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CENTRAL ACTS AND ORDINANCES

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New Delhi, 1st September, 2010

The following Act of Parliament received the assent of the President on the 31st August, 2010 and is hereby published for general information:—

THE LAND PORTS AUTHORITY OF INDIA ACT, 2010
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THE LAND PORTS AUTHORITY OF INDIA ACT, 2010

ACT No. 31 OF 2010.

An Act to provide for the establishment of the Land Ports Authority of India to put in place systems which address security imperatives and for the development and management of facilities for cross border movement of passengers and goods at designated points along the international borders of India and for matters connected therewith or incidental thereto.

BE It enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Land Ports Authority of India Act, 2010.

Short title and commencement.

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

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

Definitions.

(a) "Authority" means the Land Ports Authority of India constituted under section 3;

(b) "Chairperson" means the Chairperson of the Authority appointed under clause (a) of sub-section (3) of section 3;

31 of 1946.

(c) "immigration check post" means any port or place of departure on the land as notified under the Foreigners' Act, 1946;

(d) "integrated check post" means any land port, as the Central Government may, by notification in the Official Gazette, specify;

52 of 1962.

(e) "land customs station" means any place notified as such by the Central Government under clause (b) of sub-section (1) of section 7 of the Customs Act, 1962 for the clearance of goods imported or to be exported by land or inland water;

52 of 1962.
31 of 1946.

(f) "land port" means an area on the international borders of India including portions of national highways, State highways and other roads, notified as land customs station or immigration check post under the Customs Act, 1962 or the Foreigners' Act, 1946, and includes railways, with facilities for clearance and transport of passengers and goods across the borders of India;

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

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

(i) "regulation" means regulations made by the Authority under this Act.

CHAPTER II

THE LAND PORTS AUTHORITY OF INDIA

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be constituted an Authority to be known as the Land Ports Authority of India.

Constitution of Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of—

(a) a Chairperson;

(b) two Members, out of whom one shall be Member (Planning and Development) and other shall be Member (Finance);

(c) not more than nine members, *ex-officio*, to be appointed by the Central Government from amongst the officers, not below the rank of the Joint Secretary to the Government of India, representing the ministries or departments of the Government of India dealing with Home Affairs, External Affairs, Revenue, Commerce, Road Transport and Highways, Railways, Defence, Agriculture and Co-operation, Law and Justice;

(d) the Chief Secretary or his nominee not below the rank of the Secretary to the Government of the respective State where the integrated check posts are located;

(e) two representatives, one of whom shall be from recognised bodies of workers and the other shall be from traders, to be appointed by the Central Government; and

(f) such other representatives as the Central Government may co-opt. for functional purposes.

(4) The Chairperson and the members referred to in clause (b) shall be appointed by the Central Government and shall be whole-time members.

(5) The Chairperson shall be chosen from among persons who have special knowledge and experience in the field of security, transport, industry, commerce, law, finance or public administration.

Disqualification
for office of
member.

4. A person shall be disqualified for being appointed as a member if, he—

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

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

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has in the opinion of the Central Government such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

Term of office
and
conditions of
service of
members.

5. (1) Subject to the provisions of section 6, every whole-time member shall hold office for a period of five years from the date on which he assumes office or till he attains the age of sixty years, whichever is earlier:

Provided that the Central Government may—

(a) terminate the appointment of any whole-time member, after giving him notice of a period of not less than three months or, in lieu thereof, on payment of an amount equal to his salary and allowances, if any, for a period of three months;

(b) terminate at any time the appointment of any member who is a servant of the Government.

(2) The other conditions of service of the members shall be such as may be prescribed.

(3) Any member may resign his office by giving notice in writing for such period as may be prescribed, to the Central Government and, on such resignation being notified in the Official Gazette by that Government, such member shall be deemed to have vacated his office.

- 6.** The Central Government shall remove a member if, he—
- (a) becomes subject to any of the disqualifications mentioned in section 4:
- Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given a reasonable opportunity of being heard in the matter; or
- (b) refuses to act or becomes incapable of acting; or
- (c) is, without obtaining leave of absence from the Authority, absent from three consecutive meetings of the Authority; or
- (d) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the public interest:
- Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.
- 7.** Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for re-appointment.
- 8.** (1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations.
- (2) The Chairperson, or, if for any reason, he is unable to attend any meeting of the Authority, any other member chosen by the members present at the meeting shall preside at the meeting.
- (3) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.
- 9.** No act or proceeding of the Authority shall be invalid merely by reason of—
- (a) any vacancy in, or any defect in the constitution of, the Authority; or
- (b) any defect in the appointment of a person acting as a member of the Authority; or
- (c) any irregularity in the procedure of the Authority not affecting the merits of the case.
- 10.** (1) For the purpose of enabling it to efficiently discharge its functions under this Act, the Authority shall appoint such number of officers and other employees as it may consider necessary:
- Provided that the appointment of such category of officers, as may be specified, shall be subject to the approval of the Central Government.
- (2) Every officer or other employee appointed by the Authority shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations.

CHAPTER III

FUNCTION OF AUTHORITY.

- 11.** (1) Subject to the provisions of this Act, the Authority shall have powers to develop, sanitize and manage the facilities for cross border movement of passengers and goods at designated points along the international borders of India.
- (2) Without prejudice to the generality of the provisions contained in sub-section (1), the Authority may—

(a) put in place systems, which address security imperatives at the integrated check posts on the border;

(b) plan, construct and maintain roads, terminals and ancillary buildings other than national highways, State highways and railways, at an integrated check post;

(c) plan, procure, install and maintain communication, security, goods handling and scanning equipment at an integrated check post;

(d) provide appropriate space and facilities for immigration, customs, security, taxation authorities, animal and plant quarantine, warehouses, cargo and baggage examination yards, parking zones, banks, post offices, communication facilities, tourist information centres, waiting halls, canteen, refreshment stalls, public conveniences, health services and such other services, as may be deemed necessary;

(e) construct residential buildings for its employees as well as residential accommodation for staff deployed at integrated check posts;

(f) establish and maintain hotels, restaurants and restrooms;

(g) establish and maintain warehouses, container depots and cargo complexes for the storage or processing of goods;

(h) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at integrated check posts;

(i) make appropriate arrangements for the security of integrated check posts and provide for regulation and control of movement of vehicles, entry and exit of passengers and goods in accordance with the respective law concerning them;

(j) ensure prevention and control of fire and other hazards and other facilities as deemed necessary;

(k) regulate and control the movement of vehicles, and the entry and exit of passengers, transportation workers, handling agents, clearing and forwarding agents and goods at the integrated check post with due regard to the law, security and protocol of the Government of India;

(l) co-ordinate and facilitate the working of agencies who have been engaged to undertake various activities at the integrated check posts, in accordance with the respective law, for the time being in force;

(m) develop and provide consultancy, construction or management services, and undertake operations in India and abroad in relation to an integrated check post;

(n) form one or more companies under the Companies Act, 1956 or under any other law relating to companies for efficient discharge of the functions imposed on it by this Act;

1 of 1956.

(o) take all such steps as may be necessary or expedient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act:

Provided that sovereign functions of the Authority shall not be assigned to any private entity;

(p) set up joint ventures for the discharge of any of the functions assigned to the Authority; and

(q) undertake any other activity at the integrated check post in the best commercial interests of the Authority.

(3) In the discharge of its functions under this section, the Authority may consult such ministry or department of the Government of India or of the State

Government as it deems necessary, and shall have due regard to the development of land port services and to the efficiency, economy and safety of such service.

(4) Nothing contained in this section shall be construed as—

(a) authorising the disregard by the Authority of any law for the time being in force; or

(b) authorising any person to institute any proceeding in respect of duty or liability to which the Authority or its officers or other employees would not otherwise be subject to.

12. (1) The respective border guarding forces deployed at the borders of India shall be responsible for security around an integrated check post.

(2) The Authority may, whenever considered necessary so to do for ensuring the peace and security at an integrated check post, seek the assistance of armed force, Central para military force or State police as per the provisions of the law for the time being in force.

(3) The Customs, immigration, quarantine and other officials shall co-ordinate with the Authority for the effective discharge of its functions.

(4) Notwithstanding anything contained in any provisions of this Act, the Customs, immigration, quarantine officials, the border guarding forces and the police shall discharge their functions in accordance with the law for the time being in force.

Responsibilities and powers of other agencies.

CHAPTER IV

PROPERTY AND CONTRACT

13. (1) On the date of notification issued under clause (d) of section 2, all such assets, rights, powers, authorities and privileges and such property movable and immovable, real or personal, corporeal or incorporeal, present or contingent, of whatever nature, including lands, buildings, machinery, equipments, works, workshops, cash balances, capital, reserves, reserve funds, investments, tenancies, losses and book debts and all other rights and interests arising out of such property, as immediately before the issue of that notification, were in the ownership or possession of the Government of India in any of the land port, as the Central Government may, in such notification, specify, shall vest in the Authority and such vesting shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting.

Assets and liabilities to vest in Authority.

(2) The notification under sub-section (1) shall be issued only after the concurrence of the concerned ministries or departments of the Government of India, in case where such properties are owned or controlled by such ministries or departments.

14. All contracts, agreements and working arrangements subsisting immediately before the date of notification issued under clause (d) of section 2, and affecting the land ports shall be of full force and effect as regards the Authority.

General effect of vesting of undertakings in Authority.

15. Any guarantee given for or in favour of land customs stations or immigration check posts with respect to a loan, lease or finance shall continue to be operative in relation to such stations or check posts which have been vested in the Authority by virtue of this Act.

Guarantee to be operative.

16. Any land required by the Authority for the discharge of its functions under this Act shall be deemed to be needed for a public purpose and such land may be acquired for the Authority under the provisions of the National Highways Act, 1956 or any other law for the time being in force.

Compulsory acquisition of land for Authority.

17. Subject to the provisions of section 18, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

Contracts by Authority.

Mode of executing contracts on behalf of Authority.

18. (1) Every contract on behalf of the Authority, shall be made by the Chairperson or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts as may be specified, in the regulations, shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the Central Government may, by order fix in this behalf, shall be made unless it has been previously approved by the Central Government:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years and no other contract exceeding such value or amount as the Central Government may, by order fix in this behalf, shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be provided by regulations.

(3) Any contract which is not in accordance with the provisions of this Act and the rules and regulations made thereunder shall not be binding on the Authority.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

Power of Authority to charge fees, rent, etc.

19. The Authority may, determine and charge such fees or rent, not being a statutory levy under any other Act, as may be provided by regulations, separately for each integrated check post,—

(a) for the cargo handling, warehousing, parking of trucks or for any other service or facility offered in connection with transport operations;

(b) for the parking of passenger vehicles and other amenities given to the passengers and visitors; and

(c) for the availing of facilities and other services provided by the Authority.

Additional capital and grant to Authority by Central Government.

20. The Central Government may, after the appropriation made by Parliament by law in this behalf,—

(a) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine;

(b) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as that Government may consider necessary for the efficient discharge of its functions under this Act.

Fund of Authority and its investment.

21. (1) The Authority shall establish its own fund and all receipts of the Authority shall be credited thereto and all payments by the Authority shall be made therefrom.

(2) The Authority shall have the power, subject to the provisions of this Act, to spend such sums as it thinks fit to cover all administrative expenses of the Authority or for purposes authorised by this Act and such sums shall be treated as expenditure out of the fund of the Authority.

(3) All moneys standing at the credit of the Authority which cannot immediately be applied as provided in sub-section (2), shall be—

(a) deposited in the State Bank of India or any such scheduled bank or banks or other public financial institutions subject to such conditions as may, from time to time, be specified by the Central Government;

(b) invested in the securities of the Central Government or in such manner as may be prescribed.

2 of 1934. *Explanation.*—In this sub-section, “scheduled bank” has the same meaning as in clause (e) of section 2 of the Reserve Bank of India Act, 1934.

22. (1) The Authority may, from time to time, set apart such amounts as it thinks fit, as a reserve fund or funds for the purpose of expanding existing facilities or services of creating new facilities or services at any integrated check post or increase of expenditure from transient causes or for purposes of replacement or meeting expenditure arising from loss or damage due to any natural calamity or accident or meeting any liability arising out of any act of omission or commission in the discharge of its functions under this Act:

Allocation of surplus funds.

Provided that the Authority shall also have the power to establish specific reserves for specific purposes:

Provided further that the sums set apart annually in respect of each or any of the specific and general reserves and the aggregate at any time of such sums shall not exceed such limits as may, from time to time, be fixed in that behalf by the Central Government.

1 of 1956. (2) After making provision for such reserve fund or funds and for bad and doubtful debts, depreciation in assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956, the Authority shall pay the balance of its annual net profits to the Central Government.

23. The Authority shall, before the commencement of each financial year prepare a statement of the programme of its activities during the forthcoming financial year as well as financial estimate in respect thereof and submit it for the approval of the Central Government.

Submission of programme of activities and financial estimate.

24. (1) The Authority may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

Borrowing power of Authority.

(2) The Central Government may guarantee in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans taken by the Authority under sub-section (1).

(3) Subject to such limits as the Central Government may, from time to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise, such amount as it may require for discharging its functions under this Act.

25. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance sheet 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 accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be reimbursed to him by the Authority.

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

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER VI

MISCELLANEOUS

Submission of annual report.

26. (1) The Authority shall, as soon as may be, after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed, a report giving an account of its activities during that financial year and the report shall also give an account of the activities which are likely to be undertaken by the Authority during the next financial year.

(2) The Central Government shall cause such report to be laid before both Houses of Parliament, as soon as may be, after it is submitted.

Delegation.

27. The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Authority, 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 powers under section 35), as it may deem necessary.

Authentication of orders and other instruments of Authority.

28. All orders and decisions of the Authority shall be authenticated by the signature of the Chairperson or any other member authorised by the Authority in this behalf and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by it in this behalf.

Officers and employees of Authority to be public servants.

29. All officers and employees of Authority 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.

45 of 1860.

Protection of action taken in good faith.

30. No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other employee of the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

Custody and disposal of lost property.

31. Subject to such regulations as the Authority may make in this behalf, the Authority shall provide for securing the safe custody and restoration of any property which, while not in proper custody, is found on any premises belonging to the Authority or under its overall control.

Power of Central Government to supersede Authority.

32. (1) If, at any time, the Central Government is of opinion—

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted 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 default the financial position of the Authority or the administration of an integrated check post has deteriorated; or

(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 Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(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 Authority, shall until the Authority 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 Authority shall, until the Authority 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,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary, or

(b) reconstitute the Authority by fresh appointment and in such case the members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament in the immediate subsequent session of Parliament.

33. (1) Without prejudice to the foregoing provisions of this Act, the Authority 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 Authority shall, as far as practicable, be given 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 policy or not shall be final.

(3) The Central Government may, from time to time, issue directions to the Authority regarding the discharge of any functions by it under the clauses of sub-section (2) of section 11 and the Authority shall be bound to comply with such directions.

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

Power to make rules.

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

(a) the other conditions of service of members of the Authority under sub-section (2) of section 5;

(b) the period of notice as may be given by any member to resign his office under sub-section (3) of section 5;

(c) the manner in which the Authority may invest the funds under clause (b) of sub-section (3) of section 21;

(d) the form in which the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 25;

(e) the form in which a report giving an account of its activities shall be prepared and submitted by the Authority to the Central Government under sub-section (1) of section 26; and

(f) any other matter which is to be, or may be, prescribed.

Power to make regulations.

35. (1) The Authority may, with the previous approval of the Central Government, make regulations not inconsistent with this Act and the rules made thereunder for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the time and places of meetings of the Authority and the procedure to be followed for transaction of business including the quorum at such meetings under sub-section (1) of section 8;

(b) the conditions of service and the remuneration of officers and other employees to be appointed by the Authority under sub-section (2) of section 10;

(c) the contracts which are to be sealed with the common seal of the Authority under sub-section (1), and the form and manner in which a contract may be made by the Authority under sub-section (2) of section 18;

(d) the fees and rent to be charged by the Authority under sub-section (1) of section 19;

(e) the custody and restoration of lost property and the terms and conditions under which lost property may be restored to the persons entitled thereto under section 31.

Rules, regulations and notifications to be laid before Parliament.

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

Power to remove difficulties.

37. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special 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 the removal of the difficulty:

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

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

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
Additional Secretary to Government,

Law Department.

