company which is in force immediately before the date of registration shall take effect and operate from that date as if it were conferred on the limited liability partnership.</p>	
<p>14. The provisions of paragraphs 6 to 13 (both inclusive) shall apply to any approval, permit or licence issued to the company under any other Act which is in force immediately before the date of registration of the limited liability partnership, subject to the provisions of such other Act under which such approval, permit or licence has been issued.</p>	<p>Application of paragraphs 6 to 13.</p>

Notice of  
conversion in  
correspondence.

15. (1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following, namely:—

(a) a statement that it was, as from the date of registration, converted from a company into a limited liability partnership; and

(b) the name and registration number of the company from which it was converted.

(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.



**THE FOURTH SCHEDULE**  
(See section 57)

CONVERSION FROM UNLISTED PUBLIC COMPANY INTO LIMITED LIABILITY PARTNERSHIP

- 15 of 1992.
1. (1) In this Schedule, unless the context otherwise requires,—
- Interpretation.
- (a) "company" means an unlisted public company;
- (b) "convert", in relation to a company converting into a limited liability partnership, means a transfer of the property, assets, interests, rights, privileges, liabilities, obligations and the undertaking of the company to the limited liability partnership in accordance with the provisions of this Schedule;
- (c) "listed company" means a listed company as defined in the Securities Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 issued by the Securities and Exchange Board of India under section 11 of the Securities and Exchange Board of India Act, 1992;
- (d) "unlisted public company" means a company which is not a listed company.
2. (1) A company may convert into a limited liability partnership by complying with the requirements as to the conversion set out in this Schedule.
- Conversion of company into a limited liability partnership.
- (2) Upon such conversion, the company, its shareholders, the limited liability partnership into which the company has converted and the partners of that limited liability partnership shall be bound by the provisions of this Schedule that are applicable to them.
3. A company may apply to convert into a limited liability partnership in accordance with the provisions of this Schedule if and only if—
- Eligibility for conversion.
- (a) there is no security interest in its assets subsisting or in force at the time of application; and
- (b) the partners of the limited liability partnership to which it converts comprise all the shareholders of the company and no one else.
4. A company may apply to convert into a limited liability partnership by filing with the Registrar—
- Statements to be filed.
- (a) a statement by all its shareholders in such form and manner to be accompanied by such fee as the Central Government may prescribe containing the following particulars, namely:—
- (i) the name and registration number of the company;
- (ii) the date on which the company was incorporated; and
- (b) incorporation document and statement referred to in section 11.
5. On receiving the documents referred to in paragraph 4, the Registrar shall, subject to the provisions of this Act, and the rules made thereunder, register the documents and issue a certificate of registration in such form as the Registrar may determine stating that the limited liability partnership is, on and from the date specified in the certificate, registered under this Act.
- Registration of conversion.
- Provided that the limited liability partnership shall, within fifteen days of the date of registration, inform the concerned Registrar of Companies with which it was registered under the provisions of the Companies Act, 1956 about the conversion and of the particulars of the limited liability partnership in such form and manner as the Central Government may prescribe.
6. (1) Nothing in this Schedule shall be construed as to require the Registrar to register any limited liability partnership if he is not satisfied with the particulars or other information furnished under the provisions of this Act.
- Registrar may refuse to register.

Provided that an appeal may be made before the Tribunal in case of refusal of registration by the Registrar.

(2) The Registrar may, in any particular case, require the documents referred to in paragraph 4 to be verified in such manner, as he considers fit.

Effect of registration.

7. On and from the date of registration specified in the certificate of registration issued under paragraph 5—

(a) there shall be a limited liability partnership by the name specified in the certificate of registration registered under this Act;

(b) all tangible (movable or immovable) and intangible property vested in the company, all assets, interests, rights, privileges, liabilities, obligations relating to the company and the whole of the undertaking of the company shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed; and

(c) the company shall be deemed to be dissolved and removed from the records of the Registrar of Companies.

Registration in relation to property.

8. If any property to which clause (b) of paragraph 7 applies is registered with any authority, the limited liability partnership shall, as soon as practicable, after the date of registration, take all necessary steps as required by the relevant authority to notify the authority of the conversion and of the particulars of the limited liability partnership in such form and manner as the authority may determine.

Pending proceedings.

9. All proceedings by or against the company which are pending in any Court or Tribunal or before an authority on the date of registration may be continued, completed and enforced by or against the limited liability partnership.

Continuance of conviction, ruling, order or judgment.

10. Any conviction, ruling, order or judgment of any Court, Tribunal or other authority in favour of or against the company may be enforced by or against the limited liability partnership.

Existing agreements.

11. Every agreement to which the company was a party immediately before the date of registration, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that date as if—

(a) the limited liability partnership were a party to such an agreement instead of the company; and

(b) for any reference to the company, there were substituted in respect of anything to be done on or after the date of registration a reference to the limited liability partnership.

Existing contracts, etc.

12. All deeds, contracts, schemes, bonds, agreements, applications, instruments and arrangements subsisting immediately before the date of registration relating to the company or to which the company is a party shall continue in force on and after that date as if they relate to the limited liability partnership and shall be enforceable by or against the limited liability partnership as if the limited liability partnership were named therein or were a party thereto instead of the company.

Continuance of employment.

13. Every contract of employment to which paragraph 11 or paragraph 12 applies shall continue in force on or after the date of registration as if the limited liability partnership were the employer thereunder instead of the company.

Existing appointment, authority or power.

14. (1) Every appointment of the company in any role or capacity which is in force immediately before the date of registration shall take effect and operate from that date as if the limited liability partnership were appointed.

(2) Any authority or power conferred on the company which is in force immediately before the date of registration shall take effect and operate from that date as if it were conferred on the limited liability partnership.

15. The provisions of paragraphs 7 to 14 (both inclusive) shall apply to any approval, permit or licence issued to the company under any other Act which is in force immediately before the date of registration of the limited liability partnership, subject to the provisions of such other Act under which such approval, permit or licence has been issued.

Application of paragraphs 7 to 14.

16. (1) The limited liability partnership shall ensure that for a period of twelve months commencing not later than fourteen days after the date of registration, every official correspondence of the limited liability partnership bears the following, namely:—

Notice of conversion in correspondence.

(a) a statement that it was, as from the date of registration, converted from a company into a limited liability partnership; and

(b) the name and registration number of the company from which it was converted.

(2) Any limited liability partnership which contravenes the provisions of sub-paragraph (1) shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees and with a further fine which shall not be less than fifty rupees but which may extend to five hundred rupees for every day after the first day after which the default continues.

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*



*New Delhi, the 9th January, 2009.*

The following Act of Parliament received the assent of the President on the 7th January, 2009 and is hereby published for general information:—

THE COLLECTION OF STATISTICS ACT, 2008

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## THE COLLECTION OF STATISTICS ACT, 2008

## ACT NO. 7 OF 2009.

*An Act to facilitate the collection of statistics on economic, demographic, social, scientific and environmental aspects, and for matters connected therewith or incidental thereto.*

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

## CHAPTER I

## PRELIMINARY

1. (1) This Act may be called the Collection of Statistics Act, 2008.
  - (2) It extends to the whole of India except the State of Jammu and Kashmir.
  - (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,—
- (a) “agency” includes a person or persons engaged by the appropriate Government, directly or by outsourcing, for collection of statistics;
  - (b) “appropriate Government” means—
    - (i) any Ministry or Department in the Central Government; or

Short title,  
extent and  
commence-  
ment.

Definitions.

(ii) any Ministry or Department in a State Government or Union territory Administration; or

(iii) any local government that is to say, Panchayats or Municipalities, as the case may be,

in relation to the collection of statistics under a direction issued by it under section 3;

(c) "informant" means any person who supplies or is required to supply statistical information and includes a owner or occupier or person in-charge or his authorised representative in respect of persons or a firm registered under the Indian Partnership Act, 1932 or a co-operative society registered under any Co-operative Societies Act or a company registered under the Companies Act, 1956 or a society registered under the Societies Registration Act, 1860 or any association recognised or registered under any law for the time being in force;

9 of 1932.

1 of 1956

21 of 1860

(d) "information schedule" means any book, document, form, card, tape, disc or any storage media on which information required is entered or recorded or is required to be entered or recorded for statistical purposes under this Act;

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

(f) "sampling" means a statistical procedure by which information relating to a particular field of inquiry is derived by applying statistical techniques to information obtained in respect of a proportion of the total number of persons or units concerned relevant to the field of inquiry;

(g) "statistical survey" means a census or a survey, whereby information is collected from all the informants in the field of inquiry or from a sample thereof, by an appropriate Government under this Act or any other relevant Act, wholly or primarily for the purposes of processing and summarising by appropriate statistical procedures;

(h) "statistics" means statistics derived by collecting, classifying and using statistics, specially in or for large quantities or numbers by appropriate Government from statistical surveys, administrative and registration records, and other forms and papers, the statistical analysis of which are, whether in a published or unpublished form;

(i) "statistics officer" means any officer appointed under section 4 for the purposes of any direction issued under section 3 of this Act.

## CHAPTER II

### COLLECTION OF STATISTICS

Collection of  
statistics

3. The appropriate Government may, by notification in the Official Gazette, direct that the statistics on economic, demographic, social, scientific and environmental aspects shall be collected through a statistical survey or otherwise, and thereupon the provisions of this Act shall apply in relation to those statistics:

Provided that :-

(a) nothing contained in this section shall be deemed to authorise a State Government or Union territory Administration or any local government to issue any direction with respect to the collection of statistics relating to any matter falling under any of the entries specified in List I (Union List) in the Seventh Schedule to the Constitution; or

(b) where the Central Government has issued any direction under this section for the collection of statistics relating to any matter, no State Government or Union territory Administration or any local government shall, except with the previous approval of the Central Government, issue any similar direction for so long as the collection of such statistics by the Central Government remain to be completed; or



(c) where a State Government or Union territory Administration or any local government has issued a direction under this section for the collection of Statistics relating to any matter, the Central Government shall not issue any similar direction for so long as the collection of such statistics by the State Government remain to be completed, except in cases where such statistics have to be collected with reference to two or more States or Union territories.

4. (1) The appropriate Government may appoint or cause to appoint an officer to be the statistics officer for any geographical unit for the purpose of collecting any statistics directed by it.

Powers of appropriate Government to appoint statistics officer, etc.

(2) The appropriate Government may appoint any agency or persons working in such agencies to take, or aid in, or supervise the collection of the statistics within any specified geographical unit and such agencies or persons, when so appointed, shall be bound to serve accordingly.

(3) The appropriate Government may employ on contract basis any agency or company or organisation or association or person, on such terms and conditions and on such safeguards as may be prescribed, for the purpose of collecting the statistics directed by it.

(4) The appropriate Government may delegate to any statistics officer, as it thinks fit, the power of appointing agencies or persons working in such agencies or employing on contract basis any agency or company or organisation or association of persons, conferred on it by sub-sections (2) and (3) within the geographical unit for which such statistics officer is appointed.

(5) The appropriate Government may, by order specify the form, the particulars required or the interval within which, and the statistics officer to whom, the statistical information by the informants shall be furnished.

(6) The appropriate Government may, by order published in the Official Gazette, delegate to any statistics officer, as it thinks fit, any power conferred under sub-section (5) for the purpose of the collection of statistics under a direction issued by it under section 3.

5. The statistics officer may, for the purpose of collection of statistics on any specified subject in any geographical unit for which the said officer was appointed-

Power of statistics officer to call for information.

(a) serve or cause to be served on any informant a notice in writing asking him to furnish the information specified under sub-section (5) of section 4 or cause a information schedule to be given to any informant for the purpose of its being filled up; or

(b) cause all questions relating to the subject to be asked from any informant; or

(c) seek information through tele fax or telephone or e-mail or in any other electronic mode or in a combination of different modes for different sets of information so specified.

6. The informants who are asked to furnish any information under the provisions of this Act shall be bound to furnish the information so asked in the prescribed manner to the best of knowledge or belief; and in cases where only a portion of a particular class or group of persons or units is asked to furnish information because of any sampling procedure, it shall not be a defence in failure on the part of any informant to furnish that information, if so asked.

Duty of informants

7. Every agency shall render such help and assistance and furnish such information to the statistics officer or a person or an agency authorised by him in writing, as he may require for the discharge of his functions, and shall make available for inspection and examination of such records, plans and other documents, as may be necessary.

All agencies to assist

Right of access to records or documents.

8. The statistics officer or any person authorised by him in writing in this behalf shall, for the purposes of collection of any statistics under this Act, have access to any relevant record or document in the possession of any informant required to furnish any information under this Act, and may enter at any reasonable time any premises where he believes such record or document is kept and may inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required to be furnished under this Act.

### CHAPTER III

#### DISCLOSURE OF INFORMATION IN CERTAIN CASES AND RESTRICTIONS OF THEIR USE

Security of information.

9. (1) Any information furnished to the statistics officer or to any person or agencies authorised under this Act shall only be used for statistical purposes.

(2) No person other than a person engaged in the work of collection of statistics under this Act or preparation of statistics resultant to such collection shall be permitted to see any information schedule or any answer to a question asked, except for the purposes of a prosecution under this Act.

(3) No information contained in any information schedule and no answer to any question asked shall, except for the purposes of a prosecution under this Act, be separately published, or disclosed without suppressing the identification of informants to any agency.

(4) All statistical information published by any agency shall be arranged in such a manner so as to prevent any particulars becoming identifiable by any person (other than the informant by whom those particulars were supplied) as the particulars relating to the informant who supplied it, even through the process of elimination, unless—

(a) that informant has consented to their publication in that manner; or

(b) their publication in that manner could not reasonably have been foreseen by the concerned agency or any employee thereof.

(5) For the purposes of sub-section (4), the Central Government may make such rules or make such arrangement, as it may consider necessary.

Appropriate Government authorised to disclose certain information.

10. Notwithstanding the provisions contained in section 9 of this Act, the appropriate Government may disclose the following information, namely:—

(a) information supplied by informant in respect of which disclosure is consented to in writing by the informant or by any person authorised by the said informant;

(b) information otherwise available to the public under any Act or as a public document;

(c) information in the form of an index or list of the names and addresses of informants together with the classification, if any, allotted to them and the number of persons engaged.

Disclosure of information schedules for bona fide research or statistical purposes.

11. (1) Notwithstanding the provisions contained in section 9 of this Act, the appropriate Government may disclose individual returns or formats or information schedules to other agency or person or institutions or universities solely for bona fide research or statistical purposes pursuant to their functions and duties.

(2) No individual return or information schedule shall be disclosed pursuant to this section unless—

(a) the name and address of the informant by whom the schedule or related information was supplied is deleted;

(h) every agency or person or institutions or Universities involved in the research or statistical project makes a declaration to use the schedules disclosed to them only for *bona fide* research or statistical purposes; and

(c) the appropriate Government, making such disclosure is satisfied that the security of the schedules and any information contained therein shall not be impaired.

(3) The published results of any research or statistical project shall not divulge any more information than what the agency authorised for collection of statistics could publish under this Act.

