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Part IV—Section 4

CENTRAL ACTS AND ORDINANCES

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th July, 2018 / Shravana 4, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 26th July, 2018 and is hereby re-published for general information:—

THE PREVENTION OF CORRUPTION (AMENDMENT) ACT, 2018

No. 16 OF 2018

[26th July, 2018.]

An Act further to amend the Prevention of Corruption Act, 1988.

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

Short title and commencement.

1. (1) This Act may be called the Prevention of Corruption (Amendment) Act, 2018.

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

Amendment of section 2.

2. In the Prevention of Corruption Act, 1988 (hereinafter referred to as the principal Act), in section 2,—

49 of 1988

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

‘(aa) “prescribed” means prescribed by rules made under this Act and the expression “prescribe” shall be construed accordingly;’;

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

‘(d) “undue advantage” means any gratification whatever, other than legal remuneration.

Explanation.—For the purposes of this clause,—

(a) the word “gratification” is not limited to pecuniary gratifications or to gratifications estimable in money;

(b) the expression “legal remuneration” is not restricted to remuneration paid to a public servant, but includes all remuneration which he is permitted by the Government or the organisation, which he serves, to receive.’.

Amendment of Section 4.

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

“(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the trial of an offence shall be held, as far as practicable, on day-to-day basis and an endeavour shall be made to ensure that the said trial is concluded within a period of two years:

2 of 1974

Provided that where the trial is not concluded within the said period, the special Judge shall record the reasons for not having done so:

Provided further that the said period may be extended by such further period, for reasons to be recorded in writing but not exceeding six months at a time; so, however, that the said period together with such extended period shall not exceed ordinarily four years in aggregate.”.

4. For sections 7, 8, 9 and 10 of the principal Act, the following sections shall be substituted, namely:—

Substitution of
New Sections
for Sections
7,8,9 and 10.

“7. Any public servant who,—

Offence relat-
ing to public
servant being
bribed.

(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or

(b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation 1.—For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

Illustration.—A public servant, ‘S’ asks a person, ‘P’ to give him an amount of five thousand rupees to process his routine ration card application on time. ‘S’ is guilty of an offence under this section.

Explanation 2.—For the purpose of this section,—

(i) the expressions “obtains” or “accepts” or “attempts to obtain” shall cover cases where a person being a public servant, obtains or “accepts” or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;

(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party.

“7A. Whoever accepts or obtains or attempts to obtain from another person for himself or for any other person any undue advantage as a motive or reward to induce a public servant, by corrupt or illegal means or by exercise of his personal influence to perform or to cause performance of a public duty improperly or dishonestly or to forbear or to cause to forbear such public duty by such public servant or by another public servant, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Taking undue
advantage
to influence
public
servant
by corrupt
or illegal
means or
by exercise
of personal
influence.

Offence relating to bribing of a public servant

8. (1) Any person who gives or promises to give an undue advantage to another person or persons, with intention—

(i) to induce a public servant to perform improperly a public duty; or

(ii) to reward such public servant for the improper performance of public duty;

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

Provided that the provisions of this section shall not apply where a person is compelled to give such undue advantage:

Provided further that the person so compelled shall report the matter to the law enforcement authority or investigating agency within a period of seven days from the date of giving such undue advantage:

Provided also that when the offence under this section has been committed by commercial organisation, such commercial organisation shall be punishable with fine.

Illustration.—A person, ‘P’ gives a public servant, ‘S’ an amount of ten thousand rupees to ensure that he is granted a license, over all the other bidders. ‘P’ is guilty of an offence under this sub-section.

Explanation.—It shall be immaterial whether the person to whom an undue advantage is given or promised to be given is the same person as the person who is to perform, or has performed, the public duty concerned, and, it shall also be immaterial whether such undue advantage is given or promised to be given by the person directly or through a third party.

(2) Nothing in sub-section (1) shall apply to a person, if that person, after informing a law enforcement authority or investigating agency, gives or promises to give any undue advantage to another person in order to assist such law enforcement authority or investigating agency in its investigation of the offence alleged against the later.

Offence relating to bribing a public servant by a commercial organisation.

9. (1) Where an offence under this Act has been committed by a commercial organisation, such organisation shall be punishable with fine, if any person associated with such commercial organisation gives or promises to give any undue advantage to a public servant intending—

(a) to obtain or retain business for such commercial organisation; or

(b) to obtain or retain an advantage in the conduct of business for such commercial organisation:

Provided that it shall be a defence for the commercial organisation to prove that it had in place adequate procedures in compliance of such guidelines as may be prescribed to prevent persons associated with it from undertaking such conduct.

(2) For the purposes of this section, a person is said to give or promise to give any undue advantage to a public servant, if he is alleged to have committed the offence under section 8, whether or not such person has been prosecuted for such offence.

(3) For the purposes of section 8 and this section,—

(a) “commercial organisation” means—

(i) a body which is incorporated in India and which carries on a business, whether in India or outside India;

(ii) any other body which is incorporated outside India and which carries on a business, or part of a business, in any part of India;

(iii) a partnership firm or any association of persons formed in India and which carries on a business whether in India or outside India; or

(iv) any other partnership or association of persons which is formed outside India and which carries on a business, or part of a business, in any part of India;

(b) “business” includes a trade or profession or providing service;

(c) a person is said to be associated with the commercial organisation, if such person performs services for or on behalf of the commercial organisation irrespective of any promise to give or giving of any undue advantage which constitutes an offence under sub-section (1).

Explanation 1.—The capacity in which the person performs services for or on behalf of the commercial organisation shall not matter irrespective of whether such person is employee or agent or subsidiary of such commercial organisation.

Explanation 2.—Whether or not the person is a person who performs services for or on behalf of the commercial organisation is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between such person and the commercial organisation.

Explanation 3.—If the person is an employee of the commercial organisation, it shall be presumed unless the contrary is proved that such person is a person who has performed services for or on behalf of the commercial organisation.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence under sections 7A, 8 and this section shall be cognizable.

(5) The Central Government shall, in consultation with the concerned stakeholders including departments and with a view to preventing persons associated with commercial organisations from bribing any person, being a public servant, prescribe such guidelines as may be considered necessary which can be put in place for compliance by such organisations.

10. Where an offence under section 9 is committed by a commercial organisation, and such offence is proved in the court to have been committed with the consent or connivance of any director, manager, secretary or other officer shall be of the commercial organisation, such director, manager, secretary or other officer shall be guilty of the offence and shall be liable to be proceeded against and shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation.—For the purposes of this section, “director”, in relation to a firm means a partner in the firm.”.

5. In section 11 of the principal Act,—

(i) in the marginal heading, for the words “valuable thing”, the words “undue advantage” shall be substituted;

(ii) the words “or agrees to accept” shall be omitted;

(iii) for the words “valuable thing”, the words “undue advantage” shall be substituted;

(iv) for the words “official functions”, the words “official functions or public duty” shall be substituted.

6. For section 12 of the principal Act, the following section shall be substituted, namely:—

Person in charge of commercial organisation to be guilty of offence.

Amendment of Section 11.

Substitution of new Section for Section 12.

- Punishment for abetment of offences.
- “12. Whoever abets any offence punishable under this Act, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than three years, but which may extend to seven years and shall also be liable to fine.”
- Amendment of Section 13
7. In section 13 of the principal Act, for sub-section (I), the following shall be substituted, namely:—
- “(I) A public servant is said to commit the offence of criminal misconduct,—
- (a) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or any property under his control as a public servant or allows any other person so to do; or
- (b) if he intentionally enriches himself illicitly during the period of his office.
- Explanation 1.*—A person shall be presumed to have intentionally enriched himself illicitly if he or any person on his behalf, is in possession of or has, at any time during the period of his office, been in possession of pecuniary resources or property disproportionate to his known sources of income which the public servant cannot satisfactorily account for.
- Explanation 2.*—The expression “known sources of income” means income received from any lawful sources.”
- Substitution of new Section for Section 14.
8. For section 14 of the principal Act, the following section shall be substituted, namely:—
- “14. Whoever convicted of an offence under this Act subsequently commits an offence punishable under this Act, shall be punishable with imprisonment for a term which shall be not less than five years but which may extend to ten years and shall also be liable to fine.”
- Amendment of Section 15.
9. In section 15 of the principal Act, for the words, brackets and letters “clause (c) or clause (d)”, the word, brackets, and letter “clause (a)” shall be substituted.
- Amendment of Section 16.
10. In section 16 of the principal Act,—
- (a) for the words, brackets and figures, “sub-section (2) of section 13 or section 14”, the words, figures and brackets “section 7 or section 8 or section 9 or section 10 or section 11 or sub-section (2) of section 13 or section 14 or section 15” shall be substituted;
- (b) for the word, brackets and letter “clause (e)”, the word, brackets and letter “clause (b)” shall be substituted.
- Amendment of Section 17.
11. In section 17 of the principal Act, in the second proviso, for the words, brackets, letter and figure “clause (e) of sub-section (I)”, the words, brackets, letter and figure “clause (b) of sub-section (I)” shall be substituted.
- Insertion of new Section 17A.
12. After section 17 of the principal Act, the following section shall be inserted, namely:—
- “17A. (I) No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval—
- (a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;
- (b) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;
- Enquiry or Inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties.