New Delhi, 4th September, 2010

The following Act of Parliament received the assent of the President on the 4th September, 2010 and is hereby published for general information:—

THE INDIAN MEDICAL COUNCIL (AMENDMENT) ACT, 2010

ACT No. 32 OF 2010

An Act further to amend the Indian Medical Council Act, 1956.

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

1. (1) This Act may be called the Indian Medical Council (Amendment) Act, 2010.
(2) It shall be deemed to have come into force on the 15th day of the May, 2010.

102 of 1956.

2. After section 3 of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following sections shall be inserted, namely:—

‘3A. (1) On and from the date of commencement of the Indian Medical Council (Amendment) Act, 2010, the Council shall stand superseded and the President, Vice-President and other members of the Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

(2) The Council shall be reconstituted in accordance with the provisions of section 3 within a period of one year from the date of supersession of the Council under sub-section (1).

(3) Upon the supersession of the Council under sub-section (1) and until a new Council is constituted in accordance with section 3, the Board of Governors constituted under sub-section (4) shall exercise the powers and perform the functions of the Council under this Act.

(4) The Central Government shall, by notification in the Official Gazette, constitute the Board of Governors which shall consist of not more than seven persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of medicine and medical education, and who may be either nominated members or members, *ex officio*, to be appointed by the Central Government, one of whom shall be named by the Central Government as the Chairperson of the Board of Governors.

(5) The Chairperson and the other members, other than the members, *ex officio*, shall be entitled to such sitting fee and travelling and other allowances as may be determined by the Central Government.

(6) The Board of Governors shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as is applicable to the Council.

(7) Two-third of the members of the Board of Governors shall constitute the quorum for its meetings.

(8) No act or proceedings of the Board of Governors shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board of Governors; or

(b) any irregularity in the procedure of the Board of Governors not affecting the merits of the case.

(9) A member having any financial or other interest in any matter coming before

Short title and commencement.

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

Power of Central Government to supersede the Council and to constitute a Board of Governors.

the Board of Governors for decision shall disclose his interest in the matter before he may, if allowed by the Board of Governors, participate in such proceedings.

Certain
modifications
of Act.

(10) The Chairperson and the other members of the Board of Governors shall hold office during the pleasure of the Central Government.

3B. During the period when the Council stands superseded,—

(a) the provisions of this Act shall be construed as if for the word “Council”, the words “Board of Governors” were substituted;

(b) the Board of Governors shall—

(i) exercise the powers and discharge the functions of the Council under this Act and for this purpose, the provisions of this Act shall have effect subject to the modification that references therein to the Council shall be construed as references to the Board of Governors;

(ii) grant independently permission for establishment of new medical colleges or opening a new or higher course of study or training or increase in admission capacity in any course of study or training referred to in section 10A or giving the person or college concerned a reasonable opportunity of being heard as provided under section 10A without prior permission of the Central Government under that section, including exercise of the power to finally approve or disapprove the same; and

Power of
Central
Government
to give
directions.

(iii) dispose of the matters pending with the Central Government under section 10A upon receipt of the same from it.

3C. (1) Without prejudice to the provisions of this Act, the Board of Governors or the Council after its reconstitution shall, in exercise of its powers and in the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Board of Governors or the Council after its reconstitution shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

Repeal and
saving.

(2) The decision of the Central Government whether a question is a matter of policy or not shall be final.’ Ord. 2 of 2010.

3. (1) The Indian Medical Council (Amendment) Ordinance, 2010, is hereby repealed. Ord. 2 of 2010.

(2) Notwithstanding the repeal of the Indian Medical Council (Amendment) Ordinance, 2010, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 4th September, 2010

The following Act of Parliament received the assent of the President on the 4th September, 2010 and is hereby published for general information:—

THE JHARKHAND PANCHAYAT RAJ (AMENDMENT) ACT, 2010

ACT No. 33 OF 2010

An Act further to amend the Jharkhand Panchayat Raj Act, 2001.

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

1. (1) This Act may be called the Jharkhand Panchayat Raj (Amendment) Act, 2010.

Short title,
extent and
Commencement.

(2) It extends to the whole of the State of Jharkhand.

(3) It shall be deemed to have come into force on the 15th day of April, 2010.

Jharkhand Act
6 of 2001.

2. In the Jharkhand Panchayat Raj Act, 2001 (hereinafter referred to as the principal Act),—

Amendment of
sections 17,
36 and 51.

(a) in section 17,—

(i) in Part (A), in sub-sections (3) and (4), for the words, figures and letters “at least 1/3rd”, the words “not less than fifty per cent,” shall be substituted;

(ii) in Part (B),—

(A) in sub-section (3), for the word, figures and letters “the 1/3rd”, the words “not less than fifty per cent,” shall be substituted;

(B) in sub-section (4), for the figures and letters “1/3rd”, the words “not less than fifty per cent,” shall be substituted;

(b) in section 36,—

(i) in Part (A), in sub-sections (3) and (4), for the word “one-third”, the words “fifty per cent,” shall be substituted;

(ii) in Part (B), in sub-sections (3) and (4), for the word “one-third”, the words “not less than fifty per cent,” shall be substituted;

(c) in section 51,—

(i) in Part (A), in sub-sections (3) and (4), for the word “one-third”, the words “fifty per cent,” shall be substituted;

(ii) in Part (B), in sub-sections (3) and (4), for the word “one-third”, the words “not less than fifty per cent,” shall be substituted.

3. In section 21 of the principal Act,—

Amendment of
section 21.

(a) in Part (A),—

(i) in the heading, the words “and Up-Mukhia” shall be omitted;

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

‘(1) The following procedure shall be followed in respect of reservation for the candidates belonging to the Scheduled Castes and the Scheduled Tribes, namely:—

“(i) In General Areas (Non-Scheduled Areas), the posts of Mukhia shall be reserved for the candidates belonging to the Scheduled Castes and the Scheduled Tribes in proportion of their population and such posts shall be allotted by rotation in the prescribed manner to different constituencies by the State Election Commission.

(ii) In case of less than fifty per cent, reservation of posts for the Scheduled Castes and the Scheduled Tribes candidates, rest of the posts shall be reserved for the Other Backward Classes in proportion of their population but in any case the total number of posts 'reserved for the Scheduled' Castes, the Scheduled Tribes and the Other Backward Classes shall not exceed more than fifty per cent, of the total posts.

(iii) Out of the total posts reserved under clauses (i) and (ii) of this sub-section, not less than fifty per cent. of the Posts shall be reserved for the women belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

(iv) Not less than fifty per cent, of the total posts of Mukhia (including the posts reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes) shall be reserved for women candidates and such posts shall be duly allotted by rotation by the State Election Commission in different Gram Panchayats of the Panchayat Samiti.”;

(b) in Part (B),—

(i) in the heading, the words “and Up-Mukhia” shall be omitted;

(ii) in sub-section (ii), for the word “one-third”, the words “fifty per cent,” shall be substituted.

Amendment
of section
22.

4. In section 22 of the principal Act, for clause (d), the following clause shall be substituted, namely:—

“(d) the posts of Up-Mukhia in General Areas as well as in the Scheduled Areas shall be kept unreserved or shall be dealt with in accordance with the provisions made by the State Government.”.

Amendment of
section 40.

5. In section 40 of the principal Act,—

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

“(1) Reservation for the candidates belonging to the Scheduled Castes and the Scheduled Tribes for the posts of Pramukh shall be in the following manner:—

(i) In General Areas (Non-Scheduled Areas), the total number of posts of Pramukh of the district shall be reserved for the Scheduled Castes and the Scheduled Tribes candidates in proportion of their population and such posts shall be allotted by rotation to different constituencies by the State Election Commission.

(ii) In case of less than fifty per cent, reservation of posts for the Scheduled Castes and the Scheduled Tribes candidates, the rest of the posts shall be reserved for the Other Backward Classes in proportion of their population in the area, but in any case, the posts of Pramukh reserved for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes candidates shall not exceed fifty per cent, of the total posts.

(iii) Out of the total posts reserved under clauses (i) and (ii), not less than fifty per cent. shall be reserved for women candidates belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

(iv) Not less than fifty per cent, of the total posts of Pramukh in the district (including posts reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes) shall be reserved for women candidates and such posts shall be allotted by rotation by the State Election Commission in the prescribed manner in the light of total posts of Pramukh of the district.

(v) The posts of Up-Pramukh shall be kept unreserved or shall be dealt with in accordance with the provisions made by the State Government.”;

(b) in Part (B), for the word "one-third", the words "fifty per cent" shall be substituted.

6. In section 55 of the principal Act,—

Amendment of
section 55.

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

'(1) The following procedure shall be followed in respect of reservation for the candidates belonging to the Scheduled Castes and the Scheduled Tribes, namely:—

"(i) In General Areas (Non-Scheduled Areas), the total number of posts of Adhyaksha of Zila Parishad shall be reserved for the Scheduled Castes and the Scheduled Tribes candidates in proportion of their population in the State and such posts shall be allotted by rotation by the State Election Commission in the prescribed manner in different constituencies:

Provided that if the total number of Adhyaksha belonging to the Scheduled Tribes in the Scheduled Areas is beyond the proportion of their population in the State, further reservation shall not be provided.

(ii) In case of less than fifty per cent reservation of posts of Adhyaksha of Zila Parishad for the Scheduled Castes and the Scheduled Tribes candidates, rest of the vacant posts shall be reserved for the Other Backward Classes in proportion of their population in the State, but in any case the posts of Adhyaksha of Zila Parishad reserved for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes candidates shall not exceed fifty per cent of total posts of Adhyaksha of Zila Parishad.

(iii) Out of the total posts reserved under clauses (i) and (ii) of this sub-section, not less than fifty per cent. shall be reserved for women candidates belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes.

(iv) Not less than fifty per cent of the total posts of Adhyaksha of Zila Parishad (including posts reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes) shall be reserved for women candidates and such posts shall be allotted by rotation by the State Election Commission in the prescribed manner in the light of the total number of posts of Adhyaksha of Zila Parishad in the State.

(v) Posts of Upadhyaksha of Zila Parishad shall be kept unreserved or shall be dealt with in accordance with the provisions made by the State Government."';

(b) in Part (B), for the word "one-third", the words "fifty per cent," shall be substituted.

7. In section 66 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

Amendment of
section 66.

"(5) The State Election Commission shall have discretion to initiate suitable action on examination of report submitted by Observer or on receipt of allegations of irregularities in Panchayat elections and such action may include countermanding of election, stay on election and stay on counting of votes."

8. In section 67 of the principal Act, in sub-section (3), after clause (ii), the following clause shall be inserted, namely:—

Amendment of
section 67.

"(iia) For free and fair conduct of Panchayat elections, the State Election Commission, in consultation with the State Government, shall appoint General and Expenditure Observer, who shall supervise the entire election process and shall submit their report to the State Election Commission."

Insertion of new section 68A.	<p>9. After section 68 of the principal Act, the following section shall be inserted, namely:—</p>	
Special provision relating to interpretations.	<p>“68A. In case any doubt arises or inadequacy is felt in giving effect to any provision of this Act in respect of preparation of electoral rolls or conduct of elections, the provisions of the Representation of the People Act, 1950 or the Representation of the People Act, 1951 and the rules made thereunder, as the case may be, shall <i>mutatis mutandis</i> apply.”.</p>	<p>43 of 1950. 43 of 1951.</p>
Repeal and saving.	<p>10. (1) The Jharkhand Panchayat Raj (Amendment) Ordinance, 2010, is hereby repealed.</p> <p>(2) Notwithstanding the repeal of the Jharkhand Panchayat Raj (Amendment) Ordinance, 2010, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.</p>	<p>Jharkhand Ord. 1 of 2010.</p> <p>Jharkhand Ord. 1 of 2010.</p>

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 9th September, 2010

The following Act of Parliament received the assent of the President on the 8th September, 2010 and is hereby published for general information:—

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION)
AMENDMENT ACT, 2010

ACT No. 34 OF 2010.

An Act Further to amend the Mines and Minerals (Development and Regulation) Act, 1957.

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

1. (1) This Act may be called the Mines and Minerals (Development and Regulation) Amendment Act, 2010.

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.

67 of 1957.

2. In the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the principal Act, after section 11, the following section shall be inserted, namely:—

Insertion of new section 11A.

'11A. The Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of an area containing coal or lignite, select, through auction by competitive bidding on such terms and conditions as may be prescribed, a company engaged in,—

Procedure in respect of coal or lignite.

(i) production of iron and steel;

(ii) generation of power;

(iii) washing of coal obtained from a mine; or

(iv) such other end use as the Central Government may, by notification in the Official Gazette, specify,

and the State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of coal or lignite to such company as selected through auction by competitive bidding under this section:

Provided that the auction by competitive bidding shall not be applicable to an area containing coal or lignite,—

(a) where such area is considered for allocation to a Government company or corporation for mining or such other specified end use;

(b) where such area is considered for allocation to a company or corporation that has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects).

1 of 1956.

*Explanation.—*For the purposes of this section, “company” means a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act.’

3. In section 13 of the principal Act, in sub-section (2), after clause (c), the following clause shall be inserted, namely:—

Amendment of Section 13.

“(d) the terms and conditions of auction by competitive bidding for selection of the company under section 11A;”.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 9th September, 2010

The following Act of Parliament received the assent of the President on the 8th September, 2010 and is hereby published for general information:—

THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 2010

ACT No. 35 OF 2010.

An Act further to amend the Essential Commodities Act, 1955.

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

1. This Act may be called the Essential Commodities (Amendment) Act, 2010

Short title.

2. In section 3 of the Essential Commodities Act, 1955, in sub-section (3C), the *Explanation* shall be numbered as *Explanation I*, and after *Explanation I* as so numbered, 5 the following *Explanation* shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of October, 2009, namely:—

Amendment of section 3 of Act 10 of 1955.

‘Explanation II.—For the removal of doubts, it is hereby declared that the expressions “fair and remunerative price” referred to in clause (a), “manufacturing cost of sugar” referred to in clause (b) and “reasonable return on the capital employed” referred to in clause (d), of this sub-section do not include the price paid or payable under any order or any enactment of any State Government and any price agreed to between the producer and the grower or a sugercane growers’ co-operative society.’

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 22nd September, 2010

The following Act of Parliament received the assent of the President on the 21st September, 2010 and is hereby published for general information:—

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 2010

ACT No. 36 OF 2010.

An Act further to amend the Representation of the People Act, 1950.

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

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2010.

Short title and commencement.

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

43 of 1950.

2. In the Representation of the People Act, 1950 (hereinafter referred to as the principal Act), after section 20, the following section shall be inserted, namely:—

Insertion of new section 20A. Special provisions for citizens of India residing outside India.

“20A. (1) Notwithstanding anything contained in this Act, every citizen of India,—

(a) whose name is not included in the electoral roll;

(b) who has not acquired the citizenship of any other country; and

(c) who is absenting from his place of ordinary residence in India owing to his employment, education or otherwise outside India (whether temporarily or not), shall be entitled to have his name registered in the electoral roll in the constituency in which his place of residence in India as mentioned in his passport is located.

(2) The time within which the name of persons referred to in sub-section (1) shall be registered in the electoral roll and the manner and procedure for registering of a person in the electoral roll under sub-section (1) shall be such as may be prescribed.

(3) Every person registered under this section shall, if otherwise eligible to exercise his franchise, be allowed to vote at an election in the constituency.”.

3. In section 22 of the principal Act,—

Amendment of section 22.

(a) after the words “amend, transpose or delete the entry”, the words “after proper verification of facts in such manner as may be prescribed” shall be inserted;

(b) in the proviso, after the words “proposed to be taken in relation to him”, the words “after proper verification of facts in such manner as may be prescribed” shall be inserted.

4. In section 23 of the principal Act, in sub-section (2),—

Amendment of section 23.

(a) after the words “direct his name to be included therein”, the words “after proper verification of facts in such manner as may be prescribed” shall be inserted;

(b) in the proviso, after the words “strike off the applicant's name in that roll”, the words “after proper verification of facts in such manner as may be prescribed” shall be inserted.

Amendment of
section 28.

5. In section 28 of the principal Act, in sub-section (2), after clause (h), the following clauses shall be inserted, namely:—

“(hh) the procedure for proper verification of facts for amending, transposing or deleting any entry in the electoral rolls, under section 22;

(hhh) the procedure for proper verification of facts for inclusion of or striking off, names in the electoral rolls, under sub-section (2) of section 23;”.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 22nd September, 2010

The following Act of Parliament received the assent of the President on the 21st September, 2010 and is hereby published for general information:—

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT
(AMENDMENT) ACT, 2010

ACT No. 37 OF 2010.