(4) Every agency or person or institutions or universities to whom any individual return or information schedule is disclosed under this section shall comply with directions given by the agency authorised for collection of statistics making the disclosure relating to the schedules and any information contained therein.

12. Notwithstanding anything contained in section 9 of this Act, the appropriate Government may release such documents relating to information schedules, which in its opinion have attained historical importance.

Disclosure of historical documents.

13. The statistics officer or any person or agency authorised for collection of statistics shall, while copying or recording any statistical information collected pursuant to this Act from individual returns, information schedules, worksheets or any other confidential source by means of cards, tapes, discs, film or any other method, whether using encoded or plain language symbols for processing, storage or reproduction of particulars, take and cause to take such steps as are necessary to ensure that the security provisions of this Act are complied with.

Security of recorded information.

14. Save as otherwise provided under this Act, —

Restrictions on use of information.

(a) no information obtained pursuant to this Act and no copy of the information in the possession of any informant shall be disclosed or used as evidence in any proceedings whatsoever; and

(b) no person who has access to any information because of his official position in the collection of any statistics shall be compelled in any proceedings whatsoever to give oral testimony regarding the information or to produce any schedule, document, or record with respect to any information obtained in the course of administering this Act,

except in the manner provided under this Act.

#### CHAPTER IV

##### OFFENCES AND PENALTIES

15. (1) Whoever, fails to produce any books of accounts, vouchers, documents or other business records or whoever neglects or refuses to fill in and supply the particulars required in any information schedule or return given or sent to him or whoever neglects or refuses to answer any question or inquiry addressed to him as may be required under or for the purposes of any provision of this Act and the rules made thereunder, shall be punishable with a fine which may extend to one thousand rupees or, in the case of a company, with a fine which may extend to five thousand rupees.

Penalty for neglect or refusal to supply particulars.

(2) The conviction of a person or company for an offence shall not relieve him or it of the obligations under sub-section (1) and if after the expiry of fourteen days from the date of conviction, he or it still fails to give the required particulars or continues to neglect or refuses to fill in and supply the particulars or to answer the question or inquiry, then he or it shall be punishable with a further fine which may extend to one thousand rupees or, in the case of a

company, with a fine which may extend to five thousand rupees, for each day after the first during which the failure continues.

Penalty for making false statement.

16. Whoever, wilfully makes any false or misleading statement or material omission in any information schedule or return filled in or supplied, or in answer to any question asked to him under this Act or the rules made thereunder, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to one thousand rupees or, in the case of a company, with a fine which may extend to five thousand rupees or with both.

Penalty for mutilation or defacement of information schedule.

17. Whoever, destroys, defaces, removes, or mutilates any information schedule, form, or other document containing particulars collected under this Act or requesting any such particulars, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company with a fine which may extend to ten thousand rupees or with both.

Penalty for obstruction of employees.

18. Whoever, interferes with, hinders, or obstructs any employee in the exercise of any power or duty conferred by this Act, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company with a fine which may extend to ten thousand rupees or with both.

Penalty for other offences.

19. Whoever—

(a) acts in contravention of or fails to comply with any provision of this Act or any requirement imposed under this Act; or

(b) wilfully deceives or attempts to deceive any statistics officer or any agency or any employee thereof,

shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

Penalty for failure to carry out duties and functions by employees.

20. If any person employed in the execution of any duty or functions under this Act—

(a) omits without lawful excuse to carry out his duty, or knowingly makes any false declaration, statement or return; or

(b) pretends performance of his duties or obtains or seeks to obtain information which he is not authorised to obtain; or

(c) fails to keep inviolate the secrecy of the information gathered or entered in the information schedules collected pursuant to this Act and, except as permitted under this Act, divulges the contents of any schedule filled in or any information furnished by any informant under this Act,

shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

Penalty for impersonation of employee.

21. Whoever, not being authorised to collect statistics under the provisions of this Act, by words, conduct or demeanor pretends that he is authorised to do so, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

General penalty.

22. Whoever, commits an offence under this Act for which no penalty is prescribed elsewhere than in this section, shall be punishable with simple imprisonment for a term which may extend to six months or with a fine which may extend to two thousand rupees or, in the case of a company, with a fine which may extend to ten thousand rupees or with both.

**23. (1)** Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

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 had 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 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 the offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purpose of this section—

**(a)** “company” means any body corporate and includes a firm or other association of individuals; and

**(b)** “Director”, in relation to a firm, means a partner in the firm.

**24.** No court shall take cognizance of any offence under this Act except on a complaint made by the appropriate Government or an officer authorised in this behalf by such appropriate Government or, as the case may be, the statistics officer, and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

Cognizance of offences.

**25.** No prosecution for an offence committed by any informant shall be instituted except by or with the sanction of the statistics officer, and no prosecution for an offence committed by persons other than informants shall be instituted except by or with the consent of the appropriate Government.

Sanction for prosecution for offence.

2 of 1974.

**26.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act shall be tried in a summary way by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Power of court to try cases summarily.

Provided that when in the course of, a summary trial under this section it appears to the Magistrate that the nature of the case is such that it is, for any reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

## CHAPTER V

### POWER IN RESPECT OF CORE STATISTICS

**27.** Without prejudice to the provisions contained in this Act, the Central Government may, by notification in the Official Gazette, declare from time to time any subject for the collection of statistics of national importance as ‘core statistics’ and make such arrangement, as it may consider necessary, for regulating the collection and dissemination of statistics on the subject so declared.

Power in respect of core statistics.

## CHAPTER VI

### MISCELLANEOUS

**28.** The Central Government may give directions to any State Government or Union territory Administration or to any local government that is to say Panchayats or Municipalities, as to the carrying into execution of this Act in the State or Union territory or Panchayats or Municipalities, as the case may be.

Power to give directions.

Public servants.	<p><b>29.</b> Any statistics officer and any person authorised for the collection of statistics or preparation of official statistics under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.</p>	45 of 1860.
Bar of jurisdiction.	<p><b>30.</b> No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the appropriate Government or the statistics officer or the agency is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.</p>	
Protection of action taken in good faith.	<p><b>31.</b> No suit or other legal proceedings shall lie against the appropriate Government or agency or any statistics officer or other officers or employees in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules or directions issued thereunder.</p>	
Overriding effect.	<p><b>32.</b> The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force except in relation to the conduct of human population census as per the directions, if any, issued under the Census Act, 1948.</p>	37 of 1948.
Power to make rules.	<p><b>33.</b> (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.</p> <p>(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules under this section for all or any of the following matters, namely:—</p> <p>(a) principles for coordinating as effectively as possible to achieve the objectives of section 3 including nomination and registration of statistics officers by the Central Government and also to avoid unnecessary duplication in the collection of statistics;</p> <p>(b) the terms, conditions and safeguards under which any person or agency or company or organisation or association may be engaged by the appropriate Government for the purpose of collection of statistics under sub-section (3) of section 4;</p> <p>(c) principles for prescribing the form and manner in which the information may be required to be furnished;</p> <p>(d) principles for prescribing the manner in which the right of access to documents and the right of entry conferred by section 8 may be exercised; and</p> <p>(e) any other matter which is to be or may be prescribed under this Act.</p> <p>(3) Every rule made by the Central Government 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.</p>	
Repeal and savings.	<p><b>34.</b> (1) The Collection of Statistics Act, 1953 is hereby repealed.</p> <p>(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under the corresponding provisions of this Act.</p> <p>(3) All rules made under the said Act shall continue to be in force and operate till new rules are made under this Act.</p>	32 of 1953.

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*

*New Delhi, the 13th January, 2009.*

The following Act of Parliament received the assent of the President on the 11th January, 2009 and is hereby published for general information:—

THE SOUTH ASIAN UNIVERSITY ACT, 2008

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Provisions of Agreement to have force of law.
4. Incorporation of South Asian University.
5. Jurisdiction.
6. Governing Board.
7. Objectives of University.
8. Powers of University.
9. University open to all persons.
10. Visitor.
11. Officers of University.
12. President and its powers.
13. Other officers.
14. Privileges and immunities of President and academic staff.
15. Authorities of University.
16. Executive Council.
17. Academic Council.
18. Constitution of other authorities.
19. Faculties and Departments.
20. Statutes.
21. Regulations.
22. Bye-laws.
23. Power to give retrospective effect to Statutes and Regulations.
24. Annual report.
25. Audit of accounts.
26. Conditions of service of employees.
27. Procedure of arbitration in disciplinary cases against students.
28. Proceedings of University authorities or bodies not invalidated by vacancies.
29. Protection of action taken in good faith.
30. Reference to SAARC Arbitration Council.
31. Statutes and Regulations and bye-laws to be published in Official Gazette and to be laid before Parliament.
32. Power to remove difficulties.

THE SCHEDULE





## THE SOUTH ASIAN UNIVERSITY ACT, 2008

## ACT No. 8 OF 2009

*An Act to give effect to the Agreement for the establishment of South Asian University and for matters connected therewith or incidental thereto.*

WHEREAS an Agreement for the establishment of the South Asian University was signed on behalf of the respective Governments of the Member States of the South Asian Association for Regional Co-operation (SAARC) on the 4th day of April, 2007;

AND WHEREAS Article 1 of the said Agreement provides that the main campus of the University shall be located in India, therefore, it is expedient to make provisions for giving effect to the said Agreement;

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

1. (1) This Act may be called the South Asian University Act, 2008.
- (2) It extends to the whole of India and to campuses and centres established outside India in the SAARC region.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Short title,  
extent and  
commencement.

## Definitions.

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

- (a) "Academic Council" means the Academic Council of the University;
- (b) "academic staff" means such categories of staff as are designated as academic staff by the Statutes;
- (c) "Agreement" means the Agreement for the establishment of the South Asian University;
- (d) "bye-laws" means the bye-laws of the University;
- (e) "Centre" means a unit of the University or of a University Institute providing teaching, consultancy and research facilities and includes a Regional Centre;
- (f) "employee" means any person appointed by the University and includes teachers and other staff of the University;
- (g) "Executive Council" means the Executive Council of the University;
- (h) "Faculty" means a Faculty of the University;
- (i) "Governing Board" means a Governing Board of the University constituted under section 6;
- (j) "Hall" means a unit of residence, by whatever name called, for students of the University provided, maintained or recognised by it;
- (k) "Host Country" means the Republic of India;
- (l) "Host Government" means the Government of the Host Country;
- (m) "Member States" means the Member States of the SAARC;
- (n) "prescribed" means prescribed by Statutes, Regulations or bye-laws;
- (o) "President" means the President of the University appointed under section 12;
- (p) "Project Office" means the project office set up for the purpose of carrying out necessary tasks for establishing the main campus of the University;
- (q) "Recognised institution" means an institution of higher learning maintained or recognised by, or associated with, the University;
- (r) "Regional Centre" means a centre established or maintained by the University at any place in the SAARC region for the purpose of coordinating and supervising the work of campuses or centres in such region and for performing such functions as may be conferred on such centre by the Governing Board;
- (s) "Regulations" means the Regulations of the University;
- (t) "SAARC" means an organisation known as the South Asian Association for Regional Co-operation established by the Charter of the South Asian Association for Regional Co-operation signed on eighth day of December, 1985;
- (u) "SAARC region" means the region comprising the territories of the Member States;
- (v) "Schedule" means the Schedule of the Act;
- (w) "Statutes" means the Statutes of the University;
- (x) "teacher" means professor, reader, lecturer and research staff of the University appointed or recognised by the University for imparting instructions in the University or for giving guidance to students for pursuing any course of study of the University; and
- (y) "University" means the South Asian University incorporated under section 4.

3. Notwithstanding anything contrary contained in any other law, the provisions of the Agreement set out in the Schedule shall have the force of law in India. Provisions of Agreement to have force of law.
4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established, for the purposes of giving effect to provisions of the Agreement, a University to be called as South Asian University. Incorporation of South Asian University.
- (2) The University shall be a body corporate having perpetual succession and a common seal and shall sue and be sued by the said name.
- (3) The Headquarters of the University shall be at Delhi.
- (4) The University may establish or maintain campuses and centres at such other places within India and outside India in the SAARC region as it may deem fit.
5. The jurisdiction of the University shall extend to whole of India and to campuses and centres established outside India in the SAARC region: Jurisdiction.
- Provided that where the University establishes and maintains any campus or centre outside India at any place in the SAARC region, then the jurisdiction of the University shall extend to such campus or centre, subject to the provision of the Agreement and laws in force in any of the Member States within which such campus or centre is situated.
6. (1) There shall be a Governing Board of the University consisting of two members from each of the Member States of the SAARC and the President of the University: Governing Board.
- Provided that until the first Governing Board is formed, the Inter-Governmental Steering Committee of the SAARC shall function as an interim Governing Board.
- (2) The Governing Board shall be headed by the Chairperson who shall be elected from amongst the members of the Governing Board.
- (3) The members of the Governing Board shall be selected in such manner and for such term as provided in Article 5 of the Schedule.
- (4) The President of the University shall be the *ex officio* member of the Governing Board.
- (5) The Governing Board shall be responsible for all the policies and directions of the University and management of its affairs.
- (6) The Chairperson of the Board shall exercise such powers as may be prescribed by the Statutes.
7. The objectives of the University shall be— Objectives of University.
- (a) to disseminate and advance knowledge, wisdom and understanding by providing instructional and research facilities in such branches of learning as it may deem fit;
- (b) to take appropriate measures for promoting innovations in teaching-learning process, inter-disciplinary studies and application of knowledge to social advancement, and human welfare and to the promotion of regional peace and security;
- (c) to impart liberal and humane education towards capacity building of the South Asian nations in the domain of science, technology and other areas of higher learning vital for improving their quality of life and to give students the analytical tools needed for the pursuit of profession and inculcate in them the quality of leadership;
- (d) to foster in the students sound civic sense and to train them to become useful citizens of democratic societies;

(e) to build a South Asian community of learning where students from countries of South Asia are able to develop their fullest intellectual potential and to create a South Asian community by strengthening regional consciousness; and

(f) to harmonise the academic standards and accreditation norms in teaching, research and curriculum that are acceptable to all Member States.

Powers of  
University.