(c) in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:

Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person:

Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month.”.

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

Insertion of new Chapter IVA.

‘CHAPTER IVA

ATTACHMENT AND FORFEITURE OF PROPERTY

15 of 2003.
Ord. 38 of
1944.

18A. (1) Save as otherwise provided under the Prevention of Money Laundering Act, 2002, the provisions of the Criminal Law Amendment Ordinance, 1944 shall, as far as may be, apply to the attachment, administration of attached property and execution of order of attachment or confiscation of money or property procured by means of an offence under this Act.

Provisions of Criminal Law Amendment Ordinance, 1944 to apply to attachment under this Act.

Ord. 38 of 1944.

(2) For the purposes of this Act, the provisions of the Criminal Law Amendment Ordinance, 1944 shall have effect, subject to the modification that the references to “District Judge” shall be construed as references to “Special Judge”.

14. In section 19 of the principal Act, in sub-section (1),—

Amendment of Section 19.

(i) for the words and figures “sections 7, 10, 11, 13 and 15”, the words and figures “sections 7, 11, 13 and 15” shall be substituted;

(ii) in clause (a), for the words “who is employed”, the words “who is employed, or as the case may be, was at the time of commission of the alleged offence employed” shall be substituted;

(iii) in clause (b), for the words “who is employed”, the words “who is employed, or as the case may be, was at the time of commission of the alleged offence employed” shall be substituted;

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

“Provided that no request can be made, by a person other than a police officer or an officer of an investigation agency or other law enforcement authority, to the appropriate Government or competent authority, as the case may be, for the previous sanction of such Government or authority for taking cognizance by the court of any of the offences specified in this sub-section, unless—

(i) such person has filed a complaint in a competent court about the alleged offences for which the public servant is sought to be prosecuted; and

(ii) the court has not dismissed the complaint under section 203 of the Code of Criminal Procedure, 1973 and directed the complainant to obtain the sanction for prosecution against the public servant for further proceeding:

2 of 1974.

Provided further that in the case of request from the person other than a police officer or an officer of an investigation agency or other law enforcement authority, the appropriate Government or competent authority shall not accord sanction to prosecute a public servant without providing an opportunity of being heard to the concerned public servant:

Provided also that the appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section, endeavour to convey the decision on such proposal within a period of three months from the date of its receipt:

Provided also that in case where, for the purpose of grant of sanction for prosecution, legal consultation is required, such period may, for the reasons to be recorded in writing, be extended by a further period of one month:

Provided also that the Central Government may, for the purpose of sanction for prosecution of a public servant, prescribe such guidelines as it considers necessary.

Explanation.—For the purposes of sub-section (1), the expression "public servant" includes such person—

(a) who has ceased to hold the office during which the offence is alleged to have been committed; or

(b) who has ceased to hold the office during which the offence is alleged to have been committed and is holding an office other than the office during which the offence is alleged to have been committed."

Substitution of new Section for Section 20.

15. For section 20 of the principal Act, the following section shall be substituted, namely:—

Presumption where public servant accepts any undue advantage.

"20. Where, in any trial of an offence punishable under section 7 or under section 11, it is proved that a public servant accused of an offence has accepted or obtained or attempted to obtain for himself, or for any other person, any undue advantage from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or attempted to obtain that undue advantage, as a motive or reward under section 7 for performing or to cause performance of a public duty improperly or dishonestly either by himself or by another public servant or, as the case may be, any undue advantage without consideration or for a consideration which he knows to be inadequate under section 11."

Amendment of Section 23.

16. In section 23 of the principal Act,—

(a) in the marginal heading, for the word, figures, brackets and letter "section 13 (1) (c)", the word, figures, brackets and letter "section 13 (1) (A)" shall be substituted;

(b) for the word, brackets and letter "clause (c)", the word, brackets and letter "clause (a)" shall be substituted.

Omission of Section 34.

17. Section 24 of the principal Act shall be omitted.

Insertion of new Section 29A.

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

Power to make rules.

"29A. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

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

(a) guidelines which can be put in place by commercial organisation under section 9;".

(b) guidelines for sanction of prosecution under sub-section (1) of section 19;".

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

(3) Every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the

rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

19. In the Prevention of Money Laundering Act, 2002, in Part A of the Schedule, for Paragraph 8, the following Paragraph shall be substituted, namely:—

Amendment of
Act 15 of 2003.

“PARAGRAPH 8

OFFENCES UNDER THE PREVENTION OF CORRUPTION ACT, 1988

(49 OF 1988)

Section Description of offence.

7. Offence relating to public servant being bribed.
- 7A. Taking undue advantage to influence public servant by corrupt or illegal means or by exercise of personal influence.
8. Offence relating to bribing a public servant.
9. Offence relating to bribing a public servant by a commercial organisation.
10. Person in charge of commercial organisation to be guilty of offence.
11. Public servant obtaining undue advantage, without consideration from person concerned in proceeding or business transacted by such public servant.
12. Punishment for abetment of offences.
13. Criminal misconduct by a public servant.
14. Punishment for habitual offender.”.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 1st August, 2018 / Shravana 10, 1940 (Saka)

The following Act of Parliament received the assent of the President on the 31st July, 2018 and is hereby re-published for general information:—

THE FUGITIVE ECONOMIC OFFENDERS ACT, 2018

No. 17 OF 2018

[31st July, 2018.]

An Act to provide for measures to deter fugitive economic offenders from evading the process of law in India by staying outside the jurisdiction of Indian courts, to preserve the sanctity of the rule of law in India and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Fugitive Economic Offenders Act, 2018.

Short title extent and commencement.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 21st day of April, 2018.

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

Definitions.

(a) “Administrator” means an Administrator appointed under sub-section (1) of section 15;

(b) “benami property” and “benami transaction” shall have the same meanings as assigned to them under clauses (8) and (9) respectively of section 2 of the Prohibition of Benami Property Transactions Act, 1988;

45 of 1988.

(c) “contracting State” means any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise;

(d) “Deputy Director” means the Deputy Director appointed under sub-section (1) of section 49 of the Prevention of Money-laundering Act, 2002;

15 of 2003.

(e) “Director” means the Director appointed under sub-section (1) of section 49 of the Prevention of Money-laundering Act, 2002; 15 of 2003.

(f) “fugitive economic offender” means any individual against whom a warrant for arrest in relation to a Scheduled Offence has been issued by any Court in India, who—

(i) has left India so as to avoid criminal prosecution; or

(ii) being abroad, refuses to return to India to face criminal prosecution;

(g) “key managerial personnel” shall have the same meaning as assigned to it in clause (51) of section 2 of the Companies Act, 2013; 18 of 2013.

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

(i) “person” includes—

(i) an individual;

(ii) a Hindu Undivided Family;

(iii) a company;

(iv) a trust;

(v) a partnership;

(vi) a limited liability partnership;

(vii) an association of persons or a body of individuals, whether incorporated or not;

(viii) every artificial juridical person not falling within any of the preceding sub-clauses; and

(ix) any agency, office or branch owned or controlled by any of the above persons mentioned in the preceding sub-clauses;

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

(k) “proceeds of crime” means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a Scheduled Offence, or the value of any such property, or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad;

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

(m) “Scheduled Offence” means an offence specified in the Schedule, if the total value involved in such offence or offences is one hundred crore rupees or more;

(n) “Special Court” means a Court of Session designated as a Special Court under sub-section (1) of section 43 of the Prevention of Money-laundering Act, 2002. 15 of 2013.

15 of 2003. (2) The words and expressions used and not defined in this Act but defined in the Prevention of Money-laundering Act, 2002 shall have the meanings respectively assigned to them in that Act.

3. The provisions of this Act shall apply to any individual who is, or becomes, a fugitive economic offender on or after the date of coming into force of this Act.

Application of Act.

CHAPTER II

DECLARATION OF FUGITIVE ECONOMIC OFFENDERS AND CONFISCATION OF PROPERTY

4. (1) Where the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, has reason to believe (the reasons for such belief to be recorded in writing), on the basis of material in his possession, that any individual is a fugitive economic offender, he may file an application in such form and manner as may be prescribed in the Special Court that such individual may be declared as a fugitive economic offender.

Application for declaration of fugitive economic offender and procedure therefor.