An Act further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

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

1. (1) This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 2010.

Short title and Commencement.

(2) Save as otherwise provided, 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.

30 of 1954.

2. In the Salary, Allowances and Pension of Members of Parliament Act, 1954 (hereinafter 30 referred to as the principal Act), in section 3,—

Amendment of section 3.

(i) for the words “a salary at the rate of sixteen thousand rupees per mensem”, the words “a salary at the rate of fifty thousand rupees per mensem” shall be substituted;

(ii) for the words “an allowance at the rate of one thousand rupees for each day”, the words “an allowance at the rate of two thousand rupees for each day” shall be substituted;

(iii) for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that the rates of salary specified in this section shall be applicable from the 18th day of May, 2009.”.

3. In the principal Act, in section 4, in sub-section (1),—

Amendment of section 4.

(i) in sub-clause (ii) of clause (c), for the words “a road mileage at the rate of thirteen rupees per kilometre”, the words “a road mileage at the rate of sixteen rupees per kilometre” shall be substituted;

(ii) for the first proviso, the following proviso shall be substituted, namely:—

“Provided that when Parliament is in session and the spouse of a Member, if any, performs such journey or part thereof by road, unaccompanied by such Member; in respect of which such spouse has been allowed to travel by air or partly by air and partly by rail from the usual place of residence of the Member to Delhi or back under sub-section (2) of section 6B, the road mileage prescribed under this sub-clause shall be allowed to such Member for such journey or part thereof, subject to the condition that the total number of such journeys shall not exceed eight in a year;”;

(iii) the third proviso shall be omitted.

4. In the principal Act, in section 6B, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 6B.

“(2) Notwithstanding anything contained in clause (ii) of sub-section (1), the spouse of a Member shall be entitled to travel,—

(a) any number of times, by railway in first class air-conditioned or executive class in any train from the usual place of residence of the Member to Delhi and back; and .

(b) when Parliament is in session, by air or partly by air and partly by rail, from the usual place of residence of the Member to Delhi or back, subject to the condition that the total number of such air journeys shall not exceed eight in a year:

Provided that where any such journey or part thereof is performed by air from any place other than the usual place of residence of the Member to Delhi and back, then, such spouse shall be entitled to an amount equal to the fare by air for such journey or part thereof, as the case may be, or to the amount equal to the journey performed by air from the usual place of residence of the Member to Delhi and back, whichever is less.”.

Amendment of section 8A.

5. In the principal Act, in section 8A, for sub-section (1), the following sub-section shall be substituted, namely:—

‘(1) With effect from the 18th day of May, 2009, there shall be paid a pension of twenty thousand rupees per mensem to every person who has served for any period as a Member of the Provisional Parliament or either House of Parliament:

Provided that where a person has served as a Member of the Provisional Parliament or either House of Parliament for a period exceeding five years, there shall be paid to him an additional pension of fifteen hundred rupees per mensem for every year served in excess of five years.

Explanation.—For the purpose of this sub-section, “Provisional Parliament” shall include the body which functioned as the Constituent Assembly of the Dominion of India immediately before the commencement of the Constitution.’.

Amendment of section 8B.

6. In the principal Act, in section 8B, for the words “one lakh rupees”, the words “four lakh rupees” shall be substituted.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 22nd September, 2010

The following Act of Parliament received the assent of the President on the 21st September, 2010 and is hereby published for general information:—

THE CIVIL LIABILITY FOR NUCLEAR DAMAGE ACT, 2010

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THE CIVIL LIABILITY FOR NUCLEAR DAMAGE ACT

ACT No. 38 OF 2010.

An Act to provide for civil liability for nuclear damage and prompt compensation to the victims of a nuclear incident through a no-fault liability regime channeling liability to the operator, appointment of Claims Commissioner, establishment of Nuclear Damage Claims Commission and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Civil Liability for Nuclear Damage Act, 2010.

(2) It extends to the whole of India.

(3) It also applies to nuclear damage suffered—

(a) in-or over the maritime areas beyond the territorial waters of India;

(b) in or over the exclusive economic zone of india as referred to in section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976;

80 of 1976.

(c) on board or by a ship registered in India under section 22 of the Merchant Shipping Act, 1958 or under any other law for the time being in force;

44 of 1958.

(d) on board or by an aircraft registered in India under clause (d) of sub-section (2) of section 5 of the Aircraft Act, 1934 or under any other law for the time being in force;

22 of 1934.

(e) on or by an artificial island, installation or structure under the jurisdiction of India.

(4) It applies only to the nuclear installation owned or controlled by the Central Government either by itself or through any authority or corporation established by it or a Government company.

Explanation.—For the purposes of this sub-section, “Government company” shall have the same meaning as assigned to it in clause (bb) of sub-section (1) of section 2 of the Atomic Energy Act, 1962.

33 of 1962.

(5) It shall come into force on such date as the Central Government may, by notification, appoint; and different dates may be appointed for different provisions of this Act, and any 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.

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

(a) “Chairperson” means the Chairperson of the Commission appointed under sub-section (1) of section 20;

(b) “Claims Commissioner” means the Claims Commissioner appointed under sub-section (2) of section 9;

(c) “Commission” means the Nuclear Damage Claims Commission established under section 19;

(d) “environment” shall have the same meaning as assigned to it in clause (a) of section 2 of the Environment (Protection) Act, 1986;

29 of 1986.

(e) “Member” means a Member of the Commission appointed under sub-section (1) of section 20;

Short title,
extent,
application
and
Commence-
ment.

Definitions.

(f) "notification" means a notification published in the Official Gazette and the term "notify" shall be construed accordingly;

(g) "nuclear damage" means—

(i) loss of life or personal injury (including immediate and long term health impact) to a person; or

(ii) loss of, or damage to, property,

caused by or arising out of a nuclear incident, and includes each of the following to the extent notified by the Central Government;

(iii) any economic loss, arising from the loss or damage referred to in sub-clauses (i) or (ii) and not included in the claims made under those sub-clauses, if incurred by a person entitled to claim such loss or damage;

(iv) costs of measures of reinstatement of impaired environment caused by a nuclear incident, unless such impairment is insignificant, if such measures are actually taken or to be taken and not included in the claims made under sub-clause (ii);

(v) loss of income derived from an economic interest in any use or enjoyment of the environment, incurred as a result of a significant impairment of that environment caused by a nuclear incident, and not included in the claims under sub-clause (ii);

(vi) the costs of preventive measures, and further loss or damage caused by such measures;

(vii) any other economic loss, other than the one caused by impairment of the environment referred to in sub-clauses (iv) and (v), in so far as it is permitted by the general law on civil liability in force in India and not claimed under any such law,

in the case of sub-clauses (i) to (v) and (vii) above, to the extent the loss or damage arises out of, or results from, ionizing radiation emitted by any source of radiation inside a nuclear installation, or emitted from nuclear fuel or radioactive products or waste in, or of, nuclear material coming from, originating in, or sent to, a nuclear installation, whether so arising from the radioactive properties of such matter, or from a combination of radioactive properties with toxic, explosive or other hazardous properties of such matter;

(h) "nuclear fuel" means any material which is capable of producing energy by a self-sustaining chain process of nuclear fission;

(i) "nuclear incident" means any occurrence or series of occurrences having the same origin which causes nuclear damage or, but only with respect to preventive measures, creates a grave and imminent threat of causing such damage;

(j) "nuclear installation" means—

(A) any nuclear reactor other than one with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose;

(B) any facility using nuclear fuel for the production of nuclear material, or any facility for the processing of nuclear material, including re-processing of irradiated nuclear fuel; and

(C) any facility where nuclear material is stored (other than storage incidental to the carriage of such material).

Explanation.—For the purpose of this clause, several nuclear installations of one operator which are located at the same site shall be considered as a single nuclear installation;

(k) "nuclear material" means and includes—

(i) nuclear fuel (other than natural uranium or depleted uranium) capable of producing energy by a self-sustaining chain process of nuclear fission outside a nuclear reactor, either by itself or in combination with some other material; and

(ii) radioactive products or waste;

(l) "nuclear reactor" means any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons;

33 of 1962.

(m) "operator", in relation to a nuclear installation, means the Central Government or any authority or corporation established by it or a Government company who has been granted a licence pursuant to the Atomic Energy Act, 1962 for the operation of that installation;

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

(o) "preventive measures" means any reasonable measures taken by a person after a nuclear incident has occurred to prevent or minimise damage referred to in sub-clauses (i) to (v) and (vii) of clause (g), subject to the approval of the Central Government;

(p) "radioactive products or waste" means any radioactive material produced in, or any material made radioactive by exposure to, the radiation incidental to the production or utilisation of nuclear fuel, but does not include radioisotopes which have reached the final stage of fabrication so as to be usable for any scientific, medical, agricultural, commercial or industrial purpose;

(q) "Special Drawing Rights" means Special Drawing Rights as determined by the International Monetary Fund.

CHAPTER II

LIABILITY FOR NUCLEAR DAMAGE

33 of 1962.

3. (1) The Atomic Energy Regulatory Board constituted under the Atomic Energy Act, 1962 shall, within a period of fifteen days from the date of occurrence of a nuclear incident, notify such nuclear incident:

Atomic Energy Regulatory Board to notify nuclear incident.

Provided that where the Atomic Energy Regulatory Board is satisfied that the gravity of threat and risk involved in a nuclear incident is insignificant, it shall not be required to notify such nuclear incident.

(2) The Atomic Energy Regulatory Board shall, immediately after the notification under sub-section (1) is issued, cause wide publicity to be given to the occurrence of such nuclear incident, in such manner as it may deem fit.

4. (1) The operator of the nuclear installation shall be liable for nuclear damage caused by a nuclear incident—

Liability of operator

(a) in that nuclear installation; or

(b) involving nuclear material coming from, or originating in, that nuclear installation and occurring before—

(i) the liability for nuclear incident involving such nuclear material has been assumed, pursuant to a written agreement, by another operator; or

(ii) another operator has taken charge of such nuclear material; or

(iii) the person duly authorised to operate a nuclear reactor has taken charge of the nuclear material intended to be used in that reactor with which means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose; or

(iv) such nuclear material has been unloaded from the means of transport by which it was sent to a person within the territory of a foreign State; or

(c) involving nuclear material sent to that nuclear installation and occurring after—

(i) the liability for nuclear incident involving such nuclear material has been transferred to that operator, pursuant to a written agreement, by the operator of another nuclear installation; or

(ii) that operator has taken charge of such nuclear material; or

(iii) that operator has taken charge of such nuclear material from a person operating a nuclear reactor with which a means of transport is equipped for use as a source of power, whether for propulsion thereof or for any other purpose; or

(iv) such nuclear material has been loaded, with the written consent of that operator, on the means of transport by which it is to be carried from the territory of a foreign State.

(2) Where more than one operator is liable for nuclear damage, the liability of the operators so involved shall, in so far as the damage attributable to each operator is not separable, be joint and several:

Provided that the total liability of such operators shall not exceed the extent of liability specified under sub-section (2) of section 6.

(3) Where several nuclear installations of one and the same operator are involved in a nuclear incident, such operator shall, in respect of each such nuclear installation, be liable to the extent of liability specified under sub-section (2) of section 6.

(4) The liability of the operator of the nuclear installation shall be strict and shall be based on the principle of no-fault liability.

Explanation.—For the purposes of this section,—

(a) where nuclear damage is caused by a nuclear incident occurring in a nuclear installation on account of temporary storage of material-in-transit in such installation, the person responsible for transit of such material shall be deemed to be the operator;

(b) where a nuclear damage is caused as a result of nuclear incident during the transportation of nuclear material, the consignor shall be deemed to be the operator;

(c) where any written agreement has been entered into between the consignor and the consignee or, as the case may be, the consignor and the carrier of nuclear material, the person liable for any nuclear damage under such agreement shall be deemed to be the operator;

(d) where both nuclear damage and damage other than nuclear damage have been caused by a nuclear incident or, jointly by a nuclear incident and one or more other occurrences, such other damage shall, to the extent it is not separable from the nuclear damage, be deemed to be a nuclear damage caused by such nuclear incident.

Operator not liable in certain circumstances.

5. (1) An operator shall not be liable for any nuclear damage where such damage is caused by a nuclear incident directly due to—

(i) a grave natural disaster of an exceptional character; or

(ii) an act of armed conflict, hostility, civil war, insurrection or terrorism.

(2) An operator shall not be liable for any nuclear damage caused to—

(i) the nuclear installation itself and any other nuclear installation including a nuclear installation under construction, on the site where such installation is located; and

(ii) to any property on the same site which is used or to be used in connection with any such installation; or

(iii) to the means of transport upon which the nuclear material involved was carried at the time of nuclear incident:

Provided that any compensation liable to be paid by an operator for a nuclear damage shall not have the effect of reducing the amount of his liability in respect of any other claim for damage under any other law for the time being in force.

(3) Where any nuclear damage is suffered by a person on account of his own negligence or from his own acts of commission or omission, the operator shall not be liable to such person.

6. (1) The maximum amount of liability in respect of each nuclear incident shall be the rupee equivalent of three hundred million Special Drawing Rights or such higher amount as the Central Government may specify by notification:

Limits of liability.

Provided that the Central Government may take additional measures, where necessary, if the compensation to be awarded under this Act exceeds the amount specified under this sub-section.

(2) The liability of an operator for each nuclear incident shall be—

(a) in respect of nuclear reactors having thermal power equal to or above ten MW, rupees one thousand five hundred crores;

(b) in respect of spent fuel reprocessing plants, rupees three hundred crores;

(c) in respect of the research reactors having thermal power below ten MW, fuel cycle facilities other than spent fuel reprocessing plants and transportation of nuclear materials, rupees one hundred crores:

Provided that the Central Government may review the amount of operator's liability from time to time and specify, by notification, a higher amount under this sub-section:

Provided further that the amount of liability shall not include any interest or cost of proceedings.

7. (1) The Central Government shall be liable for nuclear damage in respect of a nuclear incident,—

Liability of Central Government.

(a) where the liability exceeds the amount of liability of an operator specified under sub-section (2) of section 6, to the extent such liability exceeds such liability of the operator;

(b) occurring in a nuclear installation owned by it; and

(c) occurring on account of causes specified in clauses (i) and (ii) of sub-section (1) of section 5:

Provided that the Central Government may, by notification, assume full liability for a nuclear installation not operated by it if it is of the opinion that it is necessary in public interest.

(2) For the purpose of meeting part of its liability under clause (a) or clause (c) of sub-section (1), the Central Government may establish a fund to be called the Nuclear Liability Fund by charging such amount of levy from the operators, in such manner, as may be prescribed .

8. (1) The operator shall, before he begins operation of his nuclear installation, take out insurance policy or such other financial security or combination of both, covering his liability under sub-section (2) of section 6, in such manner as may be prescribed.

Operator to maintain insurance or financial securities.

(2) The operator shall from time to time renew the insurance policy or other financial security referred to in sub-section (1), before the expiry of the period of validity thereof.

(3) The provisions of sub-sections (1) and (2) shall not apply to a nuclear installation owned by the Central Government.

Explanation.—For the purposes of this section, “financial security” means a contract of indemnity or guarantee, or shares or bonds or such instrument as may be prescribed or any combination thereof.

CHAPTER III

CLAIMS COMMISSIONER

Compensation for nuclear damage and its adjudication.

9. (1) Whoever suffers nuclear damage shall be entitled to claim compensation in accordance with the provisions of this Act.

(2) For the purposes of adjudicating upon claims for compensation in respect of nuclear damage, the Central Government shall, by notification, appoint one or more Claims Commissioners for such area, as may be specified in that notification.

Qualifications for appointment as Claims Commissioner.

10. A person shall not be qualified for appointment as a Claims Commissioner unless he—

(a) is, or has been, a District Judge; or

(b) in the service of the Central Government and has held the post not below the rank of Additional Secretary to the Government of India or any other equivalent post in the Central Government.

Salary, allowances and other terms and conditions of service of Claims Commissioner.

11. The salary and allowances payable to and other terms and conditions of service of Claims Commissioner shall be such as may be prescribed.