8. The University shall have the following powers, namely:—

(i) to provide for instruction in such branches of learning as the University may, from time to time, determine and to make provisions for research and for the advancement and dissemination of knowledge;

(ii) to establish such special centres and specialised laboratories and such other units for research and instruction as are necessary for the furtherance of its objects;

(iii) to plan and prescribe courses of study for degrees, diplomas, certificates or for any other purpose;

(iv) to grant, subject to such conditions as the University may determine, diplomas or certificates and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(v) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(vi) to organise and to undertake open learning programmes, extramural studies, training and extension services;

(vii) to institute Chairs, principalships, professorships, readerships and lecturerships and other teaching and academic positions, required by the University and to appoint persons to such Chairs, Principalships, Professorships, Readerships and lecturerships and other teaching and academic positions;

(viii) to appoint visiting professors, Emeritus professors, consultants, scholars and such other persons who may contribute to the advancement of the objects of the University;

(ix) to recognise persons as Professors, Readers or Lecturers or otherwise as teachers of the University;

(x) to create administrative and other posts as the University may deem necessary from time to time and to make appointments thereto;

(xi) to lay down conditions of service of all categories of employees, including their code of conduct;

(xii) to establish and maintain campuses, Centres, Regional Centres as may be determined from time to time;

(xiii) to admit to its privileges institutions situated within its jurisdiction as the University institutions and to withdraw all or any of those privileges in accordance with such conditions as may be prescribed by the Statutes;

(xiv) to co-operate or collaborate or associate with any other University or authority or institution of higher learning or any other public or private body, having in view the promotion of purposes and objects similar to those of the University, in such manner as may be prescribed and for such purposes as may be determined or agreed upon by the University;

(xv) to determine standards of admission, including examination, evaluation or any other method of testing, to the University, and the institutions maintained by or admitted to the privileges of the University;

(xvi) to demand and receive payment of fees and other charges as may be prescribed;

(xvii) to establish Halls and to recognise, guide, supervise and control Halls not maintained by the University and other accommodation for students, and to withdraw any such recognition;

(xviii) to make arrangements for promoting health and general welfare of students and employees of the University;

(xix) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xx) to institute and award Fellowships, Scholarships, Studentships and prizes;

(xxi) to receive benefactions, donations and gifts in accordance with the regulations made by the Governing Board as per norms of the SAARC and to acquire, hold, manage and dispose of any property, movable or immovable, including trust and endowment properties, for the purposes or objects of the University and to invest funds in such manner as it deems fit;

(xxii) to borrow, with the approval of the Governing Board, on the security of the University property, money for purposes of the University;

(xxiii) to recognise for any purpose, either in whole or in part, any institution or members or students thereof on such terms and conditions as may, from time to time, be prescribed and to withdraw such recognition;

(xxiv) to enter into any agreement for the incorporation of any other institution in the University and for taking its rights, properties and liabilities and for any other purpose not repugnant to this Act;

(xxv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions or bodies as it may deem necessary;

(xxvi) to provide for the printing, reproduction and publication of research and other work which may be issued by the University;

(xxvii) to exercise such other powers accorded to it under the Agreement; and

(xxviii) to do all such other acts as may be necessary, incidental or conducive to the promotion of all or any of the objects of the University.

9. The University shall be open to all persons irrespective of gender, caste, creed, disability, ethnicity or socio-economic background and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof.

University open to all persons.

10. (1) The Foreign Minister of the current Chair of the SAARC shall be the Visitor of the University.

Visitor.

(2) The Visitor shall have such powers as may be prescribed by the Statutes.

11. (1) There shall be a President of the University, and such other officers appointed in such manner as may be prescribed, who shall exercise such powers and functions as may be prescribed.

Officers of University.

(2) The President shall be the Chief Executive Officer of the University.

President and  
its powers.

12. (1) The President shall be appointed by the Governing Board in such manner as may be prescribed by the Statutes:

Provided that until the President is appointed, the Chief Executive Officer of the Project Office shall exercise the powers of the President and function as Chief Executive Officer of the University.

(2) The President shall, as the Chief Executive Officer, exercise general supervision and control over the affairs of the University and shall be responsible for implementing the objectives of the University and fulfilling the policy directives of the Governing Board.

(3) The President may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority at its next meeting the action taken by him on such matter:

Provided that such exercise of power shall be made only in emergent situations and in no case in respect of creation and upgradation of posts, and appointments thereto:

Provided further that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Governing Board whose decision thereon shall be final.

(4) The President, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act and the Statutes or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Governing Board whose decision thereon shall be final.

(5) The President or any officer of the University, authorised by him in this behalf, shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University.

(6) The President shall exercise such other powers as may be prescribed by the Statutes.

Other officers.

13. The manner of appointment and powers and duties of other officers of the University shall be such as may be prescribed by the Statutes.

Privileges and  
immunities of  
President and  
academic staff.

14. The University, the President and the members of the academic staff and, where applicable, their dependents or members of the family, shall enjoy such privileges and immunities as the Central Government may notify under section 3 of the United Nations (Privileges and Immunities) Act, 1947.

46 of 1947.

Authorities of  
University.

15. The following shall be the authorities of the University—

(a) the Executive Council,

(b) the Academic Council, and

(c) such other authorities as may be declared by the Governing Board in the Statutes to be the authorities of the University.

Executive  
Council.

16. (1) The Executive Council shall be the executive body of the University and shall exercise powers to give effect to the directions or decisions of the President and the Governing Board.

(2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be such as may be prescribed by the Statutes.

17. (1) The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and Regulations, co-ordinate and exercise general supervision over the academic policies of the University.

Academic Council.

(2) The constitution of the Academic Council, the term of office of its members and its powers and functions shall be such as may be prescribed by the Statutes.

18. The constitution of the authorities under clause (c) of section 15, the terms of the office of the members of such authorities and their powers and duties shall be such as may be prescribed by the Statutes.

Constitution of other authorities.

19. (1) The University shall have such faculties as may be prescribed by the Statutes.

Faculties and Departments.

(2) Each Faculty shall have such Departments or Schools of Studies as are prescribed by the Statutes, and each Department or Schools of Studies shall have such subjects of study as may be assigned to it by Regulations.

20. (1) Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

Statutes.

(a) powers of the Visitor;

(b) powers of the Chairperson of the Governing Board;

(c) manner of appointment of the President and its powers;

(d) the constitution, powers and functions of the Executive Council, Academic Council and other authorities and bodies of the University;

(e) categories of academic staff;

(f) appointment of teachers, academic staff and other employees of the University;

(g) establishment of faculties of the University;

(h) the conditions under which institution may be admitted to the privileges of the University and the withdrawal of such privileges;

(i) the conferment of honorary degrees;

(j) delegation of powers vested in the authorities or officers of the University;

(k) setting up of a machinery for redressal of grievances between employees or the students and the University; and

(l) all other matters which by this Act are to be or may be provided for by the Statutes.

(2) The First Statutes shall be those as may be made for the operation of the University by the Inter-Governmental Steering Committee of the SAARC.

(3) The Governing Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (2):

Provided that the Governing Board shall not make, amend or repeal any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed has been considered by the Governing Board.

21. (1) Subject to the provisions of this Act and the Statutes, the Regulations may provide for all or any of the following matters, namely:—

Regulations.

(a) the admission and enrolment of students to the University and institutions maintained by, or admitted to, the privileges of the University;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(f) the institution of, and conditions for award of, fellowships, scholarships, studentships and prizes;

(g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(h) the conditions of residence of students of the University;

(i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students and the prescribing of special courses of studies for them;

(j) the establishment of Centres, University Institutes, Departments, Schools of Studies, Boards of Studies, specialised laboratories and Committees;

(k) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(l) the manner of co-operation and collaboration with other Universities, institutions and other bodies or associations; and

(m) all other matters which by this Act or the Statutes are to be or may be provided for by the Regulations.

(2) The First Regulations shall be made by the Chief Executive Officer of the Project Office with the prior approval of the Inter-Governmental Steering Committee and the Regulations so made may be amended, repealed or added to any time by the Governing Board in the manner prescribed by the Statutes.

Bye-laws.

22. The authorities of the University may make bye-laws consistent with this Act, the Statutes and the Regulations for the conduct of their own business and not provided for by this Act, the Statutes or the Regulations, in the manner as may be prescribed by Statutes.

Power to give retrospective effect to Statutes and Regulations.

23. The power to make Statutes or Regulations shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statutes or Regulations or any of them but no retrospective effect shall be given to any Statute or Regulation so as to prejudicially affect the interests of any person to whom such Statute or Regulation may be applicable.

Annual report.

24. (1) The annual report of the University shall be prepared under the direction of the Governing Board and shall be considered by the University at its annual meeting. The annual report of the University shall also be presented to the session of the Council of Ministers of the SAARC.

(2) The annual report of the University shall be circulated to all the SAARC Member States through the SAARC Secretariat.

Audit of accounts.

25. (1) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by any person or firm authorised by the Governing Board.

(2) The accounts of the University shall be audited, as per existing norms as laid down by the SAARC.

(3) The accounts, when audited shall be published, and a copy of the accounts together with the audited report shall be submitted to the Secretary-General of the SAARC.



26. (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

Conditions of service of employees.

(2) Any dispute arising out of the contract between the University and any employee shall be referred to the Tribunal for Arbitration constituted for that purpose.

(3) The decision of the Tribunal shall be final and no suit shall lie in any court in respect of the matters decided by the Tribunal.

(4) The procedure for regulating the work of the Tribunal under sub-section (2) shall be prescribed by the Statutes.

27. Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal for Arbitration and the provisions of sub-sections (2), (3) and (4) of section 26 shall, as far as may be, apply to the reference made under this section.

Procedure of arbitration in disciplinary cases against students.

28. No act or proceedings of the University or any of its authorities or bodies shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Proceedings of University authorities or bodies not invalidated by vacancies.

29. No suit or other legal proceeding shall lie against the University, any of its officers or employees for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act.

Protection of action taken in good faith.

30. All differences arising out of the interpretation or application of the Agreement shall be referred to the SAARC Arbitration Council, unless in any case it is agreed by the parties to have recourse to another mode of settlement.

Reference to SAARC Arbitration Council.

31. (1) The Statutes, Regulations and bye-laws made under this Act shall be published in the Official Gazette.

Statutes and Regulations and bye-laws to be published in Official Gazette and to be laid before Parliament.

(2) Every Statute, Regulation or bye-law made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament.

32. (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 such order shall be made under this section after the expiry of the period of three years from the commencement of this Act.

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

## THE SCHEDULE

(See section 3)

PROVISIONS OF THE AGREEMENT TO HAVE THE FORCE OF LAW

**Article 1****Establishment of the South Asian University**

1. There is hereby established an institution to be known as the South Asian University (hereinafter referred to as the "University"), which shall be a non-state, non-profit self governing international educational institution with a regional focus for the purposes set forth in this agreement and shall have full academic freedom for the attainment of its objectives.

2. The main campus of the University shall be located in India.

3. The University shall have full legal Personality.

4. The legal capacity of the University shall, *inter alia*, include:

(a) the power to confer degrees, diplomas and certificates;

(b) the capacity to contract;

(c) to sue and be sued in its name;

(d) to acquire, hold and dispose of properties;

(e) to establish campuses and centres in the region; and

(f) to make rules, regulations and bye-laws for the operation of the University.

**Article 2****Objectives and Functions of the South Asian University**

The objectives and functions of the University shall, *inter alia*, include:

1. To create a world class institution of learning that will bring together the brightest and the most dedicated students from all countries of South Asia irrespective of gender, caste, creed, disability, ethnicity or socio-economic background to impart to them liberal and humane education and to give them the analytical tools needed for the pursuit of a profession and inculcate in them the qualities of leadership.

2. To build a South Asian community of learning where every student will be able to develop her/his fullest intellectual potential and to create a South Asian community by strengthening regional consciousness.

3. To impart education towards capacity building of the South Asian nations in the domain of science, technology and other areas of higher learning vital for improving their quality of life.

4. To contribute to the promotion of regional peace and security by bringing together the future leaders of South Asia, and enhancing their understanding of each others' perspectives.

5. To foster in the students sound civic sense and to train them to become useful citizens of democratic societies.

**Article 3****Funding**

The University shall be non-profit public-private partnership, which will seek support from each of the national Governments of member states and from other sources but will be autonomous and accountable to its board of trustees/governors.

**Article 4****The Fiscal Status**

1. The University and its campuses and centres shall be exempted, in the state where it is located, from paying and from collecting all direct and indirect forms of taxes and duties for the establishment and operations of the University.
2. The University shall enjoy treatment in relation to priorities, rates and charges for utilities that are not less favourable than that accorded to state owned enterprises and universities.
3. The University has the right to accept *inter vivos* as well as testamentary gifts, contributions, and donations in cash or in kind for the objectives of the University. All such gifts and donations from any legal or physical person are fully deductible without any limit against the income of such donor or contributor in the respective Founding States.
4. Taxation and social protection of the citizens of the Founding States employed by the University shall be regulated in accordance with the respective national legislation of the respective States. The employees of the University from countries other than the host country will be governed by the income-tax laws of the home countries and will not be taxed as per the laws of the host country.

**Article 5****Governance Structure**

1. The University shall be governed by a Governing Board, composed of two members from each member state, and will be headed by a Chairperson. The Chairperson shall be elected from among the members of the Governing Board.
2. Each member of the Governing Board shall serve office for a fixed term of three years and shall not hold office for more than two consecutive terms. The members shall be selected from amongst the distinguished persons from the region and shall be responsible for the overall policies and directions of the University. The powers and functions of the Chairperson of the Governing Board and the role of the Board shall be decided as per the rules and regulations of the University.
3. The University shall be headed by a President, appointed by the Governing Board. The appointment, tenure, powers and functions shall be decided as per the rules and regulations of the University.
4. The President shall also be the Chief Executive Officer (CEO) and an *ex officio* member of the Governing Board. The President as the CEO of the University, will report to the Board and hold office at the pleasure of the Board. He will be responsible for implementing the vision and the foundation statement of the University, ensuring the purpose and objectives of the University, upholding uniformly high academic standards, and fulfilling the policy directives of the Board of the University.
5. The President as the Chief Executive Officer of the University shall act under direction of the Governing Board. The President shall be assisted by an Executive Council. The President shall constitute the Academic Council, different committees and appoint the principal officers of the University as per bye-laws.

**Article 6****Visa and Resident Permit**

The Member States shall provide appropriate visas to the students, faculty and staff for travel in all the SAARC Member States and grant necessary resident permit for students, faculty and administrative staff to work in the University and its different campuses, centres and collaborative educational institutions.

**Article 7****Recognition of the Degrees**

This Agreement shall facilitate the mutual recognition of degrees and certificates awarded by the University in all the SAARC Member States at par with the degrees and certificates issued by their respective national universities/institutions.

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*

*New Delhi, the 19th January, 2009.*

The following Act of Parliament received the assent of the President on the 17th January, 2009 and is hereby published for general information:—

THE SCIENCE AND ENGINEERING RESEARCH BOARD ACT, 2008

**ACT No. 9 OF 2009**

*An Act to provide for the constitution of a Board for promoting basic research in Science and Engineering and to provide financial assistance to persons engaged in such research, academic institutions, research and development laboratories, industrial concerns and other agencies for such research and for matters connected therewith or incidental thereto.*

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Science and Engineering Research Board Act, 2008. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,— Definitions.
  - (a) "Board" means the Science and Engineering Research Board constituted under sub-section (1) of section 3;

- (b) "Chairperson" means the Chairperson of the Board;
- (c) "Fund" means the Fund for Science and Engineering Research constituted under sub-section (1) of section 10;
- (d) "member" means a member of the Board and includes the Chairperson;
- (e) "Oversight Committee" means the Oversight Committee of Experts constituted under sub-section (1) of section 5;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "Secretary" means the Secretary of the Board appointed under sub-section (1) of section 4.

## CHAPTER II

### SCIENCE AND ENGINEERING RESEARCH BOARD

Constitution  
and  
incorporation  
of Board.

3. (1) The Central Government shall, by notification in the Official Gazette, constitute, for the purposes of this Act, a Board to be called the Science and Engineering Research Board.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to contract and shall, by the said name, sue and be sued.