(2) The application referred to in sub-section (1) shall contain—

(a) reasons for the belief that an individual is a fugitive economic offender;

(b) any information available as to the whereabouts of the fugitive economic offender;

(c) a list of properties or the value of such properties believed to be the proceeds of crime, including any such property outside India for which confiscation is sought;

(d) a list of properties or benami properties owned by the individual in India or abroad for which confiscation is sought; and

(e) a list of persons who may have an interest in any of the properties listed under clauses (c) and (d).

15 of 2003. (3) The Authorities appointed for the purposes of the Prevention of Money-laundering Act, 2002 shall be the Authorities for the purposes of this Act.

5. (1) The Director or any other officer authorised by the Director, not below the rank of Deputy Director, may, with the permission of the Special Court, attach any property mentioned in the application under section 4 by an order in writing in such manner as may be prescribed.

Attachment of property.

(2) Notwithstanding anything contained in sub-section (1) or section 4, the Director or any other officer, not below the rank of Deputy Director, authorised by the Director, may, by an order in writing, at any time prior to the filing of the application under section 4, attach any property—

(a) for which there is a reason to believe that the property is proceeds of crime, or is a property or benami property owned by an individual who is a fugitive economic offender; and

(b) which is being or is likely to be dealt with in a manner which may result in the property being unavailable for confiscation:

Provided that the Director or any other officer who provisionally attaches any property under this sub-section shall, within a period of thirty days from the date of such attachment, file an application under section 4 before the Special Court.

(3) The attachment of any property under this section shall continue for a period of one hundred and eighty days from the date of order of attachment or such other period as may be extended by the Special Court before the expiry of such period.

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under sub-section (1) from such enjoyment.

Explanation.—For the purposes of this sub-section, the expression “person interested”, in relation to any immovable property includes all persons claiming or entitled to claim any interest in the property.

Powers of Director and other officers

6. The Director or any other officer shall, for the purposes of section 4, 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) discovery and inspection;
- (b) enforcing the attendance of any person, including any officer of a reporting entity and examining him on oath;
- (c) compelling the production of records;
- (d) receiving evidence on affidavits;
- (e) issuing commissions for examination of witnesses and documents; and
- (f) any other matter which may be prescribed.

Power of survey.

7. (1) Notwithstanding anything contained in any other provisions of this Act, where a Director or any other officer authorised by the Director, on the basis of material in his possession, has reason to believe (the reasons for such belief to be recorded in writing), that an individual may be a fugitive economic offender, he may enter any place—

- (i) within the limits of the area assigned to him; or
- (ii) in respect of which he is authorised for the purposes of this section, by such other authority, who is assigned the area within which such place is situated.

(2) Where the Director or any other officer authorised by him, on the basis of material in his possession, has reason to believe (the reasons for such belief to be recorded in writing) that an individual may be a fugitive economic offender and it is necessary to enter any place as mentioned in sub-section (1), he may request any proprietor, employee or any other person who may be present at that time, to—

- (a) afford him the necessary facility to inspect such records as he may require and which may be available at such place;
- (b) afford him the necessary facility to check or verify the proceeds of crime or any transaction related to proceeds of crime which may be found therein; and
- (c) furnish such information as he may require as to any matter which may be useful for, or relevant to any proceedings under this Act.

(3) The Director, or any other officer acting under this section may—

- (i) place marks of identification on the records inspected by him and make or cause to be made extracts or copies therefrom;
- (ii) make an inventory of any property checked or verified by him; and
- (iii) record the statement of any person present at the property which may be useful for, or relevant to, any proceeding under this Act.

Search and seizure

8. (1) Notwithstanding anything contained in any other law for the time being in force, where the Director or any other officer not below the rank of Deputy Director authorised by him for the purposes of this section, on the basis of information in his possession, has reason to believe (the reason for such belief to be recorded in writing) that any person—

- (i) may be declared as a fugitive economic offender;
- (ii) is in possession of any proceeds of crime;
- (iii) is in possession of any records which may relate to proceeds of crime; or

(iv) is in possession of any property related to proceeds of crime,
then, subject to any rules made in this behalf, he may authorise any officer subordinate to him to—

(a) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such records or proceeds of crime are kept;

(b) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (a) where the keys thereof are not available;

(c) seize any record or property found as a result of such search;

(d) place marks of identification on such record or property, if required or make or cause to be made extracts or copies therefrom;

(e) make a note or an inventory of such record or property; and

(f) examine on oath any person, who is found to be in possession or control of any record or property, in respect of all matters relevant for the purposes of any investigation under this Act.

(2) Where an authority, upon information obtained during survey under section 7, is satisfied that any evidence shall be or is likely to be concealed or tampered with, he may, for reasons to be recorded in writing, enter and search the building or place where such evidence is located and seize that evidence.

9. Notwithstanding anything contained in any other law for the time being in force—

Search of
persons.

(a) if an authority, authorised in this behalf by the Central Government by general or special order, has reason to believe (the reason for such belief to be recorded in writing) that any person has secreted about his person or anything under his possession, ownership or control, any record or proceeds of crime which may be useful for or relevant to any proceedings under this Act, he may search that person and seize such record or property which may be useful for or relevant to any proceedings under this Act;

(b) where an authority is about to search any person, he shall, if such person so requires, take such person within twenty-four hours to the nearest Gazetted Officer, superior in rank to him, or a Magistrate:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey undertaken to take such person to the nearest Gazetted Officer, superior in rank to him, or the Magistrate's Court;

(c) if the requisition under clause (b) is made, the authority shall not detain the person for more than twenty-four hours prior to taking him before the Gazetted Officer, superior in rank to him, or the Magistrate referred to in that clause:

Provided that the period of twenty-four hours shall exclude the time necessary for the journey from the place of detention to the office of the Gazetted Officer, superior in rank to him, or the Magistrate's Court;

(d) the Gazetted Officer or the Magistrate before whom any such person is brought shall, if he sees no reasonable ground for search, forthwith discharge such person but otherwise shall direct that search be made;

(e) before making the search under clause (a) or clause (d), the authority shall call upon two or more persons to attend and witness the search and the search shall be made in the presence of such persons;

(f) the authority shall prepare a list of record or property seized in the course of the search and obtain the signatures of the witnesses on the list;

(g) no female shall be searched by anyone except a female; and

(h) the authority shall record the statement of the person searched under clause (a) or clause (d) in respect of the records or proceeds of crime found or seized in the course of the search.

Notice

10. (1) Where an application under section 4 has been duly filed, the Special Court shall issue a notice to an individual who is alleged to be a fugitive economic offender.

(2) The notice referred to in sub-section (1), shall also be issued to any other person who has any interest in the property mentioned in the application under sub-section (2) of section 4.

(3) A notice under sub-section (1) shall—

(a) require the individual to appear at a specified place and time not less than six weeks from the date of issue of such notice; and

(b) state that failure to appear on the specified place and time shall result in a declaration of the individual as a fugitive economic offender and confiscation of property under this Act.

(4) A notice under sub-section (1) shall be forwarded to such authority, as the Central Government may notify, for effecting service in a contracting State.

(5) The authority referred to in sub-section (4) shall make efforts to serve the notice within a period of two weeks in such manner as may be prescribed.

(6) A notice under sub-section (1) may also be served to the individual alleged to be a fugitive economic offender by electronic means to—

(a) his electronic mail address submitted in connection with an application for allotment of Permanent Account Number under section 139A of the Income-tax Act, 1961;

43 of 1961.

(b) his electronic mail address submitted in connection with an application for enrolment under section 3 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016; or

18 of 2016.

(c) any other electronic account as may be prescribed, belonging to the individual which is accessed by him over the internet, subject to the satisfaction of the Special Court that such account has been recently accessed by the individual and constitutes a reasonable method for communication of the notice to the individual.

Procedure for hearing application.

11. (1) Where any individual to whom notice has been issued under sub-section (1) of section 10 appears in person at the place and time specified in the notice, the Special Court may terminate the proceedings under this Act.

(2) Where any individual to whom notice has been issued under sub-section (1) of section 10 fails to appear at the place and time specified in the notice, but enters appearance through counsel, the Special Court may in its discretion give a period of one week to file a reply to the application under section 4.

(3) Where any individual to whom notice has been issued under sub-section (1) of section 10 fails to enter appearance either in person or through counsel, and the Special Court is satisfied—

(a) that service of notice has been effected on such party; or

(b) that notice could not be served in spite of best efforts because such individual has evaded service of notice,

it may, after recording reasons in writing, proceed to hear the application.

(4) The Special Court may also give any person to whom notice has been issued under sub-section (2) of section 10 a period of one week to file a reply to the application under section 4.

12. (1) After hearing the application under section 4, if the Special Court is satisfied that an individual is a fugitive economic offender, it may, by an order, declare the individual as a fugitive economic offender for reasons to be recorded in writing.