Adjudication procedure and powers of Claims Commissioner:

12. (1) For the purposes of adjudication of claims under this Act, the Claims Commissioner shall follow such procedure as may be prescribed.

(2) For the purpose of holding inquiry, the Claims Commissioner may associate with him such persons having expertise in the nuclear field or such other persons and in such manner as may be prescribed.

(3) Where any person is associated under sub-section (2), he shall be paid such remuneration, fee or allowance, as may be prescribed.

(4) The Claims Commissioner shall, for the purposes of discharging his functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

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

(b) the discovery and production of documents;

(c) receiving evidence on affidavits;

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

(e) issuing of commission for the examination of any witness;

(f) any other matter which may be prescribed.

(5) The Claims Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

CHAPTER IV

CLAIMS AND AWARDS

- 13.** After the notification of nuclear incident under sub-section (1) of section 3, the Claims Commissioner, having jurisdiction over the area, shall cause wide publicity to be given, in such manner as he deems fit, for inviting applications for claiming compensation for nuclear damage. Inviting application for claims by Claims Commissioner.
- 14.** An application for compensation before the Claims Commissioner or the Commission, as the case may be, in respect of nuclear damage may be made by— Person entitled to make application for nuclear damage.
- (a) a person who has sustained injury; or
- (b) the owner of the property to which damage has been caused; or
- (c) the legal representatives of the deceased; or
- (d) any agent duly authorised by such person or owner or legal representatives.
- 15.** (1) Every application for compensation before the Claims Commissioner for nuclear damage shall be made in such form, containing such particulars and accompanied by such documents, as may be prescribed. Procedure for making application before Claims Commissioner.
- (2) Subject to the provisions of section 18, every application under sub-section (1) shall be made within a period of three years from the date of knowledge of nuclear damage by the person suffering such damage.
- 16.** (1) On receipt of an application under sub-section (1) of section 15, the Claims Commissioner shall, after giving notice of such application to the operator and affording an opportunity of being heard to the parties, dispose of the application within a period of three months from the date of such receipt and make an award accordingly. Award by Claims Commissioner.
- (2) While making an award under this section, the Claims Commissioner shall not take into consideration any benefit, reimbursement or amount received by the applicant in pursuance of contract of insurance taken by him or for members of his family or otherwise.
- (3) Where an operator is likely to remove or dispose of his property with the object of evading payment by him of the amount of the award, the Claims Commissioner may, in accordance with the provisions of rules 1 to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908, grant a temporary injunction to restrain such act.
- (4) The Claims Commissioner shall arrange to deliver copies of the award to the parties within a period of fifteen days from the date of the award.
- (5) Every award made under sub-section (1) shall be final.
- 17.** The operator of the nuclear installation, after paying the compensation for nuclear damage in accordance with section 6, shall have a right of recourse where— Operator's right of recourse.
- (a) such right is expressly provided for in a contract in writing;
- (b) the nuclear incident has resulted as a consequence of an act of supplier or his employee, which includes supply of equipment or material with patent or latent defects or sub-standard services;
- (c) the nuclear incident has resulted from the act of commission or omission of an individual done with the intent to cause nuclear damage.
- 18.** The right to claim compensation for nuclear damage shall extinguish, if such claim is not made within a period of— Extinction of right to claim.
- (a) ten years, in the case of damage to property;

(b) twenty years, in the case of personal injury to any person,

from the date of occurrence of the incident notified under sub-section (1) of section 3:

Provided that where a nuclear damage is caused by a nuclear incident involving nuclear material which, prior to such nuclear incident, had been stolen, lost, jettisoned or abandoned, the said period of ten years shall be computed from the date of such nuclear incident, but, in no case, it shall exceed a period of twenty years from the date of such theft, loss, jettison or abandonment.

CHAPTER V

NUCLEAR DAMAGE CLAIMS COMMISSION

Establishment
of Nuclear
Damage
Claims
Commission.

19. Where the Central Government, having regard to the injury or damage caused by a nuclear incident, is of the opinion that it is expedient in public interest that such claims for such damage be adjudicated by the Commission instead of a Claims Commissioner, it may, by notification, establish a Commission for the purpose of this Act.

Composition of
Commission.

20. (1) The Commission shall consist of a Chairperson and such other Members, not exceeding six, as the Central Government may, by notification, appoint.

(2) The Chairperson and other Members of the Commission shall be appointed on the recommendation of a Selection Committee consisting of three experts from amongst the persons having at least thirty years of experience in nuclear science and a retired Supreme Court Judge.

(3) A person shall not be qualified for appointment as the Chairperson of the Commission unless he has attained the age of fifty-five years and is or has been or qualified to be a Judge of a High Court:

Provided that no appointment of a sitting judge shall be made except after consultation with the Chief Justice of India.

(4) A person shall not be qualified for appointment as a Member unless he has attained the age of fifty-five years and—

(a) has held or is holding or qualified to hold, the post of Additional Secretary to the Government of India or any other equivalent post in the Central Government and possesses special knowledge in law relating to nuclear liability arising out of nuclear incident; or

(b) has been a Claims Commissioner for five years.

Term of office.

21. The Chairperson or a Member, as the case may be, shall hold office as such for a term of three years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of three years:

Provided that no person shall hold office as such Chairperson or Member after he has attained the age of sixty-seven years.

Salary,
allowances
and other
terms and
conditions of
service of
Chairperson
and
Members.

22. The salary and allowances payable to and other terms and conditions of service, including pension, gratuity and other retirement benefits, of the Chairperson and other Members shall be such as may be prescribed:

Provided that no salary, allowances and other terms and conditions of service of the Chairperson or other Members shall be varied to his disadvantage after his appointment.

Filling up of
vacancies.

23. If, for reasons other than temporary absence, any vacancy occurs in the office of the Chairperson or Member, as the case may be, the Central Government shall appoint another person in accordance with the provisions of this Act to fill such vacancy and the proceedings may be continued before the Commission from the stage at which it was, before the vacancy is filled.

24. (1) The Chairperson or a Member may, by a notice in writing under his hand addressed to the Central Government, resign his office:

Resignation
and removal.

Provided that the Chairperson or the Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

(2) The Central Government shall remove from office the Chairperson or a Member who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member;
or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office detrimental to the public interest:

Provided that no Member shall be removed under clause (d) or clause (e) unless he has been given an opportunity of being heard in the matter.

25. A person who, immediately before the date of assuming office as a Chairperson or a Member, was in service of the Government, shall be deemed to have retired from service on the date on which he enters upon office as such, but his subsequent service as the Chairperson or a Member shall be reckoned as continuing approved service counting for pension in service to which he belonged.

Chairperson or
Member
deemed to
retire from
service.

26. If a person who, immediately before the date of assuming office as the Chairperson or a Member was in receipt of or being eligible so to do, has opted to draw, a pension, other than a disability or wound pension, in respect of any previous service under the Central Government, his salary in respect of service as the Chairperson or a Member shall be reduced—

Suspension of
pension.

(a) by the amount of that pension; and

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

27. No person shall, while holding office as a Chairperson or a Member, act as an arbitrator in any matter.

Prohibition of
acting as
arbitrator.

28. On ceasing to hold office, the Chairperson or a Member shall not appear, act or plead before the Commission.

Prohibition of
practice.

29. The Chairperson shall have the power of superintendence in the general administration of the Commission and exercise such powers as may be prescribed.

Powers of
Chairperson.

30. (1) The Central Government shall provide the Commission with such officers and other employees as it may deem fit.

Officers and
other
employees of
Commission.

(2) The salary and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission shall be such as may be prescribed.

31. (1) Every application for compensation before the Commission for nuclear damage shall be made in such form, containing such particulars and accompanied by such documents, as may be prescribed.

Application for
compensation
before
Commission.

(2) Subject to the provisions of section 18, every application under sub-section (1) shall be made within a period of three years from the date of knowledge of nuclear damage by the person suffering such damage.

Adjudication
procedure
and powers
of
Commission.

32. (1) The Commission shall have original jurisdiction to adjudicate upon every application for compensation filed before it under, sub-section (1) of section 31 or transferred to it under section 33, as the case may be.

(2) Upon transfer of cases to the Commission under section 33, the Commission shall hear such applications from the stage at which it was before such transfer.

(3) The Chairperson may constitute benches comprising of not more than three Members of the Commission for the purpose of hearing of claims and any decision thereon shall be rendered by a majority of the Members hearing such claims.

(4) The Commission shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Commission shall have the power to regulate its own procedure including the places and the times at which it shall have its sittings.

5 of 1908.

(5) The Commission shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:-

5 of 1908.

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

(b) the discovery and production of documents;

(c) receiving evidence on affidavits;

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

(e) issuing of commission for the examination of any witness;

(f) any other matter which may be prescribed.

(6) The Commission shall, after giving notice of application to the operator and after affording an opportunity of being heard to the parties, dispose of such application within a period of three months from the date of such receipt and make an award accordingly.

(7) While making an award under this section, the Commission shall not take into consideration any benefit, reimbursement or amount received by the applicant in pursuance of any contract of insurance or otherwise.

(8) Where an operator is likely to remove or dispose of his property with the object of evading payment by him of the amount of the award, the Commission may, in accordance with the provisions of rules 1 to 4 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908, grant a temporary injunction to restrain such act.

5 of 1908.

(9) The Commission shall arrange to deliver copies of the award to the parties concerned within a period of fifteen days from the date of such award.

(10) Every award made under sub-section (6) shall be final.

Transfer of
pending
cases to
Commission.

33. Every application for compensation pending before the Claims Commissioner immediately before the date of establishment of the Commission under section 19 shall stand transferred on that date to the Commission.

Proceedings
before
Claims
Commissioner
or
Commission
to be judicial
proceedings.

34. Every proceeding before the Claims Commissioner or the Commission under this Act shall be deemed to be judicial proceeding within the meaning of sections 193, 219 and 228 of, and for the purposes of section 196 of, the Indian Penal Code.

45 of 1860.

35. Save as otherwise provided in section 46, no civil court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Claims Commissioner or the Commission, as the case may be, is empowered to adjudicate under this Act and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Exclusion of jurisdiction of civil courts.

36. (1) When an award is made under sub-section (1) of section 16 or under sub-section (6) of section 32,—

Enforcement of awards.

(a) the insurer or any person, as the case may be, who under the contract of insurance or financial security under section 8 is required to pay any amount in terms of such award and to the extent of his liability under such contract, shall deposit that amount within such time and in such manner as the Claims Commissioner or the Commission, as the case may be, may direct; and

(b) the operator shall, subject to the maximum liability specified under sub-section (2) of section 6, deposit the remaining amount by which such award exceeds the amount deposited under clause (a).

(2) Where any person referred to in sub-section (1) fails to deposit the amount of award within the period specified in the award, such amount shall be recoverable from such person as arrears of land revenue.

(3) The amount deposited under sub-section (1) shall be disbursed to such person as may be specified in the award within a period of fifteen days from the date of such deposit.

37. The Commission shall prepare, in such form and at such time in each financial year, as may be prescribed, an annual report giving full account of its activities during that financial year and submit a copy thereof to the Central Government which shall cause the same to be laid before each House of Parliament.

Annual report.

38. (1) Where the Central Government is satisfied that the purpose for which the Commission established under section 19 has served its purpose, or where the number of cases pending before such Commission is so less that it would not justify the cost of its continued function, or where it considers necessary or expedient so to do, the Central Government may, by notification, dissolve the Commission.

Dissolution of Commission in certain circumstances.

(2) With effect from the date of notification of dissolution of Commission under sub-section (1), —

(a) the proceeding, if any, pending before the Commission as on the date of such notification shall be transferred to the Claims Commissioner to be appointed by the Central Government under sub-section (2) of section 9;

(b) the Chairperson and all Members of the Commission shall be deemed to have vacated their offices as such and they shall not be entitled to any compensation for premature termination of their office;

(c) officers and other employees of the Commission shall be transferred to such other authority or offices of the Central Government, in such manner, as may be prescribed:

Provided that the officers and other employees so transferred, shall be entitled to the same terms and conditions of service as would have been held by them in the Commission:

Provided further that where an officer or an employee of the Commission refuses to join the services in such other authority or office, he shall be deemed to have resigned and shall not be entitled to any compensation for premature termination of contract of service;

(d) all assets and liabilities of the Commission shall vest in the Central Government.

(3) Notwithstanding the dissolution of the Commission under sub-section (1), anything done or any action taken or purported to have been done or taken including any order made or notice issued or any appointment, confirmation or declaration made or any document or instrument executed or any direction given by the Commission before such dissolution, shall be deemed to have been validly done or taken.

(4) Nothing in this section shall be construed to prevent the Central Government to establish the Commission subsequent to the dissolution of the Commission in accordance with the provisions of this Act.

CHAPTER VI

OFFENCES AND PENALTIES

Offences and penalties.

39. (1) Whoever—

(a) contravenes any rule made or any direction issued under this Act; or

(b) fails to comply with the provisions of section 8; or

(c) fails to deposit the amount under section 36,

shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

(2) Whoever fails to comply with any direction issued under section 43 or obstructs any authority or person in the exercise of his powers under this Act shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Offences by companies.

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

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

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,-

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

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

Offences by Government Departments.

41. Where an offence under this Act has been committed by any Department of the Government, the Head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Cognizance of offences.

42. No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act:

Provided that cognizance of such offence shall not be taken except on a complaint made by the Central Government or any authority or officer authorised in this behalf by that Government.

CHAPTER VII

MISCELLANEOUS

- 43.** The Central Government may, in exercise of its powers and performance of its functions under this Act, issue such directions, as it may deem fit, for the purposes of this Act, to any operator, person, officer, authority or body and such operator, person, officer, authority or body shall be bound to comply with such directions. Power to give directions.
- 44.** The Central Government may call for such information from an operator as it may deem necessary. Power to call for information.
- 45.** The Central Government may, by notification, exempt any nuclear installation from the application of this Act where, having regard to small quantity of nuclear material, it is of the opinion that the risk involved is insignificant. Exemption from application of this Act.
- 46.** The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt the operator from any proceeding which might, apart from this Act, be instituted against such operator. Act to be in addition to any other law.
- 47.** No suit, prosecution or other legal proceedings shall lie against the Central Government or the person, officer or authority in respect of anything done by it or him in good faith in pursuance of this Act or of any rule or order made, or direction issued, thereunder. Protection of action taken in good faith.
- 48.** (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act. Power to make rules.
- (2) In particular, and without prejudice to the generality of the foregoing powers such rules may provide for—
- (a) the other financial security and the manner thereof under sub-section (1) of Section 8;
- (b) the salary and allowances payable to and the other terms and conditions of service of Claims Commissioner under Section 11;
- (c) the procedure to be followed by Claims Commissioner under sub-section (1) of Section 12;
- (d) the person to be associated by Claims Commissioner and the manner thereof, under sub-section (2) of Section 12;
- (e) the remuneration, fee or allowances of associated person under sub-section (3) of Section 12;
- (f) any other matter under clause (f) of sub-section (4) of Section 12;
- (g) the form of application, the particulars it shall contain and the documents it shall accompany, under sub-section (1) of Section 15;
- (h) the salary and allowances payable to and other terms and conditions of service of Chairperson and other Members, under Section 22;
- (i) the powers of Chairperson under Section 29;
- (j) the salary and allowances payable to and the terms and other conditions of service of officers and other employees of the Commission, under sub-section (2) of Section 30;
- (k) the form of application, the particulars it shall contain and the documents it shall accompany, under sub-section (1) of Section 31;

(l) any other matter under clause (f) of sub-section (5) of Section 32;

(m) the form and the time for preparing annual report by the Commission under Section 37;

(n) the manner of transfer of officers and other employees of the Commission under clause (c) of sub-section (2) of Section 38.

(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 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.

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

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

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

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 22nd September, 2010

The following Act of Parliament received the assent of the President on the 21st September, 2010 and is here by Published for general information:-

THE TRADE MARKS (AMENDMENT) ACT, 2010.

ACT No. 40. OF 2010.

An Act to amend the Trade Marks Act, 1999.

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

Short title and commencement.

1. (1) This Act may be called the Trade Marks (Amendment) Act, 2010.

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

47 of 1999.

2. In section 11 of the Trade Marks Act, 1999, (hereinafter referred to as the Principal Act), in the *Explanation*, for clause (a), the following clause shall be substituted, namely:—

Amendment of section 11.