(3) The Board shall consist of the following persons, namely:—

- (a) Secretary to the Government of India in the Department of Science and Technology, *ex officio*—Chairperson;
- (b) Member-Secretary, Planning Commission, *ex officio*—Member;
- (c) Secretary to the Government of India in the Department of Biotechnology, *ex officio*—Member;
- (d) Secretary to the Government of India in the Department of Scientific and Industrial Research, *ex officio*—Member;
- (e) Secretary to the Government of India in the Ministry of Earth Sciences, *ex officio*—Member;
- (f) Secretary to the Government of India in the Department of Expenditure, Ministry of Finance or his nominee, *ex officio*—Member;
- (g) Secretary to the Government of India in the Department of Health Research, *ex officio*—Member;
- (h) not more than three members to be appointed by the Central Government from amongst persons having experience in scientific research in different disciplines in academic institutions;
- (i) not more than three members to be appointed by the Central Government from amongst persons having experience in scientific research in different disciplines in Government research laboratories;
- (j) not more than four members to be appointed by the Central Government from amongst persons having experience in scientific research in different disciplines in the industry, international projects on science and technology, socio-economic sectors and other Government research laboratories.

(4) The Head Office of the Board shall be at Delhi or in the National Capital Region.

(5) The qualifications and experience, term of office and allowances of the members specified in clauses (h) to (j) of sub-section (3) shall be such as may be prescribed.

(6) The Chairperson shall, in addition to presiding over the meetings of the Board, exercise and discharge such powers and duties, as may be prescribed or delegated to him by the Board.

(7) No act or proceeding of the Board shall be invalidated merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Board;
- (b) any defect in the appointment of a person acting as a member of the Board;
- (c) any irregularity in the procedure of the Board not affecting the merits of the case.

4. (1) The Board may appoint an eminent Scientist not below the rank of Additional Secretary to the Government of India as the Secretary of the Board, in consultation with the Central Government.

Secretary and other officers and employees of Board.

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

(3) The qualifications and experience, terms and conditions of service including salary and allowances of the Secretary and other officers and employees of the Board shall be such as may be specified in the regulations made by the Board.

(4) The Board may engage the services of personnel, both from within and outside the country as consultants, visiting scientists on such terms and conditions and remunerations as may be specified in the regulations made by the Board and shall facilitate their operations within the country.

5. (1) Subject to the rules made in this behalf, the Board shall constitute an Oversight Committee of Experts consisting of experts, eminent scientists and academics to advise and assist the Board.

Oversight Committee of Experts.

(2) The Oversight Committee shall consist of the following persons, namely:—

- (i) a scientist of eminence and international repute— Chairperson;
- (ii) Secretary to the Government of India in the Department of Science and Technology, *ex officio*—Vice-Chairperson;
- (iii) Presidents of Indian National Science Academy, Indian Academy of Sciences and Indian National Academy of Engineering, *ex officio*—Members;
- (iv) not more than three members to be appointed by the Central Government from amongst distinguished experts in different areas of science and technology; and
- (v) Secretary to the Board, *ex officio*—Member.

6. (1) Subject to the rules made in this behalf, the Board may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

Committees of Board.

(2) The Board shall have the power to co-opt as members of any committee appointed under sub-section (1), such number of persons who are not members of the Board as it may think fit, and the person so co-opted shall have the right to attend the meetings of the committee, and take part in the proceedings of the committee.

7. (1) The Board shall serve as a premier multi-disciplinary research funding agency for planning, promoting and funding basic research in the emerging areas of science and engineering.

Powers and functions of Board.

(2) The powers and functions of the Board shall, *inter alia*, include—

- (i) serving as a premier multi-disciplinary research agency for planning, promoting and funding of internationally competitive research in emerging areas;
- (ii) considering and taking decisions on the recommendations and suggestions made by the Oversight Committee;

(iii) identifying major inter-disciplinary research areas, and individuals, groups or institutions and funding them for undertaking research;

(iv) evolving nationally coordinated programmes in various identified areas involving institutions that will have a multiplier effect in promoting research;

(v) assisting in setting up infrastructure and environment for scientific pursuit;

(vi) achieving synergy between academic institutions, research and development laboratories and industry for promoting basic research in science and engineering;

(vii) evolving a management system to speedily provide for funding research, including monitoring and evaluation, by adopting modern management practices;

(viii) evolving participation in international collaborative projects, wherever necessary or desirable; and

(ix) taking over and continuance of the basic research projects and programmes undertaken or funded by the Central Government under the existing Science and Engineering Research Council scheme.

(3) The Board may provide financial assistance for the purposes specified in sub-section (2), in the form of grants and loans to individuals, academic institutions, research and development laboratories, industries and other organisations.

### CHAPTER III

#### APPLICATION FOR SANCTION OF FINANCIAL ASSISTANCE

Application for availing of financial assistance.

8. (1) An application for availing of financial assistance for the purposes specified in sub-section (1) of section 7 shall be made to the Board in such form as may be prescribed.

(2) The Board may, after examining the application and after making such enquiries or seeking such clarifications as it considers necessary, by order in writing, either sanction the financial assistance or refuse the same.

### CHAPTER IV

#### FINANCE, ACCOUNTS AND AUDIT

Grants and loans by Central Government.

9. The Central Government may, after due appropriation made by Parliament by law, in this behalf, make to the Board grants and loans of such sums of money as that Government may consider necessary.

Fund for Science and Engineering Research.

10. (1) There shall be constituted a Fund to be called the Fund for Science and Engineering Research and there shall be credited to the Fund—

(a) any grants and loans made to the Board by the Central Government under section 9;

(b) all sums received by the Board including donations from any other source;

(c) recoveries made of the amounts granted from the Fund; and

(d) any income from investment of the amount of the Fund.

(2) The Fund shall be applied for meeting—

(a) expenses on the object and for the purposes authorised by this Act;

(b) salaries, allowances and other expenses of the members, officers and other employees of the Board;

(c) remunerations of the consultants and visiting scientists; and

(d) expenses of the Board in the discharge of its functions under this Act.



11. The Board shall prepare, in such form and at such time in each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board and forward the same to the Central Government. Budget.
12. The Board shall prepare, in such form and at such time in each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the Central Government. Annual report.
13. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. Accounts and audit.
- (2) The Comptroller and Auditor-General of India or any other person appointed by him in connection with the auditing of the accounts of the Board under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the auditing of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the office of the Board under this Act.
- (3) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India annually and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General.
- (4) The Board shall furnish to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditor's report.
14. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament. Annual report and auditor's report to be laid before Parliament.

## CHAPTER V

## MISCELLANEOUS

15. (1) An industrial concern or an institution receiving financial assistance from the Board shall furnish return to the Board in such form and at such time as may be specified by regulations. Returns to be furnished to Board.
- (2) The Board may authorise an officer to visit any industrial concern or institution referred to in sub-section (1) at any time to verify the accuracy of any return made under this section.
16. (1) Without prejudice to the foregoing provisions of this Act, the Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time: Power of Central Government to issue directions.
- Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.
- (2) The decision of the Central Government, whether a question is one of the policy or not, shall be final.
17. (1) If at any time the Central Government is of the opinion—
- (a) that on account of grave emergency, the Board is unable to discharge the functions and the duties imposed on it by or under the provisions of this Act; or
- (b) that the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Board or the administration of the Board has deteriorated; or
- Power of Central Government to supersede Board.

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Board,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Board shall, until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed to be disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Delegation.

18. The Board may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Board subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under section 21) as it may deem necessary.

Protection of action taken in good faith.

19. No prosecution or other legal proceeding shall lie against the Central Government or the Board or any committee appointed by it or any member of the Board or such committee, or any officer or employee of the Government or the Board or any other person authorised by the Central Government or the Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Power of Central Government to make rules.

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

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

(a) the qualifications and experience, term of office and other allowances of the members of the Board, under sub-section (5) of section 3;

(b) the powers and duties of the Chairperson under sub-section (6) of section 3;

(c) the constitution of Oversight Committee under section 5;

(d) the constitution of committees under sub-section (1) of section 6;

(e) the form of application under sub-section (1) of section 8;

(f) the form in which, and the time at which the Board shall prepare its budget under section 11 and its annual report under section 12;

(g) the form of annual statement of accounts under sub-section (1) of section 13 and the date before which audited copy of the accounts may be furnished to the Central Government under sub-section (4) of that section;

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

21. (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules generally to carry out the provisions of this Act.

Power of Board 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 qualifications and experience, terms and conditions of service including salaries and allowances of the Secretary and other officers and employees of the Board under sub-section (2) of section 4;

(b) the form in which and the time at which the returns may be furnished to the Board under sub-section (1) of section 15.

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

Rules and regulations to be laid before Parliament.

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*



*New Delhi, the 5th February, 2009.*

The following Act of Parliament received the assent of the President on the 5th February, 2009 and is hereby published for general information:—

THE INFORMATION TECHNOLOGY (AMENDMENT) ACT, 2008

ACT No. 10 OF 2009

*An Act further to amend the Information Technology Act, 2000.*

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

PART I

PRELIMINARY

1. (1) This Act may be called the Information Technology (Amendment) Act, 2008.

Short title and commencement.

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

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

## PART II

## AMENDMENTS TO THE INFORMATION TECHNOLOGY ACT, 2000

Substitution of words “digital signature” by words “electronic signature”.

2. In the Information Technology Act, 2000 (hereinafter in this Part referred to as the principal Act), for the words “digital signature” occurring in the Chapter, section, sub-section and clause referred to in the Table below, the words “electronic signature” shall be substituted. 21 of 2000.

TABLE

S.No.	Chapter/section/sub-section/clause
(1)	clauses (d), (g), (h) and (zg) of section 2;
(2)	section 5 and its marginal heading;
(3)	marginal heading of section 6;
(4)	clauses (a), (b), (c) and (e) of section 10 and its marginal heading;
(5)	heading of Chapter V;
(6)	clauses (f) and (g) of section 18;
(7)	sub-section (2) of section 19;
(8)	sub-sections (1) and (2) of section 21 and its marginal heading;
(9)	sub-section (3) of section 25;
(10)	clause (c) of section 30;
(11)	clauses (a) and (d) of sub-section (1) and sub-section (2) of section 34;
(12)	heading of Chapter VII;
(13)	section 35 and its marginal heading;
(14)	section 64;
(15)	section 71;
(16)	sub-section (1) of section 73 and its marginal heading;
(17)	section 74; and
(18)	clauses (d), (n) and (o) of sub-section (2) of section 87.

Amendment of section 1.

3. In section 1 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) Nothing in this Act shall apply to documents or transactions specified in the First Schedule:

Provided that the Central Government may, by notification in the Official Gazette, amend the First Schedule by way of addition or deletion of entries thereto.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.”.

Amendment of section 2.

4. In section 2 of the principal Act,—

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

“(ha) “communication device” means cell phones, personal digital assistance or combination of both or any other device used to communicate, send or transmit any text, video, audio or image;”;

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

“(j) “computer network” means the inter-connection of one or more computers or computer systems or communication device through—

(i) the use of satellite, microwave, terrestrial line, wire, wireless or other communication media; and

(ii) terminals or a complex consisting of two or more inter-connected computers or communication device whether or not the inter-connection is continuously maintained;”;

(C) in clause (n), the word “Regulations” shall be omitted;

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

‘(na) “cyber cafe” means any facility from where access to the internet is offered by any person in the ordinary course of business to the members of the public;

(nb) “cyber security” means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorised access, use, disclosure, disruption, modification or destruction;’.

(E) after clause (t), the following clauses shall be inserted, namely:—

‘(ta) “electronic signature” means authentication of any electronic record by a subscriber by means of the electronic technique specified in the Second Schedule and includes digital signature;

(tb) “Electronic Signature Certificate” means an Electronic Signature Certificate issued under section 35 and includes Digital Signature Certificate;’;

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

‘(ua) “Indian Computer Emergency Response Team” means an agency established under sub-section (1) of section 70B;’;

(G) in clause (v), for the words “data, text”, the words “data, message, text” shall be substituted;

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

‘(w) “intermediary”, with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes;’.

5. In Chapter II of the principal Act, for the heading, the heading “DIGITAL SIGNATURE AND ELECTRONIC SIGNATURE” shall be substituted.

Amendment of heading of Chapter II.

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

Insertion of new section 3A.

“3A. (1) Notwithstanding anything contained in section 3, but subject to the provisions of sub-section (2), a subscriber may authenticate any electronic record by such electronic signature or electronic authentication technique which—

Electronic signature.

(a) is considered reliable; and

(b) may be specified in the Second Schedule.

(2) For the purposes of this section any electronic signature or electronic authentication technique shall be considered reliable if—

(a) the signature creation data or the authentication data are, within the context in which they are used, linked to the signatory or, as the case may be, the authenticator and to no other person;

(b) the signature creation data or the authentication data were, at the time of signing, under the control of the signatory or, as the case may be, the authenticator and of no other person;

(c) any alteration to the electronic signature made after affixing such signature is detectable;

(d) any alteration to the information made after its authentication by electronic signature is detectable; and

(e) it fulfils such other conditions which may be prescribed.

(3) The Central Government may prescribe the procedure for the purpose of ascertaining whether electronic signature is that of the person by whom it is purported to have been affixed or authenticated.

(4) The Central Government may, by notification in the Official Gazette, add to or omit any electronic signature or electronic authentication technique and the procedure for affixing such signature from the Second Schedule:

Provided that no electronic signature or authentication technique shall be specified in the Second Schedule unless such signature or technique is reliable.

(5) Every notification issued under sub-section (4) shall be laid before each House of Parliament.”.

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

‘6A. (1) The appropriate Government may, for the purposes of this Chapter and for efficient delivery of services to the public through electronic means authorise, by order, any service provider to set up, maintain and upgrade the computerised facilities and perform such other services as it may specify by notification in the Official Gazette.

*Explanation.*—For the purposes of this section, service provider so authorised includes any individual, private agency, private company, partnership firm, sole proprietor firm or any such other body or agency which has been granted permission by the appropriate Government to offer services through electronic means in accordance with the policy governing such service sector.

(2) The appropriate Government may also authorise any service provider authorised under sub-section (1) to collect, retain and appropriate such service charges, as may be prescribed by the appropriate Government for the purpose of providing such services, from the person availing such service.

(3) Subject to the provisions of sub-section (2), the appropriate Government may authorise the service providers to collect, retain and appropriate service charges under this section notwithstanding the fact that there is no express provision under the Act, rule, regulation or notification under which the service is provided to collect, retain and appropriate e-service charges by the service providers.

(4) The appropriate Government shall, by notification in the Official Gazette, specify the scale of service charges which may be charged and collected by the service providers under this section:

Provided that the appropriate Government may specify different scale of service charges for different types of services.’.

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

“7A. Where in any law for the time being in force, there is a provision for audit of documents, records or information, that provision shall also be applicable for audit of documents, records or information processed and maintained in the electronic form.”.

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

“10A. Where in a contract formation, the communication of proposals, the acceptance of proposals, the revocation of proposals and acceptances, as the case may be, are expressed in electronic form or by means of an electronic record, such contract shall not be deemed to be unenforceable solely on the ground that such electronic form or means was used for that purpose.”.