Declaration of fugitive economic offender.

(2) On a declaration under sub-section (1), the Special Court may order that any of the following properties stand confiscated to the Central Government—

(a) the proceeds of crime in India or abroad, whether or not such property is owned by the fugitive economic offender; and

(b) any other property or benami property in India or abroad, owned by the fugitive economic offender.

(3) The confiscation order of the Special Court shall, to the extent possible, identify the properties in India or abroad that constitute proceeds of crime which are to be confiscated and in case such properties cannot be identified, quantify the value of the proceeds of crime.

(4) The confiscation order of the Special Court shall separately list any other property owned by the fugitive economic offender in India which is to be confiscated.

(5) Where the Special Court has made an order for confiscation of any property under sub-section (2), and such property is in a contracting State, the Special Court may issue a letter of request to a Court or authority in the contracting State for execution of such order.

(6) Every letter of request to be transmitted to a contracting State under sub-section (5) shall be transmitted in such form and manner as the Central Government may, by notification, specify in this behalf.

(7) The Special Court may, while making the confiscation order, exempt from confiscation any property which is a proceed of crime in which any other person, other than the fugitive economic offender, has an interest if it is satisfied that such interest was acquired *bona fide* and without knowledge of the fact that the property was proceeds of crime.

(8) All the rights and title in the confiscated property shall, from the date of the confiscation order, vest in the Central Government, free from all encumbrances.

(9) Where on the conclusion of the proceedings, the Special Court finds that the individual is not a fugitive economic offender, the Special Court shall order release of property or record attached or seized under this Act to the person entitled to receive it.

(10) Where an order releasing the property has been made by the Special Court under sub-section (9), the Director or any other officer authorised by him in this behalf may withhold the release of any such property or record for a period of ninety days from the date of receipt of such order, if he is of the opinion that such property is relevant for the appeal proceedings under this Act.

13. (1) Where at any time after the institution of the application under section 4, any other property is discovered or identified which constitutes proceeds of crime or is property or benami property owned by the individual in India or abroad who is a fugitive economic offender liable to be confiscated under this Act, the Director or any other officer not below the rank of Deputy Director authorised by the Director for the purposes of this section, may file a supplementary application in the Special Court seeking confiscation of such properties.

Supplementary application.

(2) The provisions of sections 4 to 12 shall, as far as may be, apply in relation to such application as they apply in relation to an application under section 4.

14. Notwithstanding anything contained in any other law for the time being in force,—

(a) on a declaration of an individual as a fugitive economic offender, any Court or tribunal in India, in any civil proceeding before it, may, disallow such individual from putting forward or defending any civil claim; and

Power to disallow civil claims.

(b) any Court or tribunal in India in any civil proceeding before it, may, disallow any company or limited liability partnership from putting forward or defending any civil claim, if an individual filing the claim on behalf of the company or the limited liability partnership, or any promoter or key managerial personnel or majority shareholder of the company or an individual having a controlling interest in the limited liability partnership has been declared as a fugitive economic offender.

Explanation.—For the purposes of this section, the expressions—

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

(b) “limited liability partnership” shall have the same meaning as assigned to it in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008.

6 of 2009.

Management of properties confiscated under this Act.

15. (1) The Central Government may, by order published in the Official Gazette, appoint as many of its officers (not below the rank of a Joint Secretary to the Government of India) as it thinks fit, to perform the functions of an Administrator.

(2) The Administrator appointed under sub-section (1) shall receive and manage the property in relation to which an order has been made under sub-section (2) of section 12 in such manner and subject to such conditions as may be prescribed.

(3) The Administrator shall also take such measures, as the Central Government may direct, to dispose of the property which is vested in the Central Government under section 12:

Provided that the Central Government or the Administrator shall not dispose of any property for a period of ninety days from the date of the order under sub-section (2) of section 12.

CHAPTER III

MISCELLANEOUS

Rules of Evidence.

16. (1) The burden of proof for establishing—

(a) that an individual is a fugitive economic offender; or

(b) that a property is the proceeds of crime or any other property in which the individual alleged to be a fugitive economic offender has an interest,

shall be on the Director or the person authorised by the Director to file the application under section 4.

(2) Notwithstanding anything contained in any other law for the time being in force, where any person referred to in sub-section (2) of section 10 claims that any interest in any property was acquired *bona fide* and without knowledge of the fact that, such property constitutes proceeds of crime, the burden of proving such fact shall lie upon him.

(3) The standard of proof applicable to the determination of facts by the Special Court under this Act shall be preponderance of probabilities.

Appeal.

17. (1) An appeal shall lie from any judgment or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.

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

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

Provided further that no appeal shall be entertained after the expiry of period of ninety days.

<p>18. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Special Court is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.</p>	Bar of jurisdiction	
<p>19. No suit, prosecution or other legal proceeding shall lie against the Central Government or Presiding Officer of the Special Court or Director or Deputy Director or any other officer authorised by the Director for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.</p>	Protection of action taken in good faith.	
<p>20. (1) The Central Government may, having regard to the objects of this Act, and if it considers necessary or expedient so to do, by notification add to, or as the case may be, omit from the Schedule any offences specified therein.</p>	Power of Central Government to amend Schedule.	
<p>(2) Every such notification shall, as soon as after it is issued, be laid before each House of Parliament.</p>		
<p>21. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.</p>	Overriding effect.	
<p>22. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.</p>	Application of other laws not barred.	
<p>23. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.</p>	Power to make rules.	
<p>(2) In particular, and without prejudice to generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—</p>		
<p>(a) the form and manner of filing application under sub-section (1) of section 4;</p>		
<p>(b) the manner of attachment of property under sub-section (1) of section 5;</p>		
<p>(c) other matters under clause (f) of section 6;</p>		
<p>(d) the procedure for conducting search and seizure under section 8;</p>		
<p>(e) the manner in which the notice shall be served under sub-section (5) of section 10;</p>		
<p>(f) any other electronic account under clause (c) of sub-section (6) of section 10;</p>		
<p>(g) the manner and conditions subject to which the Administrator shall receive and manage the property confiscated under sub-section (2) of section 15; and</p>		
<p>(h) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules.</p>		
<p>24. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p>	Laying of rules before Parliament.	
<p>25. (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:</p>	Power to remove difficulties.	
<p>Provided that no order shall be made under this section after the expiry of five years from the date of commencement of this Act.</p>		
<p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.</p>		
Ord.1 of 2018.	<p>26. (1) The Fugitive Economic Offenders Ordinance, 2018, is hereby repealed.</p>	Repeal and saving.
	<p>(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.</p>	

THE SCHEDULE

[See section 2(l) and (m)]

Section	Description of offence
I. Offences under the Indian Penal Code, 1860 (45 of 1860)	
120B read with any offence in this Schedule	Punishment of criminal conspiracy.
255	Counterfeiting Government stamp.
257	Making or selling instrument for counterfeiting Government stamp.
258	Sale of counterfeit Government stamp.
259	Having possession of counterfeit Government stamp.
260	Using as genuine a Government stamp known to be counterfeit.
417	Punishment for cheating.
418	Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect.
420	Cheating and dishonestly inducing delivery of property.
421	Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.
422	Dishonestly or fraudulently preventing debt being available for creditors.
423	Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
424	Dishonest or fraudulent removal or concealment of property.
467	Forgery of valuable security, will, etc.
471	Using as genuine a forged [document or electronic record].
472	Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 467.
473	Making or possessing counterfeit seal, etc., intent to commit forgery punishable otherwise.
475	Counterfeiting device or mark used for authenticating documents described in section 467, or possessing counterfeit marked material.
476	Counterfeiting device or mark used for authenticating documents other than those described in section 467, or possessing counterfeit marked material.
481	Using a false property mark.
482	Punishment for using a false property mark.
483	Counterfeiting a property mark used by another.
484	Counterfeiting a mark used by a public servant.
485	Making or possession of any instrument for counterfeiting a property mark.
486	Selling goods marked with a counterfeit property mark.