“(a) a registered trade make or an application under section 18 bearing an earlier date of filing or an international registration referred to in section 36E or convention application referred to in section 154 which has a date of application earlier than that of the trade mark in question, taking account, where appropriate, of the priorities claimed in respect of the trade marks.”

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

Amendment of section 21.

“(1) Any person may, within four months from the date of the advertisement or re-advertisement of an application for registration, give notice in writing in the prescribed manner and on payment of such fee as may be prescribed, to the Registrar, of opposition to the registration.”

4. In section 23 of the principal Act, in sub-section (1), after the words “register the said trade mark”, the words “within eighteen months of the filing of the application” shall be inserted.

Amendment of section 23.

5. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely—

Insertion of new Chapter IVA.

‘CHAPTER IVA

SPECIAL PROVISIONS RELATING TO PROTECTION OF TRADE MARKS THROUGH INTERNATIONAL REGISTRATION UNDER THE MADRID PROTOCOL

36A. The provisions of this Chapter shall apply to international applications and international registrations under the Madrid Protocol.

Application of Act in case of international registration under Madrid Protocol.

36B. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) “application”, in relation to a Contracting State or a Contracting Organisation, means an application made by a person who is a citizen of, or is domiciled in, or has a real and effective industrial or commercial establishment in, that Contracting State or a State which is a member of that Contracting Organisation, as the case may be.

Explanation.—For the purposes of this clause, “real and effective industrial or commercial establishment” means and includes any establishment where some *bona fide* industrial or commercial activity takes place and need not necessarily be the principal place of business;

(b) “basic application” means an application for the registration of a trade mark filed under section 18 and which is used as a basis for applying for an international registration;

(c) “basic registration” means the registration of a trade mark under section 23 and which is used as a basis for applying for an international registration;

(d) “Common Regulations” means the Regulations concerning the implementation of the Madrid Protocol;

(e) “Contracting Organisation” means a Contracting Party that is an inter-governmental organisation;

(f) “Contracting Party” means a Contracting State or Contracting Organisation party to the Madrid Protocol;

(g) “Contracting State” means a country party to the Madrid Protocol;

(h) “international application” means an application for international registration or for extension of the protection resulting from an international registration to any Contracting Party made under the Madrid Protocol;

(i) “International Bureau” means the International Bureau of the World Intellectual Property Organisation;

(j) “international registration” means the registration of a trade mark in the register of the International Bureau effected under the Madrid Protocol;

(k) “Madrid Agreement” means the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on the 14th day of April, 1891, as subsequently revised and amended;

(l) “Madrid Protocol” means the Protocol relating to the Madrid Agreement Concerning the International Registration of Marks adopted at Madrid on the 27th day of June, 1989, as amended from time to time.

Trade Marks Registry to deal with international applications.

International application originating from India.

36C. Notwithstanding anything contained in sub-section (3) of section 5, an international application shall be dealt with by the head office of the Trade Marks Registry or such branch office of the Registry, as the Central Government may, by notification in the Official Gazette, specify.

36D. (1) Where an application for the registration of a trade mark has been made under section 18 or a trade mark has been registered under section 23, the applicant or the registered proprietor may make an international application on the form prescribed by the Common Regulations for international registration of that trade mark.

(2) A person holding an international registration may make an international application on the form prescribed by the Common Regulations for extension of the protection resulting from such registration to any other Contracting Party.

(3) An international application under sub-section (1) or sub-section (2) shall designate the Contracting Parties where the protection resulting from the international registration is required.

(4) The Registrar shall certify in the prescribed manner that the particulars appearing in the international application correspond to the particulars appearing, at the time of the certification, in the application under section 18 or the registration under section 23, and shall indicate the date and number of that application or the date and number of that registration as well as the date and number of the application from which that registration resulted, as the case may be, and shall within the prescribed period, forward the international application to the International Bureau for registration, also indicating the date of the international application.

(5) Where at any time before the expiry of a period of five years of an international registration, whether such registration has been transferred to another person or not, the application under section 18 or the registration under section 23, as the case may be, has been withdrawn or cancelled or has expired or

has been finally refused in respect of all or some of the goods or services listed in the international registration, the protection resulting from such international registration shall cease to have effect:

Provided that where an appeal is made against the decision of registration and an action requesting for withdrawal of application or an opposition to the application has been initiated before the expiry of the period of five years of an international registration, any final decision resulting into withdrawal, cancellation, expiration or refusal shall be deemed to have taken place before the expiry of five years of the international registration.

(6) The Registrar shall, during the period of five years beginning with the date of international registration, transmit to the International Bureau every information referred to in sub-section (5).

(7) The Registrar shall notify the International Bureau the cancellation to be effected to an international registration keeping in view the current status of the basic application or the basic registration, as the case may be.

36E. (1) The Registrar shall, after receipt of an advice from the International Bureau about any international registration where India has been designated, keep a record of the particulars of that international registration in the prescribed manner.

International registrations where India has been designated.

(2) Where, after recording the particulars of any international registration referred to in sub-section (1), the Registrar is satisfied that in the circumstances of the case the protection of trade mark in India should not be granted or such protection should be granted subject to conditions or limitations or to conditions additional to or different from the conditions or limitations subject to which the international registration has been accepted, he may, after hearing the applicant if he so desires, refuse grant of protection and inform the International Bureau in the prescribed manner within eighteen months from the date on which the advice referred to in sub-section (1) was received.

(3) Where the Registrar finds nothing in the particulars of an international registration to refuse grant of protection under sub-section (2), he shall within the prescribed period cause such international registration to be advertised in the prescribed manner.

(4) The provisions of sections 9 to 21 (both inclusive), 63 and 74 shall apply *mutatis mutandis* in relation to an international registration as if such international registration was an application for registration of a trade mark under section 18.

(5) When the protection of an international registration has not been opposed and the time for notice of opposition has expired, the Registrar shall within a period of eighteen months of the receipt of advice under sub-section (1) notify the International Bureau its acceptance of extension of protection of the trade mark under such international registration and, in case the Registrar fails to notify the International Bureau, it shall be deemed that the protection has been extended to the trade mark.

(6) Where a registered proprietor of a trade mark makes an international registration of that trade mark and designates India, the international registration from the date of the registration shall be deemed to replace the registration held in India without prejudice to any right acquired under such previously held registration and the Registrar shall, upon request by the applicant, make necessary entry in the register referred to in sub-section (1) of section 6.

(7) A holder of international registration of a trade mark who designates India and who has not been extended protection in India shall have the same remedy which is available to any person making an application for the registration of a trade mark under section 18 and which has not resulted in registration under section 23.

(8) Where at any time before the expiry of a period of five years of an international registration, whether such registration has been transferred to another person or not, the related basic application or, as the case may be, the basic registration in a Contracting Party other than India has been withdrawn or cancelled or has expired or has been finally refused in respect of all or some of the goods or services listed in the international registration, the protection resulting from such international registration in India shall cease to have effect.

Effects of international registration.

36F. (1) From the date of the international registration of a trade mark where India has been designated or the date of the recording in the register of the International Bureau about the extension of the protection resulting from an international registration of a trade mark to India, the protection of the trade mark in India shall be the same as if the trade mark had been registered in India.

(2) The indication of classes of goods and services given by the applicant shall not bind the Registrar with regard to the determination of the scope of the protection of the trade mark.

Duration and renewal of international registration.

36G. (1) The international registration of a trade mark at the International Bureau shall be for a period of ten years and may be renewed for a period of ten years from the expiry of the preceding period.

(2) Subject to payment of a surcharge prescribed by the rules, a grace period of six months shall be allowed for renewal of the international registration.’.

Substitution of new section for section 45.

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

Registration of assignments and transmissions.

“45. (1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall apply in the prescribed manner to the Registrar to register his title, and the Registrar shall, on receipt of the application, register him as the proprietor of the trade mark in respect of the goods or services in respect of which the assignment or transmission has effect, and shall cause particulars of such assignment or transmission to be entered on the register.

(2) The Registrar may require the applicant to furnish evidence or further evidence in proof of title only where there is a reasonable doubt about the veracity of any statement or any document furnished.

(3) Where the validity of an assignment or transmission is in dispute between the parties, the Registrar may refuse to register the assignment or transmission until the rights of the parties have been determined by a competent court and in all other cases the Registrar shall dispose of the application within the prescribed period.

(4) Until an application under sub-section (1) has been filed, the assignment or transmission shall be ineffective against a person acquiring a conflicting interest in or under the registered trade mark without the knowledge of assignment or transmission.”.

Omission of Chapter X.

7. Chapter X of the principal Act shall be omitted.

Amendment of section 150.

8. In section 150 of the principal Act, in sub-section (1), for the word “applications”, the words “applications, international applications” shall be substituted.

Amendment of section 157.

9. In section 157 of the principal Act, in sub-section (2),—

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

“(vii) the manner of giving a notice of opposition and the fee payable for such notice under sub-section (1) and sending counter-statement under sub-section (2) and submission of evidence and the time therefor under sub-section (4) of section 21 ;”;

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

“(ixa) the time within which the international application is to be forwarded to the International Bureau and the manner of certifying the particulars by the Registrar under sub-section (4) of section 36D;

(ixb) the manner of keeping a record of particulars of an international registration under sub-section (1) of section 36E;

(ixc) the manner of informing the International Bureau under sub-section (2) of section 36E;

(ixd) the manner of advertising the international registration and the time within which the international registration shall be advertised under sub-section (3) of section 36E;”;

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

“(xiiia) the period within which the Registrar shall dispose of an application under sub-section (3) of section 45;”;

(d) clauses (xxvi), (xxvii) and (xxviii) shall be omitted.

10. (1) Notwithstanding anything contained in section 156 of the principal act, 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 such difficulty:

Power of
Central
Government
to remove
difficulties.

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

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

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 22nd September, 2010.

The following Act of Parliament received the assent of the President on the 21st September, 2010 and is hereby published for general information:—

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT 2010.

ACT No. 41 of 2010.

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

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

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2010.

Short title and commencement

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

5 of 2009.

2 of 1974.

2. On and from the date of commencement of section 5 of the Code of Criminal Procedure (Amendment) Act, 2008, in section 41 of the Code of Criminal Procedure, 1973 [as amended by section 5 of the Code of Criminal Procedure (Amendment) Act, 2008], in sub-section (1), in clause (b), the following proviso shall be inserted at the end, namely:—

Amendment of section 41.

“Provided that a police officer shall, in all cases where the arrest of a person is not required under the provisions of this sub-section, record the reasons in writing for not making the arrest.”.

5 of 2009.

2 of 1974.

3. On and from the date of commencement of section 6 of the Code of Criminal Procedure (Amendment) Act, 2008, in section 41A of the Code of Criminal Procedure, 1973 [as inserted by section 6 of the Code of Criminal Procedure (Amendment) Act, 2008],—

Amendment of section 41A.

(a) in sub-section (1), for the words “The Police officer may”, the words “The police officer shall” shall be substituted;

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

“(4) Where such person, at any time, fails to comply with the terms of the notice or is unwilling to identify himself, the police officer may, subject to such orders as may have been passed by a competent Court in this behalf, arrest him for the offence mentioned in the notice.”.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 27th September, 2010.

The following Act of Parliament received the assent of the President on the 26th September, 2010 and is hereby published for general information:—

THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010.

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PRELIMINARY

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2. Definitions.

CHAPTER II

REGULATION OF FOREIGN CONTRIBUTION AND FOREIGN HOSPITALITY.

3. Prohibition to accept foreign contribution.
4. Persons to whom section 3 shall not apply.
5. Procedure to notify an organisation of a political nature.
6. Restriction on acceptance of foreign hospitality.
7. Prohibition to transfer foreign contribution to other person.
8. Restriction to utilise foreign contribution for administrative purpose.
9. Power of Central Government to prohibit receipt of foreign contribution, etc., in certain cases.
10. Power to prohibit payment of currency received in contravention of the Act.

CHAPTER III.

REGISTRATION.

11. Registration of certain persons with Central Government.
12. Grant of certificate of registration.
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14. Cancellation of certificate.
15. Management of foreign contribution of person whose certificate has been cancelled.
16. Renewal of certificate.

CHAPTER IV

ACCOUNTS, INTIMATION, AUDIT AND DISPOSAL OF ASSETS, ETC.

17. Foreign contribution through scheduled bank.
18. Intimation.
19. Maintenance of accounts.
20. Audit of accounts.
21. Intimation by candidate for election.
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23. Inspection of accounts or records.
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25. Seizure of article or currency or security received in contravention of the Act.
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27. Seizure to be made in accordance with Act 2 of 1974.

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28. Confiscation of article or currency or security obtained in contravention of the Act.
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31. Appeal.
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33. Making of false statement, declaration or delivering false accounts.
34. Penalty for article or currency or security obtained in contravention of section 10.
35. Punishment for contravention of any provision of the Act.
36. Power to impose additional fine where article or currency or security is not available for confiscation.
37. Penalty for offences where no separate punishment has been provided.
38. Prohibition of acceptance of foreign contribution.
39. Offences by companies.
40. Bar on prosecution of offences under the Act.
41. Composition of certain offences.

CHAPTER IX.

MISCELLANEOUS.

42. Power to call for information or document.
43. Investigation into cases under the Act.
44. Returns by prescribed authority to Central Government.
45. Protection of action taken in good faith.
46. Power of Central Government to give directions.
47. Delegation of powers.
48. Power to make rules.
49. Orders and rules to be laid before Parliament.
50. Power to exempt in certain cases.
51. Act not to apply to certain Government Transactions.
52. Application of other laws not barred.
53. Power to remove difficulties.
54. Repeal and saving.

THE FOREIGN CONTRIBUTION (REGULATION) ACT, 2010.

ACT No. 42 OF 2010.

An Act to consolidate the law to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Foreign Contribution (Regulation) Act, 2010.

(2) It extends to the whole of India, and it shall also apply to—

(a) citizens of India outside India; and

(b) associate branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in 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.

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

(a) “association” means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies Registration Act, 1860, or not, and any other organisation, by whatever name called;

(b) “authorised person in foreign exchange” means an authorised person referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999;

(c) “bank” means a banking company as referred to in clause (c) of section 5 of the Banking Regulation Act, 1949;

(d) “candidate for election” means a person who has been duly nominated as a candidate for election to any Legislature;

(e) “certificate” means certificate of registration granted under sub-section (3) of section 12;

(f) “company” shall have the meaning assigned to it under clause (17) of section 2 of the Income-tax Act, 1961;

(g) “foreign company” means any company or association or body of individuals incorporated outside India and includes—

(i) a foreign company within the meaning of section 591 of the Companies Act, 1956

(ii) a company which is a subsidiary of a foreign company;

Short title
extent,
application
and
commence-
ment.

Definitions.

21 of 1860

42 of 1999.

10 of 1949.

43 of 1961.

1 of 1956.

(iii) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause (ii);

(iv) a multi-national corporation.

Explanation.—For the purposes of this sub-clause, a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation,—

(a) has a subsidiary or a branch or a place of business in two or more countries or territories; or

(b) carries on business, or otherwise operates, in two or more countries or territories;

(h) “foreign contribution” means the donation, delivery or transfer made by any foreign source,—

(i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift, is not more than such sum as may be specified from time to time, by the Central Government by the rules made by it in this behalf;

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in 42 of 1956 clause (0) of section 2 of the Foreign Exchange Management Act, 1999.

42 of 1956.