Insertion of  
new section  
6A.

Delivery of  
services by  
service  
provider.

Insertion of  
new section  
7A.

Audit of  
documents,  
etc.,  
maintained in  
electronic  
form.

Insertion of  
new section  
10A.

Validity of  
contracts  
formed  
through  
electronic  
means.



10. In section 12 of the principal Act, in sub-section (I), for the words "agreed with the addressee", the word "stipulated" shall be substituted. Amendment of section 12.
11. For sections 15 and 16 of the principal Act, the following sections shall be substituted, namely:— Substitution of new sections for sections 15 and 16.
- '15. An electronic signature shall be deemed to be a secure electronic signature if— Secure electronic signature.
- (i) the signature creation data, at the time of affixing signature, was under the exclusive control of signatory and no other person; and
- (ii) the signature creation data was stored and affixed in such exclusive manner as may be prescribed.
- Explanation.*—In case of digital signature, the "signature creation data" means the private key of the subscriber.
16. The Central Government may, for the purposes of sections 14 and 15, prescribe the security procedures and practices: Security procedures and practices.
- Provided that in prescribing such security procedures and practices, the Central Government shall have regard to the commercial circumstances, nature of transactions and such other related factors as it may consider appropriate.¹.
12. In section 17 of the principal Act,— Amendment of section 17.
- (a) in sub-section (I), for the words "and Assistant Controllers", the words "Assistant Controllers, other officers and employees" shall be substituted; and
- (b) in sub-section (4), for the words "and Assistant Controllers", the words "Assistant Controllers, other officers and employees" shall be substituted."
13. Section 20 of the principal Act shall be omitted. Omission of section 20.
14. In section 29 of the principal Act, in sub-section (I), for the words "any contravention of the provisions of this Act, rules or regulations made thereunder", the words "any contravention of the provisions of this Chapter" shall be substituted. Amendment of section 29.
15. In section 30 of the principal Act,— Amendment of section 30.
- (i) in clause (c), after the word "assured", the word "and" shall be omitted;
- (ii) after clause (c), the following clauses shall be inserted, namely:—
- “(ca) be the repository of all Electronic Signature Certificates issued under this Act;
- (cb) publish information regarding its practices, Electronic Signature Certificates and current status of such certificates; and”.
16. In section 34 of the principal Act, in sub-section (I), in clause (a), the words "which contains the public key corresponding to the private key used by that Certifying Authority to digitally sign another Digital Signature Certificate" shall be omitted. Amendment of section 34.
17. In section 35 of the principal Act, in sub-section (4), — Amendment of section 35.
- (a) the first proviso shall be omitted;
- (b) in the second proviso, for the words "Provided further", the word "Provided" shall be substituted.
18. In section 36 of the principal Act, after clause (c), the following clauses shall be inserted, namely:— Amendment of section 36.
- “(ca) the subscriber holds a private key which is capable of creating a digital signature;
- (cb) the public key to be listed in the certificate can be used to verify a digital signature affixed by the private key held by the subscriber;”.

Insertion of new section 40A.

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

Duties of subscriber of Electronic Signature Certificate.

“40A. In respect of Electronic Signature Certificate the subscriber shall perform such duties as may be prescribed.”.

Amendment of heading of Chapter IX.

20. In Chapter IX of the principal Act, in the heading, for the words “PENALTIES AND ADJUDICATION”, the words “PENALTIES, COMPENSATION AND ADJUDICATION” shall be substituted.

Amendment of section 43.

21. In section 43 of the principal Act,—

(a) in the marginal heading, for the word “Penalty”, the words “Penalty and Compensation” shall be substituted;

(b) in clause (a), after the words “computer network”, the words “or computer resource” shall be inserted;

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

“(i) destroys, deletes or alters any information residing in a computer resource or diminishes its value or utility or affects it injuriously by any means;

(j) steal, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used for a computer resource with an intention to cause damage;”;

(d) for the portion beginning with the words “he shall be liable to pay damages” and ending with the words “persons so affected” the following shall be substituted, namely:—

“he shall be liable to pay damages by way of compensation to the person so affected”;

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

“(v) “computer source code” means the listing of programmes, computer commands, design and layout and programme analysis of computer resource in any form.”.

Insertion of new section 43A.

22. After section 43 of the principal Act, the following section shall be inserted, namely:—

Compensation for failure to protect data.

“43A. Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation to the person so affected.

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

(i) “body corporate” means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities;

(ii) “reasonable security practices and procedures” means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit;

(iii) "sensitive personal data or information" means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.'

23. In section 46 of the principal Act,—

Amendment of section 46.

(a) in sub-section (1), for the words "direction or order made thereunder", the words "direction or order made thereunder which renders him liable to pay penalty or compensation," shall be substituted;

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

"(1A) The adjudicating officer appointed under sub-section (1) shall exercise jurisdiction to adjudicate matters in which the claim for injury or damage does not exceed rupees five crore:

Provided that the jurisdiction in respect of the claim for injury or damage exceeding rupees five crore shall vest with the competent court.";

(c) in sub-section (5), after clause (b), the following clause shall be inserted, namely:—

"(c) shall be deemed to be a civil court for purposes of Order XXI of the Civil Procedure Code, 1908."

5 of 1908.

24. In Chapter X of the principal Act, in the heading, the word "REGULATIONS" shall be omitted.

Amendment of heading of Chapter X.

25. In section 48 of the principal Act, in sub-section (1), the word "Regulations" shall be omitted.

Amendment of section 48.

26. For sections 49 to 52 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 49 to 52.

"49. (1) The Cyber Appellate Tribunal shall consist of a Chairperson and such number of other Members, as the Central Government may, by notification in the Official Gazette, appoint:

Composition of Cyber Appellate Tribunal.

Provided that the person appointed as the Presiding Officer of the Cyber Appellate Tribunal under the provisions of this Act immediately before the commencement of the Information Technology (Amendment) Act, 2008 shall be deemed to have been appointed as the Chairperson of the said Cyber Appellate Tribunal under the provisions of this Act as amended by the Information Technology (Amendment) Act, 2008.

(2) The selection of Chairperson and Members of the Cyber Appellate Tribunal shall be made by the Central Government in consultation with the Chief Justice of India.

(3) Subject to the provisions of this Act—

(a) the jurisdiction, powers and authority of the Cyber Appellate Tribunal may be exercised by the Benches thereof;

(b) a Bench may be constituted by the Chairperson of the Cyber Appellate Tribunal with one or two Members of such Tribunal as the Chairperson may deem fit;

(c) the Benches of the Cyber Appellate Tribunal shall sit at New Delhi and at such other places as the Central Government may, in consultation with the Chairperson of the Cyber Appellate Tribunal, by notification in the Official Gazette, specify;

(d) the Central Government shall, by notification in the Official Gazette, specify the areas in relation to which each Bench of the Cyber Appellate Tribunal may exercise its jurisdiction.

(4) Notwithstanding anything contained in sub-section (3), the Chairperson of the Cyber Appellate Tribunal may transfer a Member of such Tribunal from one Bench to another Bench.

(5) If at any stage of the hearing of any case or matter it appears to the Chairperson or a Member of the Cyber Appellate Tribunal that the case or matter is of such a nature that it ought to be heard by a Bench consisting of more Members, the case or matter may be transferred by the Chairperson to such Bench as the Chairperson may deem fit.

Qualifications for appointment as Chairperson and Members of Cyber Appellate Tribunal.

50. (1) A person shall not be qualified for appointment as a Chairperson of the Cyber Appellate Tribunal unless he is, or has been, or is qualified to be, a Judge of a High Court.

(2) The Members of the Cyber Appellate Tribunal, except the Judicial Member to be appointed under sub-section (3), shall be appointed by the Central Government from amongst persons, having special knowledge of, and professional experience in, information technology, telecommunication, industry, management or consumer affairs:

Provided that a person shall not be appointed as a Member, unless he is, or has been, in the service of the Central Government or a State Government, and has held the post of Additional Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than one year or Joint Secretary to the Government of India or any equivalent post in the Central Government or State Government for a period of not less than seven years.

(3) The Judicial Members of the Cyber Appellate Tribunal shall be appointed by the Central Government from amongst persons who is or has been a member of the Indian Legal Service and has held the post of Additional Secretary for a period of not less than one year or Grade I post of that Service for a period of not less than five years.

Term of office, conditions of service, etc., of Chairperson and Members.

51. (1) The Chairperson or Member of the Cyber Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(2) Before appointing any person as the Chairperson or Member of the Cyber Appellate Tribunal, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson or Member.

(3) An officer of the Central Government or State Government on his selection as the Chairperson or Member of the Cyber Appellate Tribunal, as the case may be, shall have to retire from service before joining as such Chairperson or Member.

Salary, allowances and other terms and conditions of service of Chairperson and Members.

52. The salary and allowances payable to, and the other terms and conditions of service including pension, gratuity and other retirement benefits of, the Chairperson or a Member of the Cyber Appellate Tribunal shall be such as may be prescribed.

Powers of superintendence, direction, etc.

52A. The Chairperson of the Cyber Appellate Tribunal shall have powers of general superintendence and directions in the conduct of the affairs of that Tribunal and he shall, in addition to presiding over the meetings of the Tribunal, exercise and discharge such powers and functions of the Tribunal as may be prescribed.

52B. Where Benches are constituted, the Chairperson of the Cyber Appellate Tribunal may, by order, distribute the business of that Tribunal amongst the Benches and also the matters to be dealt with by each Bench.

Distribution of business among Benches.

52C. On the application of any of the parties and after notice to the parties, and after hearing such of them as he may deem proper to be heard, or *suo motu* without such notice, the Chairperson of the Cyber Appellate Tribunal may transfer any case pending before one Bench, for disposal to any other Bench.

Power of Chairperson to transfer cases.

52D. If the Members of a Bench consisting of two Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson of the Cyber Appellate Tribunal who shall hear the point or points himself and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.”.

Decision by majority.

27. In section 53 of the principal Act, for the words “Presiding Officer”, the words “Chairperson or Member, as the case may be,” shall be substituted.

Amendment of section 53.

28. In section 54 of the principal Act, for the words “Presiding Officer” wherever they occur, the words “Chairperson or the Member” shall be substituted.

Amendment of section 54.

29. In section 55 of the principal Act, for the words “Presiding Officer”, the words “Chairperson or the Member” shall be substituted.

Amendment of section 55.

30. In section 56 of the principal Act, for the words “Presiding Officer”, the word “Chairperson” shall be substituted.

Amendment of section 56.

31. In section 64 of the principal Act,—

Amendment of section 64.

(i) for the words “penalty imposed”, the words “penalty imposed or compensation awarded” shall be substituted;

(ii) in the marginal heading, for the word “penalty”, the words “penalty or compensation” shall be substituted.

32. For sections 66 and 67 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 66 and 67.

‘66. If any person, dishonestly or fraudulently, does any act referred to in section 43, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five lakh rupees or with both.

Computer related offences.

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

45 of 1860.

(a) the word “dishonestly” shall have the meaning assigned to it in section 24 of the Indian Penal Code;

45 of 1860.

(b) the word “fraudulently” shall have the meaning assigned to it in section 25 of the Indian Penal Code.

66A. Any person who sends, by means of a computer resource or a communication device,—

Punishment for sending offensive messages through communication service, etc.

(a) any information that is grossly offensive or has menacing character; or

(b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device; or

(c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages,

shall be punishable with imprisonment for a term which may extend to three years and with fine.

*Explanation.*— For the purposes of this section, terms “electronic mail” and “electronic mail message” means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.

Punishment for dishonestly receiving stolen computer resource or communication device.

66B. Whoever dishonestly received or retains any stolen computer resource or communication device knowing or having reason to believe the same to be stolen computer resource or communication device, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to rupees one lakh or with both.

Punishment for identity theft.

66C. Whoever, fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other person, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to rupees one lakh.

Punishment for cheating by personation by using computer resource.

66D. Whoever, by means for any communication device or computer resource cheats by personation, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees.

Punishment for violation of privacy.

66E. Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.

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

(a) “transmit” means to electronically send a visual image with the intent that it be viewed by a person or persons;

(b) “capture”, with respect to an image, means to videotape, photograph, film or record by any means;

(c) “private area” means the naked or undergarment clad genitals, public area, buttocks or female breast;

(d) “publishes” means reproduction in the printed or electronic form and making it available for public;

(e) “under circumstances violating privacy” means circumstances in which a person can have a reasonable expectation that—

(i) he or she could disrobe in privacy, without being concerned that an image of his private area was being captured; or

(ii) any part of his or her private area would not be visible to the public, regardless of whether that person is in a public or private place.

Punishment for cyber terrorism.

66F. (1) Whoever,—

(A) with intent to threaten the unity, integrity, security or sovereignty of India or to strike terror in the people or any section of the people by—

(i) denying or cause the denial of access to any person authorised to access computer resource; or

(ii) attempting to penetrate or access a computer resource without authorisation or exceeding authorised access; or

(iii) introducing or causing to introduce any computer contaminant,

and by means of such conduct causes or is likely to cause death or injuries to persons or damage to or destruction of property or disrupts or knowing that it is likely to cause damage or disruption of supplies or services essential to the life of the community or adversely affect the critical information infrastructure specified under section 70; or

(B) knowingly or intentionally penetrates or accesses a computer resource without authorisation or exceeding authorised access, and by means of such conduct obtains access to information, data or computer database that is restricted for reasons of the security of the State or foreign relations; or any restricted information, data or computer database, with reasons to believe that such information, data or computer database so obtained may be used to cause or likely to cause injury to the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence, or to the advantage of any foreign nation, group of individuals or otherwise,

commits the offence of cyber terrorism.

(2) Whoever commits or conspires to commit cyber terrorism shall be punishable with imprisonment which may extend to imprisonment for life.

67. Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees.

Punishment for publishing or transmitting obscene material in electronic form.

67A. Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees.

Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.

67B. Whoever,—

(a) publishes or transmits or causes to be published or transmitted material in any electronic form which depicts children engaged in sexually explicit act or conduct; or

(b) creates text or digital images, collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually explicit manner; or

(c) cultivates, entices or induces children to online relationship with one or more children for and on sexually explicit act or in a manner that may offend a reasonable adult on the computer resource; or

(d) facilitates abusing children online; or

(e) records in any electronic form own abuse or that of others pertaining to sexually explicit act with children,

Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.

shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees:

Provided that provisions of section 67, section 67A and this section does not extend to any book, pamphlet, paper, writing, drawing, painting representation or figure in electronic form—

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting representation or figure is in the interest of science, literature, art or learning or other objects of general concern; or

(ii) which is kept or used for *bona fide* heritage or religious purposes.

*Explanation.*— For the purposes of this section, “children” means a person who has not completed the age of 18 years.

Preservation and retention of information by intermediaries.

67C. (1) Intermediary shall preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribe.

(2) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (1) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.’

Amendment of section 68.

33. In section 68 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Any person who intentionally or knowingly fails to comply with any order under sub-section (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one lakh rupees or with both.”.