Section	Description of offence
487	Making a false mark upon any receptacle containing goods.
488	Punishment for making use of any such false mark.
489A	Counterfeiting currency notes or bank notes.
489B	Using as genuine, forged or counterfeit currency notes or bank notes.
II. Offences under the Negotiable Instruments Act, 1881 (26 of 1881)	
138	Dishonour of cheque for insufficiency, etc., of funds in the account.
III. Offences under the Reserve Bank of India Act, 1934 (2 of 1934)	
58B	Penalties.
IV. Offences under the Central Excise Act, 1944 (1 of 1944)	
Section 9	Offences and Penalties.
V. Offences under the Customs Act, 1962 (52 of 1962)	
135	Evasion of duty or prohibitions.
VI. Offences under the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988)	
3	Prohibition of benami transactions.
VII. Offences under the Prevention of Corruption Act, 1988 (49 of 1988)	
7	Public servant taking gratification other than legal remuneration in respect of an official act.
8	Taking gratification in order, by corrupt or illegal means, to influence public servant.
9	Taking gratification for exercise of personal influence with public servant.
10	Punishment for abetment by public servant of offences defined in section 8 or section 9 of the Prevention of Corruption Act, 1988.
13	Criminal misconduct by a public servant.
VIII. Offences under the Securities and Exchange Board of India Act, 1992 (15 of 1992)	
12A read with section 24	Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.
24	Offences for contravention of the provisions of the Act.
IX. Offences under the Prevention of Money Laundering Act, 2002 (15 of 2003)	
3	Offence of money-laundering.
4	Punishment for money-laundering.
X. Offences under the Limited Liability Partnership Act, 2008 (6 of 2009)	
Sub-section (2) of section 30	Carrying on business with intent or purpose to defraud creditors of the Limited Liability Partnership or any other person or for any other fraudulent purpose.

Section	Description of offence
XI. Offences under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010)	
34	Penalty for article or currency or security obtained in contravention of section 10.
35	Punishment for contravention of any provision of the Act.
XII. Offences under the Companies Act, 2013 (18 of 2013)	
Sub-section (4) of section 42 of the Companies Act, 2013 read with section 24 of the Securities and Exchange Board of India Act, 1992 (15 of 1992)	Offer or invitation for subscription of securities on private placement.
74	Repayment of deposits, etc., accepted before commencement of the Companies Act, 2013.
76A	Punishment for contravention of section 73 or section 76 of the Companies Act, 2013.
Second proviso to sub-section (4) of section 206	Carrying on business of a company for a fraudulent or unlawful purpose.
Clause (b) of section 213	Conducting the business of a company with intent to defraud its creditors, members or any other persons or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose.
447	Punishment for fraud.
452	Punishment for wrongful withholding of property.
XIII. Offences under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015)	
51	Punishment for wilful attempt to evade tax.
XIV. Offences under the Insolvency and Bankruptcy Code, 2016 (31 of 2016)	
69	Punishment for transactions defrauding creditors.

Section	Description of offence
XV. Offences under the Central Goods and Services Tax Act, 2017 (12 of 2017)	
Sub-section (5) of section 132	Punishment for certain offences.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

CORRIGENDA

IN THE PREVENTION OF CORRUPTION (AMENDMENT) ACT, 2018 (16 of 2018)
as published in the Gazette of India, Extraordinary, Part II, **Section 1, Issue No. 28, dated the 16th July, 2018**—

Page No.	Line(s) No.	<i>For</i>	<i>Read</i>
3	32	“later”	“latter”
5	3	“shall be not”	“shall not be”
5	23	“shall be not”	“shall not be”
5	39	“17A.(I)”	“17A.”
7	5	“presecrbe”	“prescribe”
7	26	“section 13(I) (A)”	“section 13(1) (a)”

New Delhi, the 1st August, 2018 / Shravana 10, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 1st August, 2018 and is hereby re-published for general information:—

THE SPECIFIC RELIEF (AMENDMENT) ACT, 2018

No. 18 OF 2018

[1st August, 2018.]

An Act further to amend the Specific Relief Act, 1963.

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

1. (1) This Act may be called the Specific Relief (Amendment) Act, 2018.

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.

47 of 1963.

2. In section 6 of the Specific Relief Act, 1963 (hereinafter referred to as the principal Act), in sub-section (1), after the words “he or any person”, the words “through whom he has been in possession or any person” shall be inserted.

Amendment of Section 6.

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

Substitution of new Section for Section 10

“10. The specific performance of a contract shall be enforced by the court subject to the provisions contained in sub-section (2) of section 11, section 14 and section 16.”.

Specific performance in respect of contracts.

4. In section 11 of the principal Act, in sub-section (1), for the words “contract may, in the discretion of the court”, the words “contract shall” shall be substituted.

Amendment of Section 11.

5. For section 14 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new Sections for Section 14.

Contracts not specifically enforceable.

“14. The following contracts cannot be specifically enforced, namely:—

(a) where a party to the contract has obtained substituted performance of contract in accordance with the provisions of section 20;

(b) a contract, the performance of which involves the performance of a continuous duty which the court cannot supervise;

(c) a contract which is so dependent on the personal qualifications of the parties that the court cannot enforce specific performance of its material terms; and

(d) a contract which is in its nature determinable.

Power of court to engage experts.

14A. (1) Without prejudice to the generality of the provisions contained in the Code of Civil Procedure, 1908, in any suit under this Act, where the court considers it necessary to get expert opinion to assist it on any specific issue involved in the suit, it may engage one or more experts and direct to report to it on such issue and may secure attendance of the expert for providing evidence, including production of documents on the issue.

5 of 1908.

(2) The court may require or direct any person to give relevant information to the expert or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

(3) The opinion or report given by the expert shall form part of the record of the suit; and the court, or with the permission of the court any of the parties to the suit, may examine the expert personally in open court on any of the matters referred to him or mentioned in his opinion or report, or as to his opinion or report, or as to the manner in which he has made the inspection.

(4) The expert shall be entitled to such fee, cost or expense as the court may fix, which shall be payable by the parties in such proportion, and at such time, as the court may direct.”.

Amendment of Section 15.

6. In section 15 of the principal Act, after clause (f), the following clause shall be inserted, namely:—

“(fa) when a limited liability partnership has entered into a contract and subsequently becomes amalgamated with another limited liability partnership, the new limited liability partnership which arises out of the amalgamation.”.

Amendment of Section 16.

7. In section 16 of the principal Act,—

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

“(a) who has obtained substituted performance of contract under section 20; or”;

(ii) in clause (c),—

(I) for the words “who fails to aver and prove”, the words “who fails to prove” shall be substituted;

(II) in the *Explanation*, in clause (ii), for the words “must aver”, the words “must prove” shall be substituted.

8. In section 19 of the principal Act, after clause (c), the following clause shall be inserted, namely:—

Amendment of Section 19.

“(ca) when a limited liability partnership has entered into a contract and subsequently becomes amalgamated with another limited liability partnership, the new limited liability partnership which arises out of the amalgamation.”.

9. For sub-heading “*Discretion and powers of Court*” occurring after section 19, the sub-heading “*Substituted performance of contracts, etc.*” shall be substituted.

Amendment of sub-heading under Chapter II.

10. For section 20 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new Sections for Section 20.

9 of 1872.

“20. (1) Without prejudice to the generality of the provisions contained in the Indian Contract Act, 1872, and, except as otherwise agreed upon by the parties, where the contract is broken due to non-performance of promise by any party, the party who suffers by such breach shall have the option of substituted performance through a third party or by his own agency, and, recover the expenses and other costs actually incurred, spent or suffered by him, from the party committing such breach.

Substituted performance of contract.

(2) No substituted performance of contract under sub-section (1) shall be undertaken unless the party who suffers such breach has given a notice in writing, of not less than thirty days, to the party in breach calling upon him to perform the contract within such time as specified in the notice, and on his refusal or failure to do so, he may get the same performed by a third party or by his own agency:

Provided that the party who suffers such breach shall not be entitled to recover the expenses and costs under sub-section (1) unless he has got the contract performed through a third party or by his own agency.

(3) Where the party suffering breach of contract has got the contract performed through a third party or by his own agency after giving notice under sub-section (1), he shall not be entitled to claim relief of specific performance against the party in breach.

(4) Nothing in this section shall prevent the party who has suffered breach of contract from claiming compensation from the party in breach.

20A. (1) No injunction shall be granted by a court in a suit under this Act involving a contract relating to an infrastructure project specified in the Schedule, where granting injunction would cause impediment or delay in the progress or completion of such infrastructure project.

Special provisions for contract relating to infrastructure project.

Explanation.—For the purposes of this section, section 20B and clause (ha) of section 41, the expression “infrastructure project” means the category of projects and infrastructure Sub-Sectors specified in the Schedule.

(2) The Central Government may, depending upon the requirement for development of infrastructure projects, and if it considers necessary or expedient to do so, by notification in the Official Gazette, amend the Schedule relating to any Category of projects or Infrastructure Sub-Sectors.

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

Special Courts.

20B. The State Government, in consultation with the Chief Justice of the High Court, shall designate, by notification published in the Official Gazette, one or more Civil Courts as Special Courts, within the local limits of the area to exercise jurisdiction and to try a suit under this Act in respect of contracts relating to infrastructure projects.

Expeditions disposal of suits.

20C. Notwithstanding anything contained in the Code of Civil Procedure, 1908, a suit filed under the provisions of this Act shall be disposed of by the court within a period of twelve months from the date of service of summons to the defendant:

5 of 1908.