Explanation 1.—A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through One or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 2.—The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 3.—Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause;

(i) “foreign hospitality” means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free boarding, lodging, transport or medical treatment;

(j) “foreign source” includes,—

(i) the Government of any foreign country or territory and any agency of such Government;

(ii) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;

(iii) a foreign company;

(iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;

(v) a multi-national corporation referred to in sub-clause (iv) of clause (g);

(vi) a company within the meaning of the Companies Act, 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the

1 of 1956.

aggregate, by one or more of the following, namely:-

(A) the Government of a foreign country or territory;

(B) the citizens of a foreign country or territory;

(C) corporations incorporated in a foreign country or territory;

(D) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;

(E) foreign company;

(vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;

(viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;

(ix) a society, club or other association of individuals formed or registered outside India;

(x) a citizen of a foreign country;

(k) "Legislature" means—

(A) either House of Parliament;

(B) the Legislative Assembly of a State, or in the case of a State having a Legislative Council, either House of the Legislature of that State;

20 of 1963. (C) Legislative Assembly of a Union territory constituted under the Government of Union Territories Act, 1963;

1 of 1992. (D) Legislative Assembly for the National Capital Territory of Delhi referred to in the Government of National Capital Territory of Delhi Act, 1991;

(E) Municipality as defined in clause (e) of article 243P of the Constitution;

(F) District Councils and Regional Councils in the States of Assam, Meghalaya, Tripura and Mizoram as provided in the Sixth Schedule to the Constitution;

(G) Panchayat as defined in clause (d) of article 243 of the Constitution; or

(H) any other elective body as may be notified by the Central Government;

(J) "notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(m) "person" includes—

(i) an individual;

(ii) a Hindu undivided family;

(iii) an association;

1 of 1956. (iv) a company registered under section 25 of the Companies Act, 1956;

(n) "political party" means--

(i) an association or body of individual citizens of India—

43 of 1951. (A) to be registered with the Election Commission of India as a political party under section 29A of the Representation of the People Act, 1951; or

(B) which has set up candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;

(ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election Commission of India No.56/J&K/5302, dated the 8th August, 2002, as in force for the time being;

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

(p) "prescribed authority" means an authority specified as such by rules made by the Central Government under this Act;

(q) "registered newspaper" means a newspaper registered under the Press and Registration of Books Act, 1867; 25 of 1867

(r) "relative" has the meaning assigned to it in clause (41) of section 2 of the Companies Act, 1956; 1 of 1956

(s) "scheduled bank" shall have the meaning assigned to it under clause (e) of section 2 of the Reserve Bank of India Act, '1934; 2 of 1934.

(t) "subsidiary" and "associate" shall have the meanings, respectively assigned to them in the Companies Act, 1956; 1 of 1956.

(u) "trade union" means a trade union registered under the Trade Unions Act, 1926; 16 of 1926.

(2) Words and expressions used herein and not defined in this Act but defined in the Representation of the People Act, 1950 or the Representation of the People Act, 1951 or the Foreign Exchange Management Act, 1999 shall have the meanings respectively assigned to them in those Acts. 43 of 1950.
43 of 1951.
42 of 1999.

CHAPTER II

REGULATION OF FOREIGN CONTRIBUTION AND FOREIGN HOSPITALITY.

Prohibition to accept foreign contribution.

3. (1) No foreign contribution shall be accepted by any—

(a) candidate for election;

(b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;

(c) Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;

(d) member of any Legislature;

(e) political party or office-bearer thereof;

(f) organisation of a political nature as may be specified under sub-section (1) of section 5 by the Central Government;

(g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 or any other mode of mass communication; 21 of 2000.

(h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g).

Explanation.—In clause (c) and section 6, the expression "corporation" means a corporation owned or controlled by the Government and includes a Government company as defined in section 617 of the Companies Act, 1956. 1 of 1956.

(2) (a) No person, resident in India, and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in sub-section (1), or both.

(b) No person, resident in India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in sub-section (1), or both.

(c) No citizen of India resident outside India shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—

(i) any political party or any person referred to in sub-section (1), or both; or

(ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in sub-section (1), or both.

(3) No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any person or class of persons, referred to in section 9, shall deliver such currency—

(a) to any person other than a person for which it was received, or

(b) to any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a person other than the person for which such currency was received.

4. Nothing contained in section 3 shall apply to the acceptance, by any person specified in that section, of any foreign contribution where such contribution is accepted by him, subject to the provisions of section 10,—

Persons to whom section 3 shall not apply.

(a) by way of salary, wages or other remuneration due to him or to any group of persons working under him, from any foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source; or

(b) by way of payment, in the course of international trade or commerce, or in the ordinary course of business transacted by him outside India; or

(c) as an agent of a foreign source in relation to any transaction made by such foreign source with the Central Government or State Government; or

(d) by way of a gift or presentation made to him as a member of any Indian delegation, provided that such gift or present was accepted in accordance with the rules made by the Central Government with regard to the acceptance or retention of such gift or presentation; or

(e) from his relative; or

(f) by way of remittance received, in the ordinary course of business through any official channel, post office, or any authorised person in foreign exchange under the Foreign Exchange Management Act, 1999; or

(g) by way of any scholarship, stipend or any payment of like nature:

Provided that in case any foreign contribution received by any person specified under section 3, for any of the purposes other than those specified under this section, such contribution shall be deemed to have been accepted in contravention of the provisions of section 3.

5. (1) The Central Government may, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisations with the activities of any political party, by an order published in the Official Gazette, specify such organisation as an organisation of a political nature not being a political party, referred to in clause (f) of sub-section (1) of section 3:

Procedure to notify an organisation of a political nature.

Provided that the Central Government may, by rules made by it, frame the guidelines specifying the ground or grounds on which an organisation shall be specified as an organisation of a political nature.

(2) Before making an order under sub-section (1), the Central Government shall give the organisation in respect of whom the order is proposed to be made, a notice in writing informing it of the ground or grounds, on which it is proposed to be specified as an organisation of political nature under that sub-section.

(3) The organisation to whom a notice has been served under sub-section (2), may, within a period of thirty days from the date of the notice, make a representation to the Central Government giving reasons for not specifying such organisation as an organisation under sub-section (1):

Provided that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the organisation was prevented by sufficient cause from making the representation within thirty days.

(4) The Central Government may, if it considers it appropriate, forward the representation referred to in sub-section (3) to any authority to report on such representation.

(5) The Central Government may, after considering the representation and the report of the authority referred to in sub-section (4), specify such organisation as an organisation of a political nature not being a political party and make an order under sub-section (1) accordingly.

(6) Every order under sub-section (1) shall be made within a period of one hundred and twenty days from the date of issue of notice under sub-section (2);

Provided that in case no order is made within the said period of one hundred and twenty days, the Central Government shall, after recording the reasons therefor, make an order under sub-section (1) within a period of sixty days from the expiry of the said period of one hundred and twenty days.

Restriction on acceptance of foreign hospitality.

6. No member of a Legislature or office-bearer of a political party or Judge or Government servant or employee of any corporation or any other body owned or controlled by the Government shall, while visiting any country or territory outside India, accept, except with the prior permission of the Central Government, any foreign hospitality:

Provided that it shall not be necessary to obtain any such permission for an emergent medical aid needed on account of sudden illness contracted during a visit outside India, but, where such foreign hospitality has been received, the person receiving such hospitality shall give, within one month from the date of receipt of such hospitality an intimation to the Central Government as to the receipt of such hospitality, and the source from which, and the manner in which, such hospitality was received by him.

Prohibition to transfer foreign contribution to other person.

7. No person who—

(a) is registered and granted a certificate or has obtained prior permission under this Act; and

(b) receives any foreign contribution,

shall transfer such foreign contribution to any other person unless such other person is also registered and had been granted the certificate or obtained the prior permission under this Act:

Provided that such person may transfer, with the prior approval of the Central Government, a part of such foreign contribution to any other person who has not been granted a certificate or obtained permission under this Act in accordance with the rules made by the Central Government.

Restriction to utilise foreign contribution for administrative purpose.

8. (1) Every person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution,—

(a) shall utilise such contribution for the purposes for which the contribution has been received:

Provided that any foreign contribution or any income arising out of it shall not be used for speculative business:

Provided further that the Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the purpose of this section;

(b) shall not defray as far as possible such sum, not exceeding fifty per cent of such contribution, received in a financial year, to meet administrative expenses:

Provided that administrative expenses exceeding fifty per cent of such contribution may be defrayed with prior approval of the Central Government.

(2) The Central Government may prescribe the elements which shall be included in the administrative expenses and the manner in which the administrative expenses referred to in sub-section (1) shall be calculated.

9. The Central Government may—

(a) prohibit any person or organisation not specified in section 3, from accepting any foreign contribution;

(b) require any person or class of persons, not specified in section 6, to obtain prior permission of the Central Government before accepting any foreign hospitality;

(c) require any person or class of persons not specified in section 11, to furnish intimation within such time and in such manner as may be prescribed as to the amount of any foreign contribution received by such person or class of persons as the case may be, and the source from which and the manner in which such contribution was received and the purpose for which and the manner in which such foreign contribution was utilised;

(d) without prejudice to the provisions of sub-section (1) of section 11, require any person or class of persons specified in that sub-section to obtain prior permission of the Central Government before accepting any foreign contribution;

(e) require any person or class of persons, not specified in section 6, to furnish intimation, within such time and in such manner as may be prescribed, as to the receipt of any foreign hospitality, the source from which and the manner in which such hospitality was received:

Provided that no such prohibition or requirement shall be made unless the Central Government is satisfied that the acceptance of foreign contribution by such person or class of persons, as the case may be, or the acceptance of foreign hospitality by such person, is likely to affect prejudicially—

(i) the sovereignty and integrity of India; or

(ii) public interest; or

(iii) freedom or fairness of election to any Legislature; or

(iv) friendly relations with any foreign State; or

(v) harmony between religious, racial, social, linguistic or regional groups, castes or communities.

10. Where the Central Government is satisfied, after making such inquiry as it may deem fit, that any person has in his custody or control any article or currency or security, whether Indian or foreign, which has been accepted by such person in contravention of any of the provisions of this Act, it may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing with, in any manner whatsoever, such article or currency or security save in accordance with the written orders of the Central Government and a copy of such order shall be served upon the person so prohibited in the prescribed manner, and thereupon the provisions of sub-sections (2), (3), (4) and (5) of section 7 of the Unlawful Activities (Prevention) Act, 1967 shall, so far as may be, apply to, or in relation to, such article or currency or security and references in the said sub-sections to moneys, securities or credits shall be construed as references to such article or currency or security.

Power of Central Government to prohibit receipt of foreign contribution, etc., in certain cases.

Power to prohibit payment of currency received in contravention of the Act.

CHAPTER III

REGISTRATION.

Registration of certain persons with Central Government.

11. (1) Save as otherwise provided in this Act, no person having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government:

Provided that any association registered with the Central Government under section 6 or granted prior permission under that section of the Foreign Contribution (Regulation) Act, 1976, as it stood immediately before the commencement of this Act, shall be deemed to ; have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force.

49 of 1976.

(2) Every person referred to in sub-section (1) may, if it is not registered with the Central Government under that sub-section, accept any foreign contribution only after obtaining the prior permission of the Central Government and such prior permission shall be valid for the specific purpose for which it is obtained and from the specific source:

Provided that if the person referred to in sub-sections (1) and (2) has been found guilty of violation of any of the provisions of this Act or the Foreign Contribution (Regulation) Act, 1976, the unutilised or unreceived amount of foreign contribution shall not be utilised or received, as the case may be, without the prior approval of the Central Government.

49 of 1976.

(3) Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, specify—

(i) the person or class of persons who shall obtain its prior permission before accepting the foreign contribution; or

(ii) the area or areas in which the foreign contribution shall be accepted and utilised with the prior permission of the Central Government; or

(iii) the purpose or purposes for which the foreign contribution shall be utilised with the prior permission of the Central Government; or

(iv) the source or sources from which the foreign contribution shall be accepted with the prior permission of the Central Government.

Grant of certificate of registration.

12. (1) An application by a person, referred to in section 11 for grant of certificate or giving prior permission, shall be made to the Central Government in such form and manner and along with such fee, as may be prescribed.

(2) On receipt of an application under sub-section (1), the Central Government shall, by an order, if the application is not in the prescribed form or does not contain any of the particulars specified in that form, reject the application.

(3) If on receipt of an application for grant of certificate or giving prior permission and after making such inquiry as the Central Government deems fit, it is of the opinion that the conditions specified in sub-section (4) are satisfied, it may, ordinarily within ninety days from the date of receipt of application under sub-section (1), register such person and grant him a certificate or give him prior permission, as the case may be, subject to such terms and conditions as may be prescribed:

Provided that in case the Central Government does not grant, within the said period of ninety days, a certificate or give prior permission, it shall communicate the reasons therefor to the applicant:

Provided further that a person shall not be eligible for grant of certificate or giving prior permission, if his certificate has been suspended and such suspension of certificate continues on the date of making application.

(4) The following shall be the conditions for the purposes of sub-section (3), namely:—

(a) the person making an application for registration or grant of prior permission under sub-section (1),—

(i) is not fititious or *benami*;

(ii) has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another;

(iii) has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;

(iv) has not been found guilty of diversion or mis-utilisation of its funds;

(v) is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;

(vi) is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;

(vii) has not contravened any of the provisions of this Act;

(viii) has not been prohibited from accepting foreign contribution;

(b) the person making an application for registration under sub-section (1) has undertaken reasonable activity in its chosen filed for the benefit of the society for which the foreign contribution is proposed to be utilised; .

(c) the person making an application for giving prior permission under sub-section (1) has prepared a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilised;

(d) in case the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence pending against him;

(e) in case the person being other than an individual, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him;

(f) the acceptance of foreign contribution by the person referred to in sub-section (1) is not likely to affect prejudicially—

(i) the sovereignty and integrity of India; or

(ii) the security, strategic, scientific-or economic interest of the State; or

(iii) the public interest; or

(iv) freedom or fairness of election to any Legislature; or

(v) friendly relation with any foreign State; or

(vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities;

(g) the acceptance of foreign contribution referred to in sub-section (1),—

(i) shall not lead to incitement of an offence;

(ii) shall not endanger the life or physical safety of any person.

(5) Where the Central Government refuses the grant of certificate or does not give prior permission, it shall record in its order the reasons therefor and furnish a copy thereof to the applicant:

Provided that the Central Government may not communicate the reasons for refusal for grant of certificate or for not giving prior permission to the applicant under this section in cases where is no obligation to give any information or documents or records or papers under the Right to Information Act, 2005.

22 of 2005.

(6) The certificate granted under sub-section (3) shall be valid for a period of five years and the prior permission shall be valid for the specific purpose or specific amount of foreign contribution proposed to be received, as the case may be.

Suspension of certificate.

13. (1) Where the Central Government, for reasons to be recorded in writing, is satisfied that pending consideration of the question of cancelling the certificate on any of the grounds mentioned in sub-section (1) of section 14, it is necessary so to do, it may, by order in writing, suspend the certificate for such period not exceeding one hundred and eighty days as may be specified in the order.

(2) Every person whose certificate has been suspended shall --

(a) not receive any foreign contribution during the period of suspension of certificate:

Provided that the Central Government, on an application made by such person, if it considers appropriate, allow receipt of any foreign contribution by such person on such terms and conditions as it may specify;

(b) utilise, in the prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government.

Cancellation of certificate.

14. (1) The Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if—

(a) the holder of the certificate has made a statement in, or in relation to, the application of the grant of registration or renewal thereof, which is incorrect or false; or

(b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or

(c) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate; or

(d) the holder of certificate has violated any of the provisions of this Act or rules or order made thereunder; or

(e) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.

(2) No order of cancellation of certificate under this section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

(3) Any person whose certificate has been cancelled under this section shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate.

Management of foreign contribution of person whose certificate has been cancelled.

15. (1) The foreign contribution and assets created out of the foreign contribution in the custody of every person whose certificate has been cancelled under section 14 shall vest in such authority as may be prescribed.

(2) The authority referred to in sub-section (1) may, if it considers necessary and in public interest, manage the activities of the person referred to in that sub-section for such period and in such manner, as the Central Government may direct and such authority may utilise the foreign contribution or dispose of the assets created out of it in case adequate funds are not available for running such activity.

(3) The authority referred to in sub-section (1) shall return the foreign contribution and the assets vested upon it under that sub-section to the person referred to in the said sub-section if such person is subsequently registered under this Act.

16. (1) Every person who has been granted a certificate under section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.

Renewal of certificate.

(2) The application for renewal of the certificate shall be made to the Central Government in such form and manner and accompanied by such fee as may be prescribed.

(3) The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years:

Provided that in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant:

Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made thereunder.

CHAPTER IV.

ACCOUNTS, INTIMATION, AUDIT AND DISPOSAL OF ASSETS, ETC.

17. (1) Every person who has been granted a certificate or given prior permission under section 12 shall receive foreign contribution in a single account only through such one of the branches of a bank as he may specify in his application for grant of certificate:

Foreign contribution through scheduled bank.

Provided that such person may open one or more accounts in one or more banks for utilising the foreign contribution received by him:

Provided further that no funds other than foreign contribution shall be received or deposited in such account or accounts.