Substitution of new sections for section 69.

34. For section 69 of the principal Act, the following sections shall be substituted, namely:—

Power to issue directions for interception or monitoring or decryption of any information through any computer resource.

‘69. (1) Where the Central Government or a State Government or any of its officers specially authorised by the Central Government or the State Government, as the case may be, in this behalf may, if satisfied that it is necessary or expedient so to do, in the interest of the sovereignty or integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above or for investigation of any offence, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the appropriate Government to intercept, monitor or decrypt or cause to be intercepted or monitored or decrypted any information generated, transmitted, received or stored in any computer resource.

(2) The procedure and safeguards subject to which such interception or monitoring or decryption may be carried out, shall be such as may be prescribed.

(3) The subscriber or intermediary or any person in-charge of the computer resource shall, when called upon by any agency referred to in sub-section (1), extend all facilities and technical assistance to—

(a) provide access to or secure access to the computer resource generating, transmitting, receiving or storing such information; or

(b) intercept, monitor, or decrypt the information, as the case may be; or

(c) provide information stored in computer resource.



(4) The subscriber or intermediary or any person who fails to assist the agency referred to in sub-section (3) shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

69A. (1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do, in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource.

Power to issue directions for blocking for public access of any information through any computer resource.

(2) The procedure and safeguards subject to which such blocking for access by the public may be carried out, shall be such as may be prescribed.

(3) The intermediary who fails to comply with the direction issued under sub-section (1) shall be punished with an imprisonment for a term which may extend to seven years and shall also be liable to fine.

69B. (1) The Central Government may, to enhance cyber security and for identification, analysis and prevention of intrusion or spread of computer contaminant in the country, by notification in the Official Gazette, authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

Power to authorise to monitor and collect traffic data or information through any computer resource for cyber security.

(2) The intermediary or any person in-charge or the computer resource shall, when called upon by the agency which has been authorised under sub-section (1), provide technical assistance and extend all facilities to such agency to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such traffic data or information.

(3) The procedure and safeguards for monitoring and collecting traffic data or information, shall be such as may be prescribed.

(4) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (2) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.

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

(i) “computer contaminant” shall have the meaning assigned to it in section 43;

(ii) “traffic data” means any data identifying or purporting to identify any person, computer system or computer network or location to or from which the communication is or may be transmitted and includes communications origin, destination, route, time, data, size, duration or type of underlying service and any other information.’

35. In section 70 of the principal Act,—

Amendment of section 70.

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

‘(1) The appropriate Government may, by notification in the Official Gazette, declare any computer resource which directly or indirectly affects the facility of Critical Information Infrastructure, to be a protected system.

*Explanation.*—For the purposes of this section, “Critical Information Infrastructure” means the computer resource, the incapacitation or destruction of which, shall have debilitating impact on national security, economy, public health or safety.’;

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

“(4) The Central Government shall prescribe the information security practices and procedures for such protected system.”

Insertion of  
new sections  
70A and 70B.

36. After section 70 of the principal Act, the following sections shall be inserted, namely:—

National nodal  
agency.

“70A. (1) The Central Government may, by notification published in the Official Gazette, designate any organisation of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection.

(2) The national nodal agency designated under sub-section (1) shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure.

(3) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

Indian  
Computer  
Emergency  
Response  
Team to  
serve as  
national  
agency for  
incident  
response.

70B. (1) The Central Government shall, by notification in the Official Gazette, appoint an agency of the Government to be called the Indian Computer Emergency Response Team.

(2) The Central Government shall provide the agency referred to in sub-section (1) with a Director-General and such other officers and employees as may be prescribed.

(3) The salary and allowances and terms and conditions of the Director-General and other officers and employees shall be such as may be prescribed.

(4) The Indian Computer Emergency Response Team shall serve as the national agency for performing the following functions in the area of cyber security,—

(a) collection, analysis and dissemination of information on cyber incidents;

(b) forecast and alerts of cyber security incidents;

(c) emergency measures for handling cyber security incidents;

(d) coordination of cyber incidents response activities;

(e) issue guidelines, advisories, vulnerability notes and whitepapers relating to information security practices, procedures, prevention, response and reporting of cyber incidents;

(f) such other functions relating to cyber security as may be prescribed.

(5) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.

(6) For carrying out the provisions of sub-section (4), the agency referred to in sub-section (1) may call for information and give direction to the service providers, intermediaries, data centres, body corporate and any other person.

(7) Any service provider, intermediaries, data centres, body corporate or person who fails to provide the information called for or comply with the direction under sub-section (6), shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one lakh rupees or with both.

(8) No court shall take cognizance of any offence under this section, except on a complaint made by an officer authorised in this behalf by the agency referred to in sub-section (1).”

37. After section 72 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 72A.

“72A. Save as otherwise provided in this Act or any other law for the time being in force, any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other person, shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.”.

Punishment for disclosure of information in breach of lawful contract.

38. For section 77 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for section 77.

“77. No compensation awarded, penalty imposed or confiscation made under this Act shall prevent the award of compensation or imposition of any other penalty or punishment under any other law for the time being in force.

Compensation, penalties or confiscation not to interfere with other punishment.

77A. A court of competent jurisdiction may compound offences, other than offences for which the punishment for life or imprisonment for a term exceeding three years has been provided, under this Act:

Compounding of offences.

Provided that the court shall not compound such offence where the accused is, by reason of his previous conviction, liable to either enhanced punishment or to a punishment of a different kind:

Provided further that the court shall not compound any offence where such offence affects the socio economic conditions of the country or has been committed against a child below the age of 18 years or a woman.

(2) The person accused of an offence under this Act may file an application for compounding in the court in which offence is pending for trial and the provisions of sections 265B and 265C of the Code of Criminal Procedure, 1973 shall apply.

2 of 1974.

77B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence punishable with imprisonment of three years and above shall be cognizable and the offence punishable with imprisonment of three years shall be bailable.

2 of 1974.

Offences with three years imprisonment to be bailable.

39. In section 78 of the principal Act, for the words “Deputy Superintendent of Police” the word “Inspector” shall be substituted.

Amendment of section 78.

40. For Chapter XII of the principal Act, the following Chapters shall be substituted, namely:—

Substitution of new Chapters for Chapter XII.

#### ‘CHAPTER XII

##### INTERMEDIARIES NOT TO BE LIABLE IN CERTAIN CASES

79. (1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.

Exemption from liability of intermediary in certain cases.

(2) The provisions of sub-section (1) shall apply if—

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

(b) the intermediary does not—

(i) initiate the transmission,

(ii) select the receiver of the transmission, and

(iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

(3) The provisions of sub-section (1) shall not apply if—

(a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner.

*Explanation.*—For the purposes of this section, the expression “third party information” means any information dealt with by an intermediary in his capacity as an intermediary.

## CHAPTER XIIA

### EXAMINER OF ELECTRONIC EVIDENCE

Central Government to notify Examiner of Electronic Evidence.

79A. The Central Government may, for the purposes of providing expert opinion on electronic form evidence before any court or other authority specify, by notification in the Official Gazette, any Department, body or agency of the Central Government or a State Government as an Examiner of Electronic Evidence.

*Explanation.*—For the purposes of this section, “electronic form evidence” means any information of probative value that is either stored or transmitted in electronic form and includes computer evidence, digital audio, digital video, cell phones, digital fax machines.

Amendment of section 80.

41. In section 80 of the principal Act, in sub-section (1), for the words “Deputy Superintendent of Police”, the word “Inspector” shall be substituted.

Amendment of section 81.

42. In section 81 of the principal Act, the following proviso shall be inserted at the end, namely:—

“Provided that nothing contained in this Act shall restrict any person from exercising any right conferred under the Copyright Act, 1957 or the Patents Act, 1970.”.

14 of 1957.

39 of 1970.

Amendment of section 82.

43. In section 82 of the principal Act,—

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

“Chairperson, Members, officers and employees to be public servants.”;

(b) for the words “Presiding Officer”, the words “Chairperson, Members” shall be substituted.

Amendment of section 84.

44. In section 84 of the principal Act, for the words “Presiding Officer”, the words “Chairperson, Members” shall be substituted.

Insertion of new sections 84A, 84B and 84C.

45. After section 84 of the principal Act, the following sections shall be inserted, namely:—

**“84A. The Central Government may, for secure use of the electronic medium and for promotion of e-governance and e-commerce, prescribe the modes or methods for encryption.** Modes or methods for encryption.

**84B. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be punished with the punishment provided for the offence under this Act.** Punishment for abetment of offences.

*Explanation.*—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

**84C. Whoever attempts to commit an offence punishable by this Act or causes such an offence to be committed, and in such an attempt does any act towards the commission of the offence, shall, where no express provision is made for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.”.** Punishment for attempt to commit offences.

**46. In section 87 of the principal Act,—**

Amendment of section 87.

(A) in sub-section (2),—

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

“(a) the conditions for considering reliability of electronic signature or electronic authentication technique under sub-section (2) of section 3A;

(aa) the procedure for ascertaining electronic signature or authentication under sub-section (3) of section 3A;

(ab) the manner in which any information or matter may be authenticated by means of electronic signature under section 5;”;

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

“(ca) the manner in which the authorised service provider may collect, retain and appropriate service charges under sub-section (2) of section 6A;”;

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

“(e) the manner of storing and affixing electronic signature creation data under section 15;

(ea) the security procedures and practices under section 16;”;

(iv) in clause (f), for the words “and Assistant Controllers”, the words “, Assistant Controllers, other officers and employees” shall be substituted;

(v) clause (g) shall be omitted;

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

“(ma) the form of application and fee for issue of Electronic Signature Certificate under section 35;”;

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

“(oa) the duties of subscribers under section 40A;

(ob) the reasonable security practices and procedures and sensitive personal data or information under section 43A;”;

(viii) in clause (r), for the words “Presiding Officer”, the words “Chairperson and Members” shall be substituted;

(ix) in clause (s), for the words “Presiding Officer”, the words “Chairperson and Members” shall be substituted;

(x) for clause (w), the following clauses shall be substituted, namely:—

“(w) the powers and functions of the Chairperson of the Cyber Appellate Tribunal under section 52A;

(x) the information, duration, manner and form of such information to be retained and preserved under section 67C;

(y) the procedures and safeguards for interception, monitoring, or decryption under sub-section (2) of section 69;

(z) the procedure and safeguards for blocking for access by the public under sub-section (2) of section 69A;

(za) the procedure and safeguards for monitoring and collecting traffic data or information under sub-section (3) of section 69B;

(zb) the information security practices and procedures for protected system under section 70;

(zc) manner of performing functions and duties of the agency under sub-section (3) of section 70A;

(zd) the officers and employees under sub-section (2) of section 70B;

(ze) salaries and allowances and terms and conditions of service of the Director General and other officers and employees under sub-section (3) of section 70B;

(zf) the manner in which the functions and duties of agency shall be performed under sub-section (5) of section 70B;

(zg) the guidelines to be observed by the intermediaries under sub-section (4) of section 79;

(zh) the modes or methods for encryption under section 84A;”;

(B) in sub-section (3),—

(i) for the words, brackets, letter and figures “Every notification made by the Central Government under clause (f) of sub-section (4) of section 1 and every rule made by it”, the words “Every notification made by the Central Government under sub-section (1) of section 70A and every rule made by it” shall be substituted;

(ii) the words “the notification or” wherever they occur, shall be omitted.

Amendment of section 90.

47. In section 90 of the principal Act, in sub-section (2), clause (c) shall be omitted .

Omission of sections 91, 92, 93 and 94.

48. Sections 91, 92, 93 and 94 of the principal Act shall be omitted.

Substitution of new Schedules for First Schedule and Second Schedule.

49. For the First Schedule and the Second Schedule to the principal Act, the following Schedules shall be substituted, namely:—

#### “FIRST SCHEDULE

[See sub-section (4) of section 1]

#### DOCUMENTS OR TRANSACTIONS TO WHICH THE ACT SHALL NOT APPLY

Sl. No.	Description of documents or transactions	
1.	A negotiable instrument (other than a cheque) as defined in section 13 of the Negotiable Instruments Act, 1881.	26 of 1881.
2.	A power-of-attorney as defined in section 1A of the Powers-of-Attorney Act, 1882.	7 of 1882.
3.	A trust as defined in section 3 of the Indian Trusts Act, 1882.	2 of 1882.
4.	A will as defined in clause (h) of section 2 of the Indian Succession Act, 1925, including any other testamentary disposition by whatever name called.	39 of 1925.
5.	Any contract for the sale or conveyance of immovable property or any interest in such property.	

THE SECOND SCHEDULE  
 [See sub-section (1) of section 3A]

ELECTRONIC SIGNATURE OR ELECTRONIC AUTHENTICATION TECHNIQUE AND PROCEDURE

Sl. No.	Description	Procedure
(1)	(2)	(3)

50. The Third Schedule and the Fourth Schedule to the principal Act shall be omitted. Omission of Third Schedule and Fourth Schedule.

PART III

AMENDMENT OF THE INDIAN PENAL CODE

45 of 1860.

51. In the Indian Penal Code— Amendment of Indian Penal Code.

(a) in section 4,— Amendment of section 4.

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

“(3) any person in any place without and beyond India committing offence targeting a computer resource located in India.”;

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

*Explanation.*—In this section—

(a) the word “offence” includes every act committed outside India which, if committed in India, would be punishable under this Code;

(b) the expression “computer resource” shall have the meaning assigned to it in clause (k) of sub-section (1) of section 2 of the Information Technology Act, 2000.’;

21 of 2000.

(b) in section 40, in clause (2), after the figure “117”, the figures and word “118, 119 and 120” shall be inserted; Amendment of section 40.

(c) in section 118, for the words “voluntarily conceals, by any act or illegal omission, the existence of a design”, the words “voluntarily conceals by any act or omission or by the use of encryption or any other information hiding tool, the existence of a design” shall be substituted; Amendment of section 118.

(d) in section 119, for the words “voluntarily conceals, by any act or illegal omission, the existence of a design”, the words “voluntarily conceals by any act or omission or by the use of encryption or any other information hiding tool, the existence of a design” shall be substituted; Amendment of section 119.

(e) in section 464, for the words “digital signature” wherever they occur, the words “electronic signature” shall be substituted; Amendment of section 464.

## AMENDMENT OF THE INDIAN EVIDENCE ACT, 1872

Amendment  
of Indian  
Evidence Act.

52. In the Indian Evidence Act, 1872,—

1 of 1872.

Amendment of  
section 3.

(a) in section 3 relating to interpretation clause, in the paragraph appearing at the end, for the words “digital signature” and “Digital Signature Certificate”, the words “electronic signature” and “Electronic Signature Certificate” shall respectively be substituted;

Insertion of  
new section  
45A.

(b) after section 45, the following section shall be inserted, namely:—

Opinion of  
Examiner of  
Electronic  
Evidence.

“45A. When in a proceeding, the court has to form an opinion on any matter relating to any information transmitted or stored in any computer resource or any other electronic or digital form, the opinion of the Examiner of Electronic Evidence referred to in section 79A of the Information Technology Act, 2000, is a relevant fact.

21 of 2000.