Provided that the said period may be extended for a further period not exceeding six months in aggregate after recording reasons in writing for such extension by the court.”.

Amendment of Section 21.

11. In section 21 of the principal Act, in sub-section (J), for the words “, either in addition to, or in substitution of,” the words “in addition to” shall be substituted.

Amendment of Section 25.

12. In section 25 of the principal Act, for the words and figures “the Arbitration Act, 1940”, the words and figures “the Arbitration and Conciliation Act, 1996” shall be substituted.

10 of 1940.
26 of 1996.

Amendment of Section 41.

13. In section 41 of the principal Act, after clause (h), the following clause shall be inserted, namely:—

“(ha) if it would impede or delay the progress or completion of any infrastructure project or interfere with the continued provision of relevant facility related thereto or services being the subject matter of such project.”.

Insertion of Schedule.

14. After Part III of the principal Act, the following Schedule shall be inserted, namely:—

‘THE SCHEDULE

[See sections 20A and 41 (ha)]

Category of projects and Infrastructure Sub-Sectors

Sl. No.	Category	Infrastructure Sub-Sectors
1	2	3
1.	Transport	<p>(a) Road and bridges</p> <p>(b) Ports (including Capital Dredging)</p> <p>(c) Shipyards (including a floating or land-based facility with the essential features of waterfront, turning basin, berthing and docking facility, slipways or ship lifts, and which is self-sufficient for carrying on shipbuilding/repair/breaking activities)</p> <p>(d) Inland Waterways</p> <p>(e) Airports</p> <p>(f) Railway Track, tunnels, viaducts, bridges, terminal infrastructure including stations and adjoining commercial infrastructure</p> <p>(g) Urban Public Transport (except rolling stock in case of urban road transport)</p>

1	2	3
2.	Energy	<p>(a) Electricity Generation</p> <p>(b) Electricity Transmission</p> <p>(c) Electricity Distribution</p> <p>(d) Oil pipelines</p> <p>(e) Oil/Gas/Liquefied Natural Gas (LNG) storage facility (including strategic storage of crude oil)</p> <p>(f) Gas pipelines (including city gas distribution network)</p>
3.	Water and Sanitation	<p>(a) Solid Waste Management</p> <p>(b) Water supply pipelines</p> <p>(c) Water treatment plants</p> <p>(d) Sewage collection, treatment and disposal system</p> <p>(e) Irrigation (dams, channels, embankments, etc.)</p> <p>(f) Storm Water Drainage System</p> <p>(g) Slurry pipelines</p>
4.	Communication	<p>(a) Telecommunication (Fixed network including optic fibre/wire/cable networks which provide broadband/internet)</p> <p>(b) Telecommunication towers</p> <p>(c) Telecommunications and Telecom Services</p>
5.	Social and Commercial Infrastructure	<p>(a) Education Institutions (capital stock)</p> <p>(b) Sports infrastructure (including provision of Sports Stadia and Infrastructure for Academies for Training/Research in Sports and Sports-relating activities)</p> <p>(c) Hospitals (capital stock including Medical Colleges, Para Medical Training Institutes and Diagnostic Centres)</p> <p>(d) Tourism infrastructure viz. (i) three-star or higher category classified hotels located outside cities with population of more than one million; (ii) ropeways and cable cars</p> <p>(e) Common infrastructure for industrial parks and other parks with industrial activity such as food parks, textile parks, Special Economic Zones, tourism facilities and agriculture markets</p> <p>(f) Post-harvest storage infrastructure for agriculture and horticulture produce including cold storage</p> <p>(g) Terminal markets</p> <p>(h) Soil-testing laboratories</p> <p>(i) Cold chain (including cold room facility for farm level pre-cooling, for preservation or storage of agriculture and allied produce, marine products and meat)</p>

1	2	3
		<p>(j) Affordable Housing (including a housing project using at least 50% of the Floor Area Ratio (FAR)/ Floor Space Index (FSI) for dwelling units with carpet area of not more than 60 square meters</p> <p><i>Explanation.</i>—For the purposes of this sub-clause, the term “carpet area” shall have the same meaning as assigned to it in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016).!</p>

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 2nd August, 2018 / Shravana 11, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 2nd August, 2018 and is hereby re-published for general information:—

THE STATE BANKS (REPEAL AND AMENDMENT) ACT, 2018

No. 19 OF 2018

[2nd August, 2018.]

An Act to repeal the State Bank of India (Subsidiary Banks) Act, 1959, the State Bank of Hyderabad Act, 1956 and further to amend the State Bank of India Act, 1955.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the State Banks (Repeal and Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 1st day of April, 2017.

Short title and commencement.

CHAPTER II

REPEAL OF THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT, 1959 AND THE STATE BANK OF HYDERABAD ACT, 1956

2. (1) The State Bank of India (Subsidiary Banks) Act, 1959 and the State Bank of Hyderabad Act, 1956 are hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken, including any agreement entered into under the provisions of the State Bank of India (Subsidiary Banks) Act, 1959 by the State Bank of Hyderabad, the State Bank of Bikaner and Jaipur, the State Bank of Mysore, the State Bank of Patiala and the State Bank of Travancore, or under the provisions of the State Bank of Hyderabad Act, 1956 by the State Bank of Hyderabad, shall continue to be in force and have effect as if this Act has not been enacted.

(3) The mention of particulars in sub-section (2) 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.

CHAPTER III

AMENDMENTS TO THE STATE BANK OF INDIA ACT, 1955

3. In section 2 of the State Bank of India Act, 1955 (hereinafter in this Chapter referred to as the principal Act), clause (h) shall be omitted.

Amendment of Section 2.

4. In section 18 of the principal Act, in sub-section (1), the words “including those relating to a subsidiary bank” shall be omitted.

Amendment of Section 18.

5. In section 31 of the principal Act, in sub-section (3), in the proviso, in clause (ii), the words “or a director of a subsidiary bank” shall be omitted.

Amendment of Section 31.

6. In section 31A of the principal Act, in sub-section (3), in the proviso, in clause (ii), the words “or a director of a subsidiary bank” shall be omitted.

Amendment of Section 31A.

38 of 1959.
79 of 1956.

38 of 1959

79 of 1956.

10 of 1897.

23 of 1955.

Amendment of
Section 32.

7. In section 32 of the principal Act,—

Amendment of
Section 36.

(a) in sub-section (1), the words “or where there is a branch of a subsidiary bank” shall be omitted;

(b) in sub-section (4), the words “or through a subsidiary bank” shall be omitted.

8. In section 36 of the principal Act, in sub-section (2), clause (aa) shall be omitted.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 2nd August, 2018 / Shravana 11, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 2nd August, 2018 and is hereby re-published for general information:—

THE NEGOTIABLE INSTRUMENTS (AMENDMENT) ACT, 2018

No. 20 OF 2018

[2nd August, 2018.]

An Act further to amend the Negotiable Instruments Act, 1881.

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

1. (1) This Act may be called the Negotiable Instruments (Amendment) Act, 2018.

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.

26 of 1881.

2. In the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), after section 143, the following section shall be inserted, namely:—

Insertion of new section 143A.

2 of 1974.

“143A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant—

Power to direct interim compensation.

(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and

(b) in any other case, upon framing of charge.

(2) The interim compensation under sub-section (1) shall not exceed twenty per cent. of the amount of the cheque.

(3) The interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.

(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

2 of 1974.

(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973.

2 of 1974.

(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973, shall be reduced by the amount paid or recovered as interim compensation under this section.”

3. In the principal Act, after section 147, the following section shall be inserted, namely:—

Insertion of new section 148.

2 of 1974.

“148. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent. of the fine or compensation awarded by the trial Court:

Power of Appellate Court to order payment pending appeal against conviction.

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 143A.

(2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.”.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 9th August, 2018 / Sharavana 18, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 9th August, 2018 and is hereby re-published for general information:—

THE REQUISITIONING AND ACQUISITION OF IMMOVABLE
PROPERTY (AMENDMENT) ACT, 2018

No. 21 OF 2018

[9th August, 2018.]

An Act further to amend the Requisitioning and Acquisition of Immovable
Property Act, 1952.

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

1. (1) This Act may be called the Requisitioning and Acquisition of Immovable Property (Amendment) Act, 2018.

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.

30 of 1952.

2. In the Requisitioning and Acquisition of Immovable Property Act, 1952, in section 7, after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 14th March, 1952, namely:—

Amendment
of section 7.

“(1A) Notwithstanding any judgment or order by a court or any other authority, setting aside a notice under sub-section (1) on the ground that the owner or any other person who may be interested in the property was not given adequate opportunity to show cause or personal hearing, the Central Government may re-issue the notice to the owner or such other person interested in the property, for the purpose of giving opportunity of being heard:

23 of 1955.