(2) Every bank or authorised person in foreign exchange shall report to such authority as may be specified-

- (a) prescribed amount of foreign remittance;
- (b) the source and manner in which the foreign remittance was received; and
- (c) other particulars,

in such form and manner as may be prescribed.

18. (1) Every person who has been granted a certificate or given prior approval under this Act shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him.

Intimation.

(2) Every person receiving foreign contribution shall submit a copy of a statement indicating therein the particulars of foreign contribution received duly certified by officer of the bank or authorised person in foreign exchange and furnish the same to the Central Government along with the intimation under sub-section (1).

19. Every person who has been granted a certificate or given prior approval under this Act shall maintain, in such form and manner as may be prescribed,-

Maintenance of accounts.

(a) an account of any foreign contribution received by him; and

(b) a record as to the manner in which such contribution has been utilised by him.

Audit of
accounts.

20. Where any person who has been granted a certificate or given prior permission, fails to furnish any intimation under this Act within the time specified therefor or the intimation so furnished is not in accordance with law or if, after inspection of such intimation, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being, contravened, the Central Government may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or any other officer or authority or organisation, as it may think fit, to audit any books of account kept or maintained by such person and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account:

Provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.

Intimation by
candidate for
election.

21. Every candidate for election, who had received any foreign contribution, at any time within one hundred and eighty days immediately preceding the date on which he is duly nominated as such candidate, shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government or prescribed authority or both as to the amount of foreign contribution received by him, the source from which, and the manner in which, such foreign contribution was received and the purposes for which and the manner in which such foreign contribution was utilised by him.

Disposal of
assets
created out of
foreign
contribution.

22. Where any person who was permitted to accept foreign contribution under this Act, ceases to exist or has become defunct, all the assets of such person shall be disposed of in accordance with the provisions contained in any law for the time being in force under which the person was registered or incorporated, and in the absence of any such law, the Central Government may, having regard to the nature of assets created out of foreign contribution received under this Act, by notification, specify that all such assets shall be disposed off by such authority, as it may specify, in such manner and procedure as may be prescribed.

CHAPTER V

INSPECTION, SEARCH AND SEIZURE.

Inspection of
accounts or
records.

23. If the Central Government has, for any reason, to be recorded in writing, any ground to suspect that any provision of this Act has been or is being, contravened by--

- (a) any political party; or
- (b) any person; or
- (c) any organisation; or
- (d) any association,

it may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or such other officer or authority or organisation, as it may think fit (hereinafter referred to as the inspecting officer), to inspect any account or record maintained by such political party, person, organisation or association, as the case may be, and thereupon every such inspecting officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of inspecting the said account or record.

Seizure of
accounts or
records.

24. If, after inspection of an account or record referred to in section 23, the inspecting officer has any reasonable cause to believe that any provision of this Act or of any other law relating to foreign exchange has been, or is being, contravened, he may seize such account or record and produce the same before the court, authority or tribunal in which any proceeding is brought for such contravention:

Provided that the authorised officer shall return such account or record to the person from whom it was seized if no proceeding is brought within six months from the date of such seizure for the contravention disclosed by such account or record.

25. If any gazetted officer, authorised in this behalf by the Central Government by general or special order, has any reason to believe that any person has in his possession or control any article exceeding the value specified in sub-clause (i) of clause (h) of sub-section (1) of section 2 or currency or security whether Indian or foreign, in relation to which any provision of this Act has been or is being, contravened, he may seize such article or currency or security.

Seizure of article or currency or security received in contravention of the Act.

26. (1) The Central Government, may, having regard to the value of article or currency or security, their vulnerability to theft or any relevant consideration, by notification, specify such article or currency or security which shall, as soon as may be after their seizure, be disposed of by such officer and in such manner, as the Central Government may, from time to time, determine after following the procedure hereinafter specified.

Disposal of seized article or currency or security.

(2) The article or currency or security seized shall be forwarded without unnecessary delay to such officer as may be specified.

(3) Where any article or currency or security has been seized and forwarded to such officer, the officer referred to in sub-section (1), shall prepare an inventory of such article or currency or security containing such details relating to their description, value or such other identifying particulars as the officer referred to in that sub-section may consider relevant to the identity of the article or the currency or security and make an application to any Magistrate for the purposes of certifying the correctness of the inventory so prepared.

(4) Where an application is made under sub-section (2), the Magistrate shall, as soon as may be, allow the application.

1 of 1872.
2 of 1974.

(5) Notwithstanding anything contained in the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, every court trying an offence under this Act, shall treat the inventory, as certified by the Magistrate, as primary evidence in respect of such offence.

(6) Every officer acting under sub-section (3) shall forthwith report the seizure to the Court of Session or Assistant Sessions Judge having jurisdiction for adjudging the confiscation under section 29.

27. The provisions of the Code of Criminal Procedure, 1973 shall apply in so far as they are not inconsistent with the provisions of this Act to all seizures made under this Act.

Seizure to be made in accordance with Act 2 of 1974.

CHAPTER VI

ADJUDICATION.

28. Any article or currency or security which is seized under section 25 shall be liable to confiscation if such article or currency or security has been adjudged under section 29 to have been received or obtained in contravention of this Act.

Confiscation of article or currency or security obtained in contravention of the Act.

29. (1) Any confiscation referred to in section 28 may be adjudged-

Adjudication of confiscation.

(a) without limit, by the Court of Session within the local limits of whose jurisdiction the seizure was made; and

(b) subject to such limits as may be prescribed, by such officer, not below the rank of an Assistant Sessions Judge, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) When an adjudication under sub-section (1) is concluded by the Court of Session or Assistant Sessions Judge, as the case may be, the Sessions Judge or Assistant Sessions Judge may make such order as he thinks fit for the disposal by

confiscation or delivery of seized article or currency or security, as the case may be, to any person claiming to be entitled to possession thereof or otherwise, or which has been used for the commission of any offence under this Act.

Procedure for
confiscation.

30. No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation against such confiscation has been given to the person from whom any article or currency or security has been seized.

CHAPTER VII

APPEAL AND REVISION.

Appeal.

31. (1) Any person aggrieved by any order made under section 29 may prefer an appeal,-

(a) where the order has been made by the Court of Session, to the High Court to which such Court is subordinate; or

(b) where the order has been made by any officer specified under clause (b) of sub-section (1) of section 29, to the Court of Session within the local limits of whose jurisdiction such order of adjudication of confiscation was made,

within one month from the date of communication to such person of the order:

Provided that the appellate court may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of one month, allow such appeal to be preferred within a further period of one month, but not thereafter.

(2) Any organisation referred to in clause (f) of sub-section (1) of section 3, or any person or association referred to in section 6 or section 9, aggrieved by an order made in pursuance of section 5 or by an order of the Central Government refusing to give permission under this Act, or by any order made by the Central Government under sub-section (2) or sub-section (4) of section 12, or sub-section (1) of section 14, as the case may be, may, within sixty days from the date of such order, prefer an appeal against such order to the High Court within the local limits of whose jurisdiction the appellant ordinarily resides or carries on business or personally works for gain, or, where the appellant is an organisation or association, the principal office of such organisation or association is located.

(3) Every appeal preferred under this section shall be deemed to be an appeal from an original decree and the provisions of Order XLI of the First Schedule to the Code of Civil Procedure, 1908, shall, as far as may be, apply thereto as they apply to an appeal from an original decree.

5 of 1908.

Revision of
orders by
Central
Government.

32. (1) The Central Government may, either of its own motion or on an application for revision by the person registered under this Act, call for and examine the record of any proceeding under this Act in which any such order has been passed by it and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may pass such order thereon as it thinks fit.

(2) The Central Government shall not of its own motion revise any order under this section if the order has been made more than one year previously.

(3) In the case of an application for revision under this section by the person referred to in sub-section (1), the application must be made within one year from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Central Government may, if it is satisfied that such person was prevented by sufficient cause from making the application within that period, admit an application made after the expiry of that period.

(4) The Central Government shall not revise any order where an appeal against the order lies but has not been made and the time within which such appeal may be made has not expired or such person has not waived his right of appeal or an appeal has been filed under this Act.

(5) Every application by such person for revision under this section shall be accompanied by such fee, as may be prescribed.

Explanation.—An order by the Central Government declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to such person.

CHAPTER VIII

OFFENCES AND PENALTIES.

33. Any person, subject to this Act, who knowingly,—

(a) gives false intimation under sub-section (c) of section 9 or section 18; or

(b) seeks prior permission or registration by means of fraud, false representation or concealment of material fact,

shall, on conviction by a court, be liable to imprisonment for a term which may extend to six months or with fine or with both.

Making of false statement declaration or delivering false accounts.

2 of 1974.

34. If any person, on whom any prohibitory order has been served under section 10, pays, delivers, transfers or otherwise deals with, in any manner whatsoever, any article or currency or security, whether Indian or foreign, in contravention of such prohibitory order, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both; and notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying such contravention may also impose on the person convicted an additional fine equivalent to the market value of the article or the amount of the currency or security in respect of which the prohibitory order has been contravened by him or such part thereof as the court may deem fit.

Penalty for article or currency or security obtained in contravention of section 10.

35. Whoever accepts, or assists any person, political party or organisation in accepting, any foreign contribution or any currency or security from a foreign source, in contravention of any provision of this Act or any rule or order made thereunder, shall be punished with imprisonment for a term which may extend to five years, or with fine, or with both.

Punishment for contravention of any provision of the Act.

2 of 1974.

36. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the court trying a person, who, in relation to any article or currency or security, whether Indian or foreign, does or omits to do any act which act or omission would render such article or currency or security liable to confiscation under this Act, may, in the event of the conviction of such person for the act or omission aforesaid, impose on such person a fine not exceeding five times the value of the article or currency or security or one thousand rupees, whichever is more, if such article or currency or security is not available for confiscation, and the fine so imposed shall be in addition to any other fine which may be imposed on such person under this Act.

Power to impose additional fine where article or currency or security is not available for confiscation.

37. Whoever fails to comply with any provision of this Act for which no separate penalty has been provided in this Act shall be punished with imprisonment for a term which may extend to one year, or with fine or with both.

Penalty for offences where no separate punishment has been provided.

38. Notwithstanding anything contained in this Act, whoever, having been convicted of any offence under section 35 or section 37, in so far as such offence relates to the acceptance or utilisation of foreign contribution, is again convicted of such offence shall not accept any foreign contribution for a period of five years from the date of the subsequent conviction.

Prohibition of acceptance of foreign contribution.

39. (1) Where an offence under this Act or any rule or order made thereunder 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 such person liable to any punishment 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 or any rule or order made thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm, society, trade union or other association of individuals; and

(b) “director”, in relation to a firm, society, trade union or other association of individuals, means a partner in the firm or a member of the governing body of such society, trade union or other association of individuals.

Bar on prosecution of offences under the Act.

40. No court shall take cognizance of any offence under this Act, except with the previous sanction of the Central Government or any officer authorised by that Government in this behalf.

Composition of certain offences.

41. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, 2 any offence punishable under this Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by notification in the Official Gazette, specify in this behalf.

2 of 1974.

(2) Nothing in sub-section (1) shall apply to an offence committed by an individual or association or its officer or other employee within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.— For the purposes of this section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) Every officer or authority referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government.

(4) Every application for the compounding of an offence shall be made to the officer or authority referred to in sub-section (1) in such form and manner along with such fee as may be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(6) Every officer or authority referred to in sub-section (1), while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires by an individual or association or its officer or other employee to obtain permission or file or register with, or deliver or send to, the Central Government or any prescribed authority any return, account or other document, may, direct, by order, if he or it thinks fit to do so, any individual or association or its officer or other employee to file or register with, such return, account or other document within such time as may be specified in the order.

CHAPTER IX

MISCELLANEOUS

Power to call for information of document.

42. Any inspecting officer referred to in section 23 who is authorised in this behalf by the Central Government may, during the course of any inspection of any account or record maintained by any political party, person, organisation or association in connection with the contravention of any provision of this Act,—

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or rule or order made thereunder;

(b) require any person to produce or deliver any document or thing useful or relevant to such inspection;

(c) examine any person acquainted with the facts and circumstances of the case related to the inspection.

2 of 1974

43. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act may also be investigated into by such authority as the Central Government may specify in this behalf and the authority so specified shall have all the powers which an officer-in-charge of a police station has while making an investigation into a cognizable offence.

Investigation into cases under the Act.

44. The prescribed authority shall furnish to the Central Government at such time and in such form and manner such returns and statements as may be prescribed.

Returns by prescribed authority to Central Government.

45. No suit or other legal proceedings shall lie against the Central Government or the authority referred to in section 44 or any of its officers in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or, any rule or order made thereunder.

Protection of action taken in good faith.

46. The Central Government may give such directions as it may deem necessary to any other authority or any person or class of persons regarding the carrying into execution of the provisions of this Act.

Power of central Government to give directions.

47. The Central Government may, by notification, direct that any of its powers or functions under this Act, except power to make rule under section 48, shall, in relation to such matters and subject to such conditions, if any, may be specified in the notification, be exercised or discharged also by such authority as may be specified.

Delegation of powers.

48. (1) The Central Government may, by notification, make rules for carrying out the provisions 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 value of the article which may be specified under sub-clause (i) of clause (h) of sub-section (1) of section 2;

(b) the authority which may be specified under clause (P) of sub-section (1) of section 2;

(c) 'acceptance or retention of gift or presentation under clause (d) of section 4;

(d) guidelines specifying the ground or grounds on which an organisation may be specified as an organisation of political nature under sub-section (1) of section 5;

(e) the activities or business which shall be construed as speculative business under the proviso to clause (f) of sub-section (1) of section 8;

(f) the elements and the manner in which the administrative expenses shall be calculated under sub-section (2) of section 8;

(g) the time within which and the manner in which any person or class of persons or an association may be required to furnish intimation regarding the amount of foreign contribution received under clause (c) of section 9;

(h) the time within which and the manner in which any person or class of persons may be required to furnish intimation regarding foreign hospitality under clause (e) of section 9;

(i) the manner in which the copy of the order of the Central Government shall be served upon any person under section 10;

(j) the form and manner in which the application for grant of certificate of registration or giving of prior permission under sub-section (1) of section 12;

(k) the fee to be accompanied by the application under sub-section (1) of section 12;

(l) the terms and conditions for granting a certificate or giving prior permission under clause (g) of sub-section (4) of section 12;

(m) the manner of utilising the foreign contribution under clause (b) of sub-section (2) of section 13;

(n) the authority with whom the foreign contribution to be vested under sub-section (1) of section 15;

(o) the period within which and the manner in which the foreign contribution shall be managed under sub-section (2) of section 15;

(p) the form and manner in which the application for a renewal of certificate of registration shall be made under sub-section (2) of section 16;

(q) the fee to be accompanied by the application for renewal of certificate under sub-section (2) of section 16;

(r) the prescribed amount of foreign remittance, the form and manner in which the foreign remittance received by every bank or authorised person in foreign exchange shall be reported under sub-section (2) of section 17;

(s) the time within which and the manner in which the person who has been granted certificate of registration or given prior permission under this Act shall give intimation under section 18;

(t) the form and manner in which account of any foreign contribution and the manner in which such contribution has been utilised shall be maintained under section 19;

(u) the time within which and the manner in which a candidate for election shall give intimation under section 21 ;

(v) the manner and procedure to be followed in disposing of the assets under section 22;

(w) the limits subject to which any confiscation may be adjudged under clause (b) of sub-section (1) of section 29;

(x) the fee to be accompanied along with every application for revision under sub-section (5) of section 32;

(y) the form and manner for making of an application for compounding of an offence and the fee therefor under sub-section (4) of section 41;

(z) the form and manner in which and the time within which returns and statements to be furnished by the prescribed authority under section 44;

(za) any other matter which is required to be, or may be, prescribed.

Orders and rules to be laid before Parliament.

49. Every order made under section 5 and 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 order or rule or both Houses agree that the order or rule should not be made, the order or 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 order or rule.

Power to exempt in certain cases.

50. If the Central Government is of opinion that it is necessary or expedient in the interests of the general public so to do, it may, by order and subject to such conditions as may be specified in the order, exempt any person or association or organisation

(not being a political party), or any individual (not being a candidate for election) from the operation of all or any of the provisions of this Act and may, as often as may be necessary, revoke or modify such order.

51. Nothing contained in this Act shall apply to any transaction between the Government of India and the Government of any foreign country or territory.

Act not apply to certain Government transactions.

52. 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

53. (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;

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry 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.