*Explanation.*—For the purposes of this section, an Examiner of Electronic Evidence shall be an expert.”;

Amendment of  
section 47A.

(c) in section 47A,—

(i) for the words “digital signature”, the words “electronic signature” shall be substituted;

(ii) for the words “Digital Signature Certificate”, the words “Electronic Signature Certificate” shall be substituted;

Amendment of  
section 67A.

(d) in section 67A, for the words “digital signature” wherever they occur, the words “electronic signature” shall be substituted;

Amendment of  
section 85A.

(e) in section 85A, for the words “digital signature” at both the places where they occur, the words “electronic signature” shall be substituted;

Amendment of  
section 85B.

(f) in section 85B, for the words “digital signature” wherever they occur, the words “electronic signature” shall be substituted;

Amendment of  
section 85C.

(g) in section 85C, for the words “Digital Signature Certificate”, the words “Electronic Signature Certificate” shall be substituted;

Amendment of  
section 90A.

(h) in section 90A, for the words “digital signature” at both the places where they occur, the words “electronic signature” shall be substituted;

T.K. VISWANATHAN,  
Secretary to the Government of India.

(Republished by Order of the Governor)

S. DAMODARAM,  
Additional Secretary to Government,  
Law Department.



*New Delhi, the 6th February, 2009.*

The following Act of Parliament received the assent of the President on the 5th February, 2009 and is hereby published for general information:—

THE SUPREME COURT (NUMBER OF JUDGES) AMENDMENT ACT, 2008

**ACT No. 11 OF 2009**

*An Act further to amend the Supreme Court (Number of Judges) Act, 1956.*

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

**1.** This Act may be called the Supreme Court (Number of Judges) Amendment Act, 2008.

Short title.

55 of 1956.

**2.** In section 2 of the Supreme Court (Number of Judges) Act, 1956, for the word “twenty-five”, the word “thirty” shall be substituted.

Amendment of section 2.

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*



*New Delhi, the 12th February, 2009.*

The following Act of Parliament received the assent of the President on the 12th February, 2009 and is hereby published for general information:—

THE NATIONAL JUTE BOARD ACT, 2008

ARRANGEMENT OF SECTIONS

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PRELIMINARY

SECTIONS

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

CHAPTER II

THE NATIONAL JUTE BOARD

3. Constitution and incorporation of Board.
4. Secretary and other officers.

CHAPTER III

FUNCTIONS OF THE BOARD

5. Functions of Board.

CHAPTER IV

PROPERTY AND CONTRACT

6. The Council and Society to vest in Board.
7. General effect of vesting of Council and Society in Board.
8. Licences, etc., to be deemed to have been granted to Board.
9. Tax exemption or benefit to continue to have effect.
10. Guarantee to be operative.
11. Provisions in respect of officers and other employees of Council and Society.

CHAPTER V

POWER OF THE CENTRAL GOVERNMENT

12. Directions by Central Government.
13. Supersession of Board.

CHAPTER VI

FINANCE, ACCOUNTS AND AUDIT

14. Grants and loans by Central Government.
15. Budget.
16. Annual report.
17. Accounts and audit.
18. Laying of annual and auditor's report before Parliament.

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**CHAPTER VII****MISCELLANEOUS****SECTIONS**

19. Protection of action taken in good faith.
20. Officers and employees of Board to be public servants.
21. Power to make rules.
22. Power to make regulations.
23. Rules and regulations to be laid before Parliament.
24. Power to remove difficulties.
25. Amendment of Act 28 of 1983.
26. Repeal and savings.

## THE NATIONAL JUTE BOARD ACT, 2008

## ACT No. 12 OF 2009

*An Act to provide for the Establishment of a National Jute Board for the development of the cultivation, manufacture and marketing of jute and jute products and for matters connected therewith and incidental thereto.*

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

## CHAPTER I

## PRELIMINARY

- 1. (1) This Act may be called the National Jute Board Act, 2008.**
- (2) It extends to the whole of India.**
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.**

Short title,  
extent and  
commencement.

## Definitions.

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

- (a) “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint for the purpose of section 3;
- (b) “Board” means the National Jute Board constituted under section 3;
- (c) “Chairperson” means the Chairperson of the Board;
- (d) “Council” means the Jute Manufactures Development Council established under section 3 of the Jute Manufactures Development Council Act, 1983; 27 of 1983.
- (e) “Jute” means the plants of jute, kenaf and mesta;
- (f) “jute manufacture” shall have the same meaning as assigned to it in the Jute Manufactures Cess Act, 1983; 28 of 1983.
- (g) “member” means a member of the Board and includes the Chairperson;
- (h) “prescribed” means prescribed by rules made under this Act;
- (i) “regulations” means regulations made by the Board under this Act;
- (j) “Society” means the National Centre for Jute Diversification, a society set up by the Central Government in the Ministry of Textiles and registered under the Societies Registration Act, 1860; 21 of 1860.
- (k) “year” means the year commencing on the 1st day of April and ending on the 31st day of March next following.

## CHAPTER II

## THE NATIONAL JUTE BOARD

Constitution  
and incorpora-  
tion of Board.

3. (1) With effect from the appointed day, the Central Government shall, by notification in the Official Gazette, constitute, for the purposes of this Act, a Board to be called the National Jute Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the Board shall be at Kolkata in the State of West Bengal or such other place as the Central Government may, by notification in the Official Gazette, specify and the Board may, with the previous approval of the Central Government, establish offices or agencies at other places in or outside India.

(4) The Board shall consist of the following members, namely:—

(a) the Secretary in charge of the ministry of the Central Government dealing with textiles, who shall be the *ex officio* Chairperson of the Board;

(b) three Members of Parliament of whom two shall be elected from among themselves by the members of the House of the People and one from among themselves by the members of the Council of States;

(c) the Additional Secretary and Financial Adviser, Ministry of Textiles, Government of India, *ex officio*;

(d) the Joint Secretary (Jute) in the Ministry of Textiles, Government of India, *ex officio*;

(e) two members of the rank of Joint Secretary to be nominated by the Central Government to represent respectively the ministries of the Central Government dealing with—

(i) agriculture, and

(ii) food and public distribution;

(f) three members to be nominated by the Central Government by rotation in the alphabetical order to represent respectively the Governments of the States of Andhra Pradesh, Assam, Bihar, Meghalaya, Orissa, Tripura and West Bengal; the nomination shall be from officials of the State Government holding the rank of Secretary to the State Government and dealing with Jute or Textile matters;

(g) three members of jute farmers of which one from State of West Bengal and two from other States on rotational basis to be nominated by the Central Government;

(h) three members of jute workers of which one from State of West Bengal and two from other States nominated by the Central Government on rotational basis;

(i) two experts from the field of jute technology and related field to be nominated by the Central Government;

(j) two members from the "micro enterprises", "small enterprises" and "medium enterprises" dealing in jute industry to be nominated by the Central Government.

*Explanation.*— For the purpose of this clause, the expressions "medium enterprise", "micro enterprise" and "small enterprise" shall have the meanings respectively assigned to them in clause (g), clause (h) and clause (m) of section 2 of the Micro, Small and Medium Enterprises Development Act, 2006;

27 of 2006.

(k) two members to be appointed by the Central Government to represent the jute industry in the organised sector;

(l) two members to be appointed by the Central Government to represent the jute industry in the decentralised sector;

(m) two members to be appointed by the Central Government to represent the exporters of jute products;

(n) the Director, Indian Jute Industries Research Association, *ex officio*;

(o) the Principal, Institute of Jute Technology, *ex officio*;

(p) the Director, National Institute of Research on Jute and Allied Fibre Technology, Kolkata, *ex officio*;

(q) the Director, Central Research Institute for Jute and Allied Fibres, *ex officio*;

(r) the Chairman and Managing Director, Jute Corporation of India, *ex officio*;

(s) the Jute Commissioner, *ex officio*;

(t) the Secretary, National Jute Board, who shall be the *ex officio* Member-Secretary of the Board.

(5) The term of office of the members, other than the *ex officio* members, and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, such members shall be as may be prescribed.

(6) The office of members of the Board shall not disqualify its holder for being chosen as, or for being a member of either House of Parliament.

(7) The Chairperson shall, in addition to presiding over the meetings of the Board, exercise and discharge such powers and duties of the Board as may be assigned to him by the Board and such other powers and duties as may be prescribed.

(8) The Board shall elect from among its members a Vice-Chairperson who shall exercise such of the powers and perform such of the functions of the Chairperson as may be prescribed or as may be delegated to him by the Chairperson.

(9) The Board shall meet at such times and places and shall observe such procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be determined by regulations.

4. (1) The Central Government may appoint the Secretary and such other officers and employees as it considers necessary, for the efficient discharge of the functions of the Board under this Act.

Secretary and other officers.

(2) The terms and conditions of service of the Secretary and other officers and employees of the Board shall be such as may be determined by regulations.

### CHAPTER III

#### FUNCTIONS OF THE BOARD

Functions of Board.

5. (1) It shall be the duty of the Board to promote the development of jute and jute products by such measures as it thinks fit.

(2) Without prejudice to the generality of the foregoing provision, the Board may undertake measures to—

(i) evolve an integrated approach to jute cultivation in the matters of formulation of schemes, extension work, implementation and evaluation of schemes aimed at increasing the yield of jute and improving the quality thereon;

(ii) promote production of better quality raw jute;

(iii) enhance productivity of raw jute;

(iv) promote or undertake arrangements for better marketing and stabilisation of the prices of raw jute;

(v) promote standardisation of raw jute and jute products;

(vi) suggest norms of efficiency for jute industry with a view to eliminating waste, obtaining optimum production, improving quality and reducing costs;

(vii) propagate information useful to the growers of raw jute and manufacturers of jute products;

(viii) promote and undertake measures for quality control of raw jute and jute products;

(ix) assist and encourage studies and research for improvement of processing, quality, techniques of grading and packaging of raw jute;

(x) promote or undertake surveys or studies aimed at collection and formulation of statistics regarding raw jute and jute products;

(xi) promote standardisation of jute manufactures;

(xii) promote the development of production of jute manufactures by increasing the efficiency and productivity of the jute industry;

(xiii) sponsor, assist, coordinate, encourage or undertake scientific, technological, economic and marketing research pertaining to the jute sector;

(xiv) maintain and improve existing markets and to develop new markets within the country and outside for jute manufactures and to devise marketing strategies in consonance with the demand for such manufactures in the domestic and international markets;

(xv) sponsor, assist, coordinate or encourage scientific, technological and economic research in the matters related to materials, equipment, methods of production, product development including discovery and development of new materials, equipment and methods and improvements in those already in use in the jute industry;

(xvi) provide and create necessary infrastructural facilities and conditions conducive to the development of diversified jute products by way of assisting the entrepreneurs, artisans, craftsman, designers, manufacturers, exporters, non-Governmental agencies in the following manner, namely:—

(a) transfer of technology from research and development institutions and other organisations in India and abroad;



(b) providing support services to the entrepreneurs for the implementation of their projects including technical guidance and training;

(c) organizing entrepreneurial development programmes;

(d) planning and executing market promotion strategies including exhibitions, demonstrations, media campaigns in India and abroad;

(e) providing financial assistance by way of subsidy or seed capital;

(f) providing a forum to the people engaged or interested in diversified jute products for interacting with various national and international agencies, engaged in the jute and jute textile sector;

(xvii) organize workshops, conferences, lectures, seminars, refresher courses and set up study groups and conduct training programmes for the purpose of promotion and development of jute and jute products;

(xviii) to undertake research on jute seed to improve quality and to shorten the gestation period of jute crop;

(xix) to incorporate measures for sustainable Human Resource Development of the jute sector and to provide necessary funds for the same;

(xx) modernisation of jute sector and technology development;

(xxi) to take steps to protect the interests of jute growers and workers and to promote their welfare by improving their livelihood avenues;

(xxii) secure better working conditions and provisions and improvement of amenities and incentives for workers engaged in the jute industry;

(xxiii) register jute growers and manufacturers on optional basis;

(xxiv) collect statistics with regard to jute and jute products for compilation and publication;

(xxv) subscribe to the share capital of or enter into any arrangement (whether by way of partnership, joint venture or any other manner) with any other body corporate for the purpose of promoting the jute sector or for promotion and marketing of jute and jute products in India and abroad.

(3) It shall be the duty of the Board—

(a) to advise the Central Government on all matters relating to the development of raw jute and the jute industry, including import and export of jute and jute products;

(b) to prepare and furnish reports relating to the jute sector as may be required by the Central Government from time to time.

#### CHAPTER IV

##### PROPERTY AND CONTRACT

6. (1) On and from the appointed day, there shall be transferred to, and vest in, the Board constituted under section 3, the Council and the Society.

The Council and Society to vest in Board.

(2) The Council and the Society which is transferred to, and which vests in, the Board under sub-section (1) shall be deemed to include all assets, rights, powers, authorities and privileges and all property movable and immovable, real or personal, corporeal or incorporeal, present or contingent, of whatever nature and wheresoever situate, including lands, buildings, machinery, equipments, cash balances, capital, reserves, reserve funds, investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership or possession or power of the Council, or as the case may be, the Society, whether within or outside India, all books of account and documents relating thereto and shall also be

deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the Society, or as the case may be, the Council.

General effect of vesting of Council and Society in Board.

7. (1) All contracts, agreements and working arrangements subsisting immediately before the appointed day and affecting the Council, or, as the case may be, the Society shall, in so far as they relate to the Council, or, as the case may be, the Society, cease to have effect or be enforceable against the Council, or, as the case may be, the Society and shall be of as full force and effect against or in favour of the Board in which the Council and the Society have vested by virtue of this Act and enforceable as fully and effectively as if, instead of the Council, or, as the case may be, the Society, the Board had been named therein or had been a party thereto.

(2) Any proceeding, suit or cause of action pending or existing immediately before the appointed day by or against the Council or the Society may, as from that day, be continued and enforced by or against the Board in which it has vested by virtue of this Act, as it might have been enforced by or against the Council or the Society if this Act had not been passed, and shall cease to be enforceable by or against the Council or, as the case may be, the Society.

Licences, etc., to be deemed to have been granted to Board.

8. With effect from the appointed day, all licences, permits, quotas and exemptions, granted to the Council or the Society in connection with the affairs and business of the Council, or, as the case may be, the Society, under any law for the time being in force, shall be deemed to have been granted to the Board in which the Council and the Society have vested by virtue of this Act.

Tax exemption or benefit to continue to have effect.

9. (1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward, as the case may be, of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to the Council or the Society, under the Income-tax Act, 1961, such exemption, assessment or benefit shall continue to have effect in relation to the Board in which the Council and the Society have vested by virtue of this Act.

43 of 1961.

(2) Where any payment made by the Council or the Society is exempted from deduction of tax at source under any provision of the Income-tax Act, 1961, the exemption from tax will continue to be available as if the provisions of the said Act made applicable to the Council or the Society were operative in relation to the Board in which the Council and the Society have vested by virtue of this Act.

43 of 1961.

(3) The transfer and vesting of the Council or the Society in terms of section 6 shall not be construed as a transfer within the meaning of the Income-tax Act, 1961 for the purposes of capital gains.