Provided that where a notice is re-issued, the owner or such other person interested in the property shall be entitled to the same annual rate of interest, prevalent at any relevant time on the domestic fixed deposit offered by the State Bank of India, as defined under clause (g) of section 2 of the State Bank of India Act, 1955, on the compensation payable under this Act, from the date of publication of the first notice, till the final payment of the compensation under this Act:

Provided further that any enhanced compensation with or without interest awarded by the court or other authority, before the date of commencement of the Requisitioning and Acquisition of Immovable Property (Amendment) Act, 2018, shall be subject to the re-issuance of a notice under this sub-section and shall be applicable only to the cases of land being acquired for national security and defence purpose:

Provided also that in the cases, where the final award under this Act has been made and compensation thereof has been accepted by the owner or such other person interested in the property, before the commencement of the Requisitioning and Acquisition of the Immovable Property (Amendment) Act, 2018, shall not be reopened.”.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 11th August, 2018 / Shravana 20, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 11th August, 2018 and is hereby re-published for general information:—

THE CRIMINAL LAW (AMENDMENT) ACT, 2018

No. 22 OF 2018

[11th August, 2018.]

An Act further to amend the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Criminal Law (Amendment) Act, 2018.
- (2) It shall be deemed to have come into force on the 21st day of April, 2018.

Short title and commencement.

CHAPTER II

AMENDMENTS TO THE INDIAN PENAL CODE

45 of 1860

2. In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 166A, in clause (c), for the words, figures and letters "section 376B, section 376C, section 376D", the words, figures and letters "section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 166A.

3. In section 228A of the Penal Code, in sub-section (1), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

Amendment of section 228A.

4. In section 376 of the Penal Code,—

Amendment of section 376.

(a) in sub-section (1), for the words "shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine", the words "shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine" shall be substituted;

(b) in sub-section (2), clause (i) shall be omitted;

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

"(3) Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim."

5. After section 376A of the Penal Code, the following section shall be inserted, namely:—

Insertion of new section 376AB.

Punishment for rape on woman under twelve years of age.	<p>"376AB. Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death:</p> <p>Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:</p> <p>Provided further that any fine imposed under this section shall be paid to the victim."</p>	
Insertion of new sections 376DA and 376DB.	<p>6. After section 376D of the Penal Code, the following sections shall be inserted, namely:—</p>	
Punishment for gang rape on woman under sixteen years of age.	<p>"376DA. Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine:</p> <p>Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:</p> <p>Provided further that any fine imposed under this section shall be paid to the victim.</p>	
Punishment for gang rape on woman under twelve years of age.	<p>376DB. Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine, or with death:</p> <p>Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:</p> <p>Provided further that any fine imposed under this section shall be paid to the victim."</p>	
Amendment of section 376E.	<p>7. In section 376E of the Penal Code, for the word, figures and letter "section 376D", the words, figures and letters "section 376AB or section 376D or section 376DA or section 376DB," shall be substituted.</p>	
<p>CHAPTER III</p> <p>AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872</p>		
Amendment of section 53A	<p>8. In section 53A of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.</p>	1 of 1872.
Amendment of section 146	<p>9. In section 146 of the Evidence Act, in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.</p>	
<p>CHAPTER IV</p> <p>AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973</p>		
Amendment of section 26	<p>10. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in clause (a), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.</p>	2 of 1974.

- 11.** In section 154 of the Code of Criminal Procedure, in sub-section (1),—
- Amendment of section 154.
- (i) in the first proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted;
- (ii) in the second proviso, in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted.
- 12.** In section 161 of the Code of Criminal Procedure, in sub-section (3), in the second proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.
- Amendment of section 161.
- 13.** In section 164 of the Code of Criminal Procedure, in sub-section (5A), in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.
- Amendment of section 164.
- 14.** In section 173 of the Code of Criminal Procedure,—
- Amendment of section 173.
- (i) in sub-section (1A), for the words "rape of a child may be completed within three months", the words, figures and letters "an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code shall be completed within two months" shall be substituted;
- (ii) in sub-section (2), in clause (i), in sub-clause (h), for the word, figures and letters "section 376, 376A, 376B, 376C, 376D", the word, figures and letters "sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.
- 15.** In section 197 of the Code of Criminal Procedure, in sub-section (1), in the *Explanation*, for the words, figures and letters "section 376A, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.
- Amendment of section 197.
- 16.** In section 309 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible,", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA or section 376DB of the Indian Penal Code, the inquiry or trial shall" shall be substituted.
- Amendment of section 309.
- 17.** In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.
- Amendment of section 327.
- 18.** In section 357B of the Code of Criminal Procedure, for the words, figures and letters "under section 326A or section 376D of the Indian Penal Code", the words, figures and letters "under section 326A, section 376AB, section 376D, section 376DA and section 376DB of the Indian Penal Code" shall be substituted.
- Amendment of section 357B.
- 19.** In section 357C of the Code of Criminal Procedure, for the figures and letters "376A, 376B, 376C, 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.
- Amendment of section 357C.
- 20.** In section 374 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—
- Amendment of section 374.

45 of 1860.

45 of 1860.

45 of 1860.

Amendment of
section 377.

21. In section 377 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal."

45 of 1860.

Amendment of
section 438.

22. In section 438 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code."

45 of 1860.

Amendment of
section 439.

23. In section 439 of the Code of Criminal Procedure,—

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

"Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.";

45 of 1860.

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

"(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code."

45 of 1860.

24. In the First Schedule to the Code of Criminal Procedure, under the heading "I.— OFFENCES UNDER THE INDIAN PENAL CODE",— Amendment of First Schedule.

(a) for the entries relating to section 376, the following entries shall be substituted, namely:—

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what Court triable
1	2	3	4	5	6
"376	Rape.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
	Persons committing offence of rape on a woman under sixteen years of age.	Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.";

(b) after the entries relating to section 376A, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"376AB	Person committing an offence of rape on a woman under twelve years of age.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session.";

(c) after the entries relating to section 376D, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"376DA	Gang rape on a woman under sixteen years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
376DB	Gang rape on woman under twelve years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session."

CHAPTER V

AMENDMENT TO THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

Amendment of section 42 of Act No.32 of 2012.

25. In section 42 of the Protection of Children from Sexual Offences Act, 2012, for the figures and letters "376A, 376C, 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.

Repeal and savings.

26. (1) The Criminal Law (Amendment) Ordinance, 2018 is hereby repealed.

Ord. No.2 of 2018.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

45 of 1860.
1 of 1872.
2 of 1974.
32 of 2012.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 13th August, 2018 / Shravana 22, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 13th August, 2018 and is hereby re-published for general information:—

THE HOMOEOPATHY CENTRAL COUNCIL
(AMENDMENT) ACT, 2018

No. 23 OF 2018

[13th August, 2018.]

An Act further to amend the Homoeopathy Central Council Act, 1973.

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

1. (1) This Act may be called the Homoeopathy Central Council (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 18th day of May, 2018.

2. In the Homoeopathy Central Council Act, 1973 (hereinafter referred to as the principal Act), after section 3, the following sections shall be inserted, namely:—

‘3A. (1) On and from the date of commencement of the Homoeopathy Central Council (Amendment) Act, 2018, the Central Council shall stand superseded and the President, Vice-President and other members of the Central Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

(2) The Central 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 Central Council under sub-section (1).

(3) Upon the supersession of the Central 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 Central Council under this Act.

(4) The Central Government shall, by notification in the Official Gazette, constitute a 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 Homoeopathy and Homoeopathy education, and eminent administrators, and who may be either nominated member or members, *ex officio*, to be appointed by the Central Government, one of whom shall be selected 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 such place and shall observe such rules of procedure in regard to the transaction of business at its meetings as is applicable to the Central Council.

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

Short title and commencement.

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

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

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

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

Certain modifications of Act.

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

(a) the provisions of the Act shall be construed as if for the words "Central Council", the words "Board of Governors" were substituted;

(b) the Board of Governors shall exercise the powers and discharge the functions of the Central 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 Central Council shall be construed as references to the Board of Governors.

Power of Central Government to give directions.

3C. (1) Without prejudice to the provisions of this Act, the Board of Governors or the Central 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 question 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 Central Council, after its reconstitution shall, as far as practicable, be given an opportunity to express its view before any direction is given under this sub-section.

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

Insertion of new section 12C.

3. After section 12B of the principal Act, the following section shall be inserted, namely:—

Time for seeking permission for certain existing medical colleges.

"12C. (1) If any person has established a Homoeopathy Medical College or any Homoeopathy Medical College has opened a new or higher course of study or training or increased the admission capacity on or before the date of commencement of the Homoeopathy Central Council (Amendment) Act, 2018, such person or Homoeopathy Medical College, as the case may be, shall seek, within a period of one year from the said commencement, permission of the Central Government, in accordance with the provisions specified in the regulations made by the Central Council.