49 of 1976

54. (1) The Foreign Contribution (Regulation) Act, 1976 (hereafter referred to as the repealed Act) is hereby repealed.

Repeal and saving

(2) Notwithstanding such repeal,—

(a) anything done or any action taken or purported to have been done or taken under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(b) any organization of a political nature, not being a political party, to whom the prior permission was granted under section 5 of the repealed Act, shall continue to be the organization of a political nature, not being a political party, under clause (f) of sub-section (1) of section 3 of this Act, till such permission is withdrawn by the central Government;

(c) permission to accept foreign hospitality granted under section 9 of the repealed Act shall be deemed to be the permission granted under 6 of this Act until such permission is withdrawn by the Central Government;

(d) any association prohibited from accepting any foreign contribution under clause (a) of section 10 of the repealed Act, in so far as it is not inconsistent with the provisions of this Act, shall be deemed to be an association prohibited from accepting any foreign contribution under section 9 of this Act;

(e) Permission obtained under clause (b) of section 10 of the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to be the permission until such permission is withdrawn by the Central Government;

(f) any order issued under section 12 of the repealed Act shall be deemed to be an order issued under section 10 of this Act;

(g) any order issued under section 31 of the repealed Act exempting any association or any individual shall be deemed to be an order under section 50 of this Act till such order is varied or revoked.

(3) Save as provided in sub-section (2) mention of particular matter in that sub-section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 27th September, 2010.

The following Act of Parliament received the assent of the President on the 26th September 2010 and is hereby published for general information:—

THE INDIAN MEDICINE CENTRAL COUNCIL (AMENDMENT) ACT, 2010.

ACT No. 43 OF 2010.

An Act, further to amend the Indian Medicine Central Council Act, 1970.

BE it enacted Parliament in the Sixty-first year of the Republic of India as follows:—

1.(1) This Act may be called the Indian Medicine Central Council (Amendment) Act, 2010.

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.

48 of 1970

2. In the Indian Medicine Central Council Act, 1970 (hereinafter referred to as the principal Act), in section 2, in clause (e) for the words “ or Unani Tibb”, the words “ Unani of s Tibb or Sowa-Rigpa” shall be substituted.

Amendment of section 2.

3. In the principal Act, in section 3 ,-

Amendment of section 3.

(a) for the words “and Unani” wherever they occur, the words “, Unani and Sowa-Rigpa” shall be substituted; and

(b) for the words “or Unani”, the words “, Unani or Sowa-Rigpa” shall be substituted.

4. In section 8 of the principal Act, in the proviso to sub-section (2), for the words “ or Unani”, the words “, Unani or Sowa-Rigpa” shall be substituted.

Amendment of section 8.

5. In section 9 of the principal Act,-

Amendment of section 9.

(A) for sub-section (1), the following sub- section shall be substituted, namely:-

“(1) The central Council shall constitute from amongst its members.-

(a) a committee for Ayurveda;

(b) a committee for Siddha;

(c) a committee for Unani; and

(d) a committee for sowa-Rigpa,

and each such committee shall consist of members elected under clause (a) or clause (b) or nominated under clause (c) of sub-section (1) of section 3 representing the Ayurveda, Siddha, Unani or Sowa-Rigpa system of medicine as the case may be.”;

(B) In subsection (2), for the words “ and Unani”, the words “ Unani and Sowa-Rigpa” shall be substituted;

(C) In subsection (3) for the words “ Unani”, the words “ or Unani and Sowa-Rigpa” shall be substituted;

6. In section 17 of the principal Act, in sub-section (2), in clause (a) for the words “Physicain or”, the words “Physician or Amchi or” shall be substituted.

Amendment of section 17.

7. In the First Schedule to the principal Act, in paragraph 1, for the words “ and Unani”, the words “, Unani and Sowa- Rigpa” shall be substituted.

Amendment of First Schedule.

V.K. BHASIN,
Secretary to the Government of India.

(Republished by order of the Governor)

R. KATHIRVEL,
*Additional Secretary to Government,
Law Department.*

New Delhi, 13th December, 2010.

The following Act of Parliament received the assent of the President on the 11th December, 2010 and is hereby published for general information:—

THE APPROPRIATION (No. 5) ACT, 2010.

ACT No. 44 OF 2010.

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 2010-11.

BE it enacted, by Parliament in the Sixty-first year of the Republic of India as follows:-

1. This Act may be called the Appropriation (No. 5) Act, 2010. Short title.
2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of forty-four thousand nine hundred forty-five crores and fifty-two lakh rupees only towards defraying the several charges which will come in the course of payment during the financial year 2010-11 in respect of the services specified in column 2 of the Schedule. Issue of Rs 44945,52,00,000 out of the consolidated fund of India for financial year 2010-11.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year. Appropriation

THE SCHEDULE

(See sections 2 and 3)

No. of Vote.	Services and purposes.	Sums not exceeding			
		Voted by Parliament	Charged on the consolidated Fund	Total	
(1)	(2)	(3)	(3)		
		Rs.	Rs.	Rs.	
1	Department of Agriculture and Cooperation	Revenue	3,00,000	..	3,00,000
		Capital	1,00,000	..	1,00,000
3	Department of Animal Husbandry, Dairying and Fisheries	Revenue	1,00,000	..	1,00,000
4	Atomic Energy	Revenue	2,00,000	1,50,00,000	1,52,00,000
		Capital	2,00,000	20,00,000	22,00,000
5	Nuclear Power Schemes	Revenue	1,00,000	..	1,00,000
6	Department of Chemicals and Petrochemicals	Revenue	1,00,000	..	1,00,000
7	Department of Fertilisers	Revenue	5000,00,00,000	..	5000,00,00,000
12	Department of Industrial Policy and Promotion	Revenue	..	46,08,00,000	46,08,00,000
13	Department of Posts	Revenue	10,00,000	24,00,000	34,00,000
14	Department of Telecommunications	Revenue	1200,00,00,000	..	1200,00,00,000
16	Department of Consumer Affairs	Revenue	150,01,00,000	..	150,01,00,000
17	Department of Food and Public Distribution	Revenue	5184,27,00,000	..	5184,27,00,000
		Capital	5000,01,00,000	..	5000,01,00,000

Sums not exceeding

No. of Vote.	Services and purposes.	Sums not exceeding			
		Voted by Parliament	Charged on the consolidated Fund	Total	
(1)	(2)	(3)			
		Rs.	Rs.	Rs.	
19	Ministry of Culture	Revenue	1,00,000	..	1,00,000
20	Ministry of Defence	Revenue	1,00,000	1,00,000	2,00,000
		Capital	..	14,00,000	14,00,000
22	Defence Services—Army	Revenue	-	43,65,00,000	43,65,00,000
23	Defence Services—Navy	Revenue	..	3,00,00,000	3,00,00,000
28	Ministry of Development of North Eastern Region	Revenue	1,00,000	..	1,00,000
30	Ministry of Environment and Forests.....	Revenue	33,91,00,000	..	33,91,00,000
		Capital	47,00,000	..	47,00,000
31	Ministry of External Affairs	Revenue	488,72,00,000	..	488,72,00,000
33	Department of Financial Services	Revenue	300,00,00,000	..	300,00,00,000
35	Transfers to State and Union territory Governments	Revenue	1,00,000	1,00,000	2,00,000
		Capital	-	1000,00,00,000	1000,00,00,000
	<i>CHARGED.-Repayment of debt</i>	Capital	-	12000,00,00,000	12000,00,00,000
46	Department of Health and Family Welfare	Revenue	27,06,00,000	..	27,06,00,000
		Capital	2,00,000	..	2,00,000
47	Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH)	Revenue	3,00,000	..	3,00,000
48	Department of Health Research	Revenue	30,00,00,000	..	30,00,00,000
49	Department of Heavy Industry	Capital	127,48,00,000	..	127,48,00,000
50	Department of Public Enterprises	Revenue	2,16,00,000	..	2,16,00,000
51	Ministry of Home Affairs	Revenue	2,00,000	..	2,00,000
52	Cabinet	Revenue	1,50,00,000	..	1,50,00,000
53	Police	Revenue	2066,00,00,000	..	2066,00,00,000
		Capital	1,00,000	..	1,00,000
54	Other Expenditure of the Ministry of Home Affairs	Revenue	1,00,000	..	1,00,000
55	Transfers to Union territory Governments ...	Revenue	5,00,00,000	..	5,00,00,000
56	Ministry of Housing and Urban Poverty Alleviation	Revenue	3,00,000	..	3,00,000
57	Department of School Education and Literacy	Revenue	2,00,000	..	2,00,000
58	Department of Higher Education	Revenue	2,00,000	..	2,00,000
59	Ministry of Information and Broadcasting...	Capital	2,18,00,000	..	2,18,00,000
62	Law and Justice	Revenue	1,00,000	..	1,00,000

Sums not exceeding

No. of Vote.	Services and purposes.		Sums not exceeding		Total
			Voted by Parliament	Charged on the consolidated Fund	
(1)	(2)		(3)		
		Rs.	Rs.	Rs.	
65	Ministry of Mines	Revenue	43,75,00,000	..	43,75,00,000
		Capital	40,00,00,000	..	40,00,00,000
67	Ministry of New and Renewable Energy	Revenue	1,00,000	..	1,00,000
71	Ministry of Personnel, Public Grievances and Pensions	Revenue	35,01,00,000	2,00,00,000	37,01,00,000
72.	Ministry of Petroleum and Natural Gas	Revenue	278,00,00,000	..	278,00,00,000
73	Ministry of Planning	Revenue	1,00,000	..	1,00,000
74	Ministry of Power	Revenue	42,00,000	..	42,00,000
76	Lok Sabha	Revenue	34,00,00,000	20,00,000	34,20,00,000
77	Rajya Sabha	Revenue	23,00,00,000	..	23,00,00,000
	<i>CHARGED—Union Public Service Commission</i>	Revenue	..	15,00,00,000	15,00,00,000
80	Ministry of Road Transport and Highways ..	Revenue	1700,00,00,000	..	1700,00,00,000
81	Department of Rural Development	Revenue	3000,00,00,000	..	3000,00,00,000
83	Department of Drinking Water and Sanitation (Previously Department of Drinking Water Supply)	Revenue	1,00,000	..	1,00,000
84	Department of Science and Technology	Revenue	1,00,000	..	1,00,000
88	Ministry of Social Justice and Empowerment	Revenue	1,00,000	..	1,00,000
90	Ministry of Statistics and Programme Implementation.....	Revenue	149,13,00,000	..	149,13,00,000
92	Ministry of Textiles	Revenue	6797,70,00,000	..	6797,70,00,000
95	Andaman and Nicobar Islands	Revenue	1,00,000	..	1,00,000
96	Chandigarh	Revenue	80,00,00,000	..	80,00,00,000
100	Department of Urban Development	Revenue	2,00,000	..	2,00,000
101	Public Works	Capital	33,18,00,000	..	33,18,00,000
103	Ministry of Water Resources	Revenue	1,00,000	..	1,00,000
104	Ministry of Women and Child Development	Revenue	2,00,000	..	2,00,000
	Total ..		31833,49,00,000	13112,03,00,000	44945,52,00,000

V.K. BHASIN,
Secretary to the Government of India.

(Republished by Order of the Governor)

R. KATHIRVEL,
Additional Secretary to Government,
Law Department.

New Delhi, 13th December, 2010.

The following Act of Parliament received the assent of the President on the 11th December 2010 and is hereby published for general information:—

THE APPROPRIATION (No. 6) ACT, 2010.

ACT No. 45 OF 2010.

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 2009, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (No.6) Act, 2010.

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 thousand twelve crores, eighty one lakhs, ninety-eight thousand, one hundred and seventeen 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 specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 2009, in excess of the amounts granted for those services and for that year.

Issue of Rs. 1012,81,98,117 out of the consolidated fund of India to meet certain excess expenditure for the year ended on 31st day of March 2009.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial ended on the 31st day of March, 2009.

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote.	Services and purposes.		Excess		Total.
			Voted portion.	Charged portion.	
(1)	(2)		Rs.	Rs. (3)	Rs.
19	Ministry of Defence.....	Revenue	27,49,86,122	..	27,49,86,122
20	Defence Pensions.....	Revenue	13,32,985	..	13,32,985
23	Defence Services-Air Force.....	Revenue	610,36,59,389	..	610,36,59,389
24	Defence Ordnance Factories.....	Revenue	132,24,87,268	..	132,24,87,268
39	Pensions.....	Revenue	163,18,09,424	..	163,18,09,424
54	Other Expenditure of the Ministry of Home Affairs.....	Revenue	79,39,22,929	..	79,39,22,929
	Total ..		1012,81,98,117	..	1012,81,98,117

V.K. BHASIN,
Secretary to the Government of India.

(Republished by Order of the Governor)

R. KATHIRVEL,
Additional Secretary to Government,
Law Department.

New Delhi, 13th December, 2010.

The following Act of Parliament received the assent of the President on the 11th December 2010 and is hereby published for general information:—

THE APPROPRIATION (RAILWAYS) No. 5 ACT, 2010.

ACT No. 46 OF 2010.

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 2010-11 for the purposes of Railways.

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

- | | |
|---|--|
| <p>1. This Act may be called the Appropriation (Railways) (No. 5) Act, 2010.</p> <p>2. From and out of the Consolidated Fund of India, there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of one thousand twenty-four crores and sixty-one lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2010-11, in respect of the services relating to Railways specified in column 2 of the Schedule.</p> <p>3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.</p> | <p>Short title.</p> <p>Issue of Rs. 1024,61,00,000 out of the consolidated fund of India for financial year 2010-11.</p> <p>Appropriation.</p> |
|---|--|

THE SCHEDULE

(See sections 2 and 3)

No. of Vote.	Services and purposes.	Sums not exceeding		
		Voted by parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs. (3)	Rs.
(1)	(2)			
16	Assets Acquisition, Construction and Replacement— <i>Other Expenditure</i>			
	Capital ..	1024,61,00,000	..	1024,61,00,000
	Total ..	1024,61,00,000	..	1024,61,00,000

V.K. BHASIN,
Secretary to the Government of India.

(Republished by Order of the Governor)

R. KATHIRVEL,
Additional Secretary to Government,
Law Department.

New Delhi, 13th December, 2010.

The following Act of Parliament received the assent of the President on the 11th December 2010 and is hereby published for general information:—

THE APPROPRIATION (RAILWAYS) No. 6 ACT, 2010.

ACT No. 47 OF 2010.

An Act to provide for the 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, 2009, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (Railways) (No. 6) Act, 2010.

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 five hundred Thirty-Two crores, twelve lakhs, six thousand, five hundred and eighty-eight 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, 2009, in excess of the amounts granted for those services and for that year.

Issue of Rs. 532,12,06,588 out of the consolidated fund of India to meet certain expenditure for the financial year ended on 31st day of March 2009.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 2009.

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote.	Services and purposes.	Sums not exceeding		
		Voted by parliament.	Charged on the Consolidated Fund.	Total
		Rs.	Rs. (3)	Rs.
(1)	(2)			
3	General Superintendence and Services on Railways	2,29,984	2,29,984
4	Repairs and Maintenance of Permanent Way and Works ..	106,57,53,717	..	106,57,53,717
5	Repairs and Maintenance of Motive Power	103,08,70,786	1,19,659	103,09,90,445
6	Repairs and Maintenance of Carriages and Wagons	157,24,85,154	-	157,24,85,154
7	Repairs and Maintenance of Plant and Equipment	13,07,46,176	-	13,07,46,176
8	Operating Expenses - Rolling Stock and Equipment	128,30,18,548	-	128,30,18,548
15	Dividend to General Revenues, Repayment of loans taken from General Revenues and Amortisation of Over-Capitalisation	6,71,23,341	..	6,71,23,341

THE SCHEDULE

(See sections 2 and 3)

Sums not exceeding

No. of Vote.	Services and purposes.	Sums not exceeding		
		Voted by parliament	Charged on the Consolidated Fund.	Total
(1)	(2)	Rs.	Rs. (3)	Rs.
16	Assets-Acquisition, Construction and Replacement <i>Other Expenditure</i>			
	Capital	17,08,59,223	17,08,59,223
	Total ..	<u>514,99,97,722</u>	<u>17,12,08,866</u>	<u>532,12,06,588</u>

V.K. BHASIN,
Secretary to the Government of India.

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R. KATHIRVEL,
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Law Department.