43 of 1961.

Guarantee to be operative.

10. Any guarantee given for or in favour of the Council or the Society with respect to any loan or lease finance shall continue to be operative in relation to the Board in which the Council and the Society have vested by virtue of this Act.

Provisions in respect of officers and other employees of Council and Society.

11. (1) (a) Every officer or other employee of the Council serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the Council which has vested in the Board by virtue of this Act, become, as from the appointed day, an officer, or, as the case may be, other employee of the Board.

(b) Every officer or other employee of the Society serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the Society which has vested in the Board by virtue of this Act, become, as from the appointed day, an officer, or, as the case may be, other employee of the Board.

(2) Every officer or other employee of the Council or the Society who becomes an officer, or as the case may be, other employee of the Board, as referred to in sub-section (1), shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and rights and privileges

as to leave, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under the Council, or, as the case may be, the Society, if it had not vested in the Board and shall continue to do so as an officer or other employee, as the case may be, of the Board, or until the expiry of a period of one year from the appointed day if such officer or other employee opts not to be the officer or other employee of the Board within such period:

Provided that if the Board thinks it expedient to extend the period so fixed, it may extend the same up to a maximum period of one year.

(3) Where an officer or other employee of the Council or the Society opts under sub-section (2) not to be in the employment or service of the Board in which the Council and the Society have vested, such officer or other employee shall be deemed to have resigned from the respective cadre.

14 of 1947.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Council or the Society to the Board shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(5) The officers and other employees who have retired before the appointed day from the service of the Council or the Society and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Board in which the Council and the Society have vested.

(6) The trusts of the Provident Fund and Group Insurance and Superannuation Scheme of the Council or the Society for the welfare of officers or employees would continue to discharge their functions in the Board as was being done hitherto in the Council or the Society and tax exemption granted to Provident Fund or Group Insurance and Superannuation Scheme would continue to be applied to the Board.

(7) After the expiry of the period of one year, or the extended period, as referred to in sub-section (2), all the officers and other employees transferred and appointed to the Board, other than those opting not to be the officers or employees of the Board within such period, shall be governed by the rules and regulations made by the Board in respect of the service conditions of the officers and other employees of the said Board.

## CHAPTER V

### POWERS OF THE CENTRAL GOVERNMENT

12. (1) The Board shall, in the discharge of its functions and duties under the relevant statute, be bound by the directions on questions of policy as the Central Government may give in writing to it from time to time:

Directions  
by Central  
Government.

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

13. (1) If at any time the Central Government is of the opinion that—

Supersession  
of Board.

(a) on account of grave emergency, the Board is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) the Board has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of such default, the financial position of the Board or the administration of the Board has deteriorated; or

(c) the circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Board for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification—

(a) all the members of the Board shall, as from the date of supersession vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of the relevant Act, be exercised or discharged by or on behalf of the Board shall, until the Board is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Board shall, until the Board is reconstituted, vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Board by a fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time, before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification to be issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action will be laid before each House of Parliament at the earliest.

## CHAPTER VI

### FINANCE, ACCOUNTS AND AUDIT

Grants and  
loans by  
Central  
Government.

14. (1) The Central Government may, after due appropriation made by Parliament by law, in this behalf, make to the Board grants and loans of such sums of money as that Government may consider necessary.

(2) There shall be constituted a fund to be called the Jute Board Fund and there shall be credited thereto—

(a) any grants and loans made to the Board by the Central Government;

(b) all sums received by the Board from such other sources as may be decided upon by the Central Government.

(3) The Fund shall be applied for meeting—

(a) salary, allowances and other remuneration of the members, officers and other employees of the Board;

(b) expenses of the Board in the discharge of its functions; and

(c) expenses on objects and for purposes authorised by this Act.

Budget.

15. The Board shall prepare in such form and at such time during each financial year, as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Board, and forward the same to the Central Government.

16. The Board shall prepare in such form and at such time, each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and submit a copy thereof to the Central Government. Annual report.

17. The accounts of the Board shall be maintained and audited in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed and the Board shall furnish to the Central Government before such date, as may be prescribed, an audited copy of its accounts, together with the auditor's report thereon. Accounts and audit.

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

## CHAPTER VII

### MISCELLANEOUS

19. No suit, prosecution or other legal proceeding shall lie against the Central Government, or the Board or any member of the Board, or any officer or other employee of the Central Government or of the Board or any other person authorised by the Central Government or the Board, for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder. Protection of action taken in good faith.

20. All officers and employees of the Board shall, while acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Officers and employees of Board to be public servants.

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

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

(a) the term of office and other conditions of service of the members of the Board under sub-section (5) of section 3;

(b) the powers and duties of the Chairperson under sub-section (7) of section 3;

(c) the powers and functions of the Vice-Chairperson under sub-section (8) of section 3;

(d) the form in which, and the time at which, the Board shall prepare its budget under section 15;

(e) the form in which, and the time at which, the Board shall prepare its annual report under section 16;

(f) the manner in which the accounts of the Board shall be maintained and audited, and the date before which the audited copy of the accounts may be furnished to the Central Government under section 17;

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

Power to make regulations.

22. (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with the provisions of this Act and the rules generally to carry out the purposes of this Act.

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

(a) the manner in which the business of the Board shall be conducted under sub-section (9) of section 3; and

(b) the terms and conditions of service of the Secretary and other officers and employees of the Board under section 4.

Rules and regulations to be laid before Parliament.

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

Power to remove difficulties.

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

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

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

Amendment of Act 28 of 1983.

25. In the Jute Manufactures Cess Act, 1983,—

(a) in section 3,—

(i) in sub-section (1), for the words and figures “the Jute Manufactures Development Council Act, 1983”, the words and figures “the National Jute Board Act, 2008” shall be substituted;

(ii) in sub-section (2), the words “and Salt” shall be omitted;

(iii) in sub-section (4), the words “and Salt” shall be omitted;

(b) in section 4, for the words, brackets and figures “the Jute Manufactures Development Council, from time to time, from out of such proceeds (after deducting the cost of collection which shall not exceed four per cent. of such proceeds) such sums of money as it may think fit for being utilised for the purposes of the Jute Manufactures Development Council Act, 1983”, the words, brackets and figures “the National Jute Board from time to time, from out of such proceeds (after deducting the cost of collection which shall not exceed four per cent. of such proceeds) such sums of money as it may think fit for being utilised for the purposes of the National Jute Board Act, 2008” shall be substituted.

27 of 1983. **26.** (1) On and from the appointed day, the Jute Manufactures Development Council Act, 1983 shall stand repealed. Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*





*New Delhi, the 3rd March, 2009.*

The following Act of Parliament received the assent of the President on the 2nd March, 2009 and is hereby published for general information:—

THE APPROPRIATION (RAILWAYS) ACT, 2009

**ACT No. 13 OF 2009**

*An Act 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 2008-09 for the purpose of Railways.*

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

- |   |   |
|---|---|
| <p><b>1.</b> This Act may be called the Appropriation (Railways) Act, 2009.</p>   | <p>Short title.</p>   |
| <p><b>2.</b> 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 ten thousand eight hundred six crore, sixty-eight lakh and three thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2008-09, in respect of the services relating to Railways specified in column 2 of the Schedule.</p> | <p>Issue of<br/>Rs. 10806,68,03,000<br/>out of the<br/>Consolidated<br/>Fund of India<br/>for the financial<br/>year 2008-09.</p> |
| <p><b>3.</b> 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.</p>  | <p>Appropriation.</p>   |

THE SCHEDULE  
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board .....	15,00,00,000	..	15,00,00,000
3	General Superintendence and Services on Railways .....	427,25,77,000	..	427,25,77,000
4	Repairs and Maintenance of Permanent Way and Works ..	432,51,11,000	..	432,51,11,000
5	Repairs and Maintenance of Motive Power .....	258,62,14,000	10,89,000	258,73,03,000
6	Repairs and Maintenance of Carriages and Wagons .....	845,19,03,000	..	845,19,03,000
7	Repairs and Maintenance of Plant and Equipment .....	371,08,19,000	1,41,000	371,09,60,000
8	Operating Expenses—Rolling Stock and Equipment .....	540,27,88,000	..	540,27,88,000
9	Operating Expenses—Traffic .....	1205,17,90,000	..	1205,17,90,000
10	Operating Expenses—Fuel .....	567,36,50,000	39,23,79,000	606,60,29,000
11	Staff Welfare and Amenities .....	281,01,04,000	16,00,000	281,17,04,000
12	Miscellaneous Working Expenses .....	353,57,32,000	34,32,16,000	387,89,48,000
13	Provident Fund, Pension and Other Retirement Benefits ..	3065,35,87,000	4,93,000	3065,40,80,000
15	Dividend to General Revenues, Repayment of loans taken from General Revenues and Amortisation of Over- Capitalisation .....	75,08,00,000	..	75,08,00,000
16	Assets—Acquisition, Construction and Replacement <i>Other Expenditure</i>			
	Capital.....	2280,00,00,000	5,00,00,000	2285,00,00,000
	Railway Funds .....	10,000	10,00,00,000	10,00,10,000
	Railway Safety Fund.....	..	28,00,000	28,00,000
	TOTAL :	10717,50,85,000	89,17,18,000	10806,68,03,000

T.K. VISWANATHAN,  
Secretary to the Government of India.

(Republished by Order of the Governor)

S. DAMODARAM,  
Additional Secretary to Government,  
Law Department.

*New Delhi, the 3rd March, 2009.*

The following Act of Parliament received the assent of the President on the 2nd March, 2009 and is hereby published for general information:—

THE APPROPRIATION (RAILWAYS) No. 2 ACT, 2009.

**ACT No. 14 OF 2009**

*An Act to provide for authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services for the purposes of Railways during the financial year ended on the 31st day of March, 2007 in excess of the amounts granted for those services and for that year.*

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. This Act may be called the Appropriation (Railways) No. 2 Act, 2009.

Short title.

2. From and out of the Consolidated Fund of India the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of one hundred sixty-seven crores, three lakhs, forty-eight thousand, four hundred and eighteen rupees shall be deemed to have been authorised to be paid and applied to meet the amounts spent for defraying the charges in respect of the services relating to Railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 2007 in excess of the amounts granted for those services and for that year.

Issue of Rs.  
167,03,48,418  
out of the  
Consolidated  
Fund of India to  
meet certain ex-  
penditure for  
the year ended  
on the 31st day  
of March,  
2007.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be deemed to have been appropriated for the services and purposes stated in the Schedule in relation to the financial year ended on the 31st day of March, 2007.

Appropriation.

THE SCHEDULE  
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board .....	1,34,075	..	1,34,075
3	General Superintendence and Services on Railways .....	..	1,01,667	1,01,667
4	Repairs and Maintenance of Permanent Way and Works.....	..	40,49,124	40,49,124
5	Repairs and Maintenance of Motive Power.....	..	2,50,314	2,50,314
10	Operating Expenses—Fuel.....	23,47,96,342	..	23,47,96,342
12	Miscellaneous Working Expenses .....	..	3,19,59,757	3,19,59,757
15	Dividend to General Revenues, Repayment of loans taken from General Revenues and Amortisation of Over- Capitalisation .....	4,54,77,535	..	4,54,77,535
16	Assets—Acquisition, Construction and Replacement—			
	Revenue .....	..	11,84,393	11,84,393
	Capital .....	..	8,39,43,006	8,39,43,006
	Railway Funds .....	121,32,89,008	5,47,53,774	126,80,42,782
	Railway Safety Fund .....	..	5,105	5,105
	Special Railway Safety Fund .....	..	4,04,318	4,04,318
	TOTAL:	149,36,96,960	17,66,51,458	167,03,48,418

T.K. VISWANATHAN,  
*Secretary to the Government of India.*

(Republished by Order of the Governor)

S. DAMODARAM,  
*Additional Secretary to Government,  
Law Department.*

*New Delhi, the 4th March, 2009.*

The following Act of Parliament received the assent of the President on the 3rd March, 2009 and is hereby published for general information:—

THE APPROPRIATION (RAILWAYS) VOTE ON ACCOUNT ACT, 2009

**ACT No. 15 OF 2009**

*An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the services of a part of the financial year 2009-10 for the purposes of Railways.*

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

- |   |   |
|---|---|
| <p><b>1.</b> This Act may be called the Appropriation (Railways) Vote on Account Act, 2009.</p>   | <p>Short title.</p>   |
| <p><b>2.</b> From and out of the Consolidated Fund of India there may be withdrawn sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of sixty-four thousand three hundred seventy-nine crore, seventy-five lakh and seventy-one thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2009-10, in respect of the services relating to Railways specified in column 2 of the Schedule.</p> | <p>Withdrawal of<br/>Rs. 64379,75,71,000<br/>from and out of<br/>the Consolidated<br/>Fund of India<br/>for the financial<br/>year 2009-10.</p> |
| <p><b>3.</b> The sums authorised to be withdrawn from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes stated in the Schedule in relation to the said year.</p>  | <p>Appropriation.</p>   |

THE SCHEDULE  
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
1	Railway Board .....	75,99,49,000	..	75,99,49,000
2	Miscellaneous Expenditure (General) .....	233,25,49,000	..	233,25,49,000
3	General Superintendence and Services on Railways .....	1962,60,37,000	49,000	1962,60,86,000
4	Repairs and Maintenance of Permanent Way and Works ..	2983,97,92,000	14,67,000	2984,12,59,000
5	Repairs and Maintenance of Motive Power .....	1317,55,54,000	..	1317,55,54,000
6	Repairs and Maintenance of Carriages and Wagons .....	3044,48,49,000	2,00,000	3044,50,49,000
7	Repairs and Maintenance of Plant and Equipment .....	1741,93,40,000	2,10,000	1741,95,50,000
8	Operating Expenses—Rolling Stock and Equipment .....	2243,41,67,000	29,000	2243,41,96,000
9	Operating Expenses—Traffic .....	5861,11,11,000	6,02,000	5861,17,13,000
10	Operating Expenses—Fuel .....	4977,06,17,000	..	4977,06,17,000
11	Staff Welfare and Amenities .....	1265,96,65,000	21,83,000	1266,18,48,000
12	Miscellaneous Working Expenses .....	1297,88,19,000	27,43,43,000	1325,31,62,000
13	Provident Fund, Pension and Other Retirement Benefits ..	6555,09,80,000	23,16,000	6555,32,96,000
14	Appropriation to Funds.....	8757,42,00,000	..	8757,42,00,000
15	Dividend to General Revenues, Repayment of loans taken from General Revenues and Amortization of Over- Capitalisation .....	8,56,23,000	..	8,56,23,000
16	Assets—Acquisition, Construction and Replacement—			
	Revenue .....	20,00,00,000	..	20,00,00,000
	<i>Other Expenditure</i>			
	Capital.....	14758,98,40,000	7,09,67,000	14766,08,07,000
	Railway Funds .....	6668,04,46,000	4,50,00,000	6672,54,46,000
	Railway Safety Fund.....	566,59,67,000	7,00,000	566,66,67,000
	TOTAL:	64339,95,05,000	39,80,66,000	64379,75,71,000

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