(2) If any person or Homoeopathy Medical College, as the case may be, fails to seek permission under sub-section (1), the provisions of section 12B shall apply, as far as may be, as if the Central Government has been refused."

Repeal and saving.

4. (1) The Homoeopathy Central Council (Amendment) Ordinance, 2018 is hereby repealed.

Ord. 4 of 2018.

(2) Notwithstanding such repeal, 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.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
Additional Secretary to the Government,
Law Department.

New Delhi, the 11th August, 2018 / Shravana 20, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 11th August, 2018 and is hereby re-published for general information:—

**THE CONSTITUTION (ONE HUNDRED AND SECOND
AMENDMENT) ACT, 2018**

[11th August, 2018.]

An Act further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (One Hundred and Second Amendment) Act, 2018. Short title and commencement.

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

2. In article 338 of the Constitution, in clause (10), the words, brackets and figures "to such other backward classes as the President may, on receipt of the report of a Commission appointed under clause (1) of article 340, by order specify and also" shall be omitted. Amendment of article 338.

3. After article 338A of the Constitution, the following article shall be inserted, namely:— Insertion of new article 338B.

“338B. (1) There shall be a Commission for the socially and educationally backward classes to be known as the National Commission for Backward Classes. National Commission for Backward Classes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

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

(5) It shall be the duty of the Commission—

(a) to investigate and monitor all matters relating to the safeguards provided for the socially and educationally backward classes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the socially and educationally backward classes;

(c) to participate and advise on the socio-economic development of the socially and educationally backward classes and to evaluate the progress of their development under the Union and any State;

(d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

(e) to make in such reports the recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the socially and educationally backward classes; and

(f) to discharge such other functions in relation to the protection, welfare and development and advancement of the socially and educationally backward classes as the President may, subject to the provisions of any law made by Parliament, by rule specify.

(6) The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the State Government which shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.

(8) The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5),

have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

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

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

(c) receiving evidence on affidavits;

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

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

(f) any other matter which the President may, by rule, determine.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting the socially and educationally backward classes."

4. After article 342 of the Constitution, the following article shall be inserted, namely:—

"342A. (1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the socially and educationally backward classes which shall for the purposes of this Constitution be deemed to be socially and educationally backward classes in relation to that State or Union territory, as the case may be.

(2) Parliament may by law include in or exclude from the Central List of socially and educationally backward classes specified in a notification issued under clause (1) any socially and educationally backward class, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification."

Insertion of
new article 342

A.
Socially and
educationally
backward
classes.

‘(26C) "socially and educationally backward classes" means such backward classes as are so deemed under article 342A for the purposes of this Constitution;’.

Amendment of
article 366.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 14th August, 2018 / Shravana 23, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 14th August, 2018 and is hereby re-published for general information:—

THE NATIONAL COMMISSION FOR BACKWARD CLASSES
(REPEAL) ACT, 2018

No. 24 OF 2018

[14th August, 2018.]

An Act to repeal the National Commission for Backward Classes Act, 1993.

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

1. (1) This Act may be called the National Commission for Backward Classes (Repeal) Act, 2018. 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.

27 of 1993. 2. (1) The National Commission for Backward Classes Act, 1993 is hereby repealed and the National Commission for Backward Classes constituted under sub-section (1) of section 3 of the said Act shall stand dissolved. Repeal and savings.

27 of 1993. (2) The repeal of the National Commission for Backward Classes Act, 1993 shall, however, not affect,—

(i) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(iii) any penalty, confiscation or punishment incurred in respect of any contravention under the Act so repealed; or

(iv) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, confiscation or punishment as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty, confiscation or punishment may be imposed or made as if that Act had not been repealed.

10 of 1897. (3) The mention of the particular matters referred to in sub-section (2) 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.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 17th August, 2018 / Shravana 26, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 17th August, 2018 and is hereby re-published for general information:—

THE NATIONAL SPORTS UNIVERSITY ACT, 2018

No. 25 OF 2018

[17th August, 2018.]

An Act to establish and incorporate a National Sports University in the State of Manipur, a specialised University first of its kind, to promote sports education in the areas of sports sciences, sports technology, sports management and sports coaching besides functioning as the national training centre for select sports disciplines by adopting best international practices and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the National Sports University Act, 2018.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 31st day of May, 2018.

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

Definitions.

(a) “Academic and Activity Council” means the Academic and Activity Council of the University;

(b) “academic staff” means such categories of staff as are designated as academic staff by the Ordinances;

(c) “Board of Sports Studies” means the Board of Sports Studies of a Department of the University;

(d) “Chancellor” means the Chancellor of the University;

(e) “College” means a college or other academic institution established or maintained by, or admitted to the privileges of, the University;

(f) “Court” means the Court of the University;

(g) “Department” means a Department of Studies and includes a Centre of Studies;

(h) “employee” means any person appointed by the University and includes teachers and other staff of the University;

(i) “Executive Council” means the Executive Council of the University;

(j) “Finance Committee” means the Finance Committee of the University;

(k) “Fund” means the University Fund referred to in section 30;

(l) “Hall” means a unit of residence or of corporate life for the students of the University, or of an Outlying Campus or of a College or an Institution, maintained by the University;

(m) “Head of the Department” means the head of any teaching department of the University;

(n) “Institution” means an academic institution, not being a College, maintained by, or admitted to the privileges of, the University;

(o) “Outlying Campus” means the campus of the University as may be established by it at any place within or outside India;

(p) “Principal” means the Head of a College or an Institution maintained by the University and includes, where there is no Principal, the person for the time being duly appointed to act as Principal, and in the absence of the Principal, or the acting Principal, a Vice-Principal duly appointed as such;

(q) “Regional Centre” means a centre established or maintained by the University for the purpose of coordinating and supervising the work of Study Centres in any region and for performing such other functions as may be conferred on such centre by the Executive Council;

(r) “Regulations” means the regulations made by any authority of the University under this Act for the time being in force;

(s) “School” means a School of Studies of the University;

(t) “section” means the section of this Act;

(u) “State” includes a Union territory;

(v) “Statutes” and “Ordinances” mean, respectively, the Statutes and the Ordinances of the University for the time being in force;

(w) “Study Centre” means a centre established, maintained or recognised by the University for the purpose of advising, counselling, training or for rendering any other assistance required by the students;

(x) “teachers of the University” means Professors, Associate Professors, Assistant Professors and such other persons as may be appointed for imparting instructions, training or conducting research in the University or in any Outlying Campus, College or Institution or Regional Centres and Study Centres maintained by the University and are designated as teachers by the Ordinances;

(y) “University” means the National Sports University established and incorporated as a University under this Act;

(z) “Vice-Chancellor” means the Vice-Chancellor of the University.

Establishment
of
University.

3. (1) There shall be established a University by the name of “National Sports University”.

(2) The headquarters of the University shall be in the State of Manipur and it may establish or maintain Outlying Campuses, Colleges, Regional Centres and Study Centres at such other places in India as it may deem fit:

Provided that the University may, with the prior approval of the Central Government, also establish Outlying Campuses and Study Centres outside India.

(3) The first Chancellor, the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic and Activity Council, and all such persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of “National Sports University”.

(4) The University shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

Objects of
University.

4. The objects of the University shall be—

(i) to evolve as an institute of advanced study in the field of physical education and sports sciences;

(ii) to provide for research and development and dissemination of knowledge in physical education and sports sciences by providing specially designed academic and training programmes in various areas of physical education and sports sciences and training in advanced technologies of sports;

(iii) to strengthen physical education and sports training programmes to promote sports including traditional and tribal sports and games;

(iv) to establish centres and institutions of excellence for imparting state of the art educational training and research in the fields of physical education and sports sciences, sports technology and high performance training for all sports and games;

(v) to provide professional and academic leadership to other institutions in the field of physical education and sports sciences;

(vi) to provide vocational guidance and placement services in physical education, sports sciences, sports medicine, sports technology and other related fields;

(vii) to generate capabilities for the development of knowledge, skills and competences at various levels in the fields of physical education and sports sciences, sports technology and high performance training for all sports and games;

(viii) to generate capabilities to provide infrastructure of international standard for education, training and research in the areas related to physical education and sports sciences, sports technology and high performance training for all sports and games;

(ix) to prepare highly qualified professionals in the fields of physical education and sports sciences, sports technology and high performance training for all sports and games;

(x) to serve as a Centre of Excellence for the elite and other talented sportspersons of all sports and games and innovation in physical education and sports sciences and to carry out, endorse and propagate research;

(xi) to function as a leading resource centre for knowledge and development in the areas of physical education and sports sciences, sports technology and high performance training for all sports and games;

(xii) to provide international collaboration in the fields of physical education and sports sciences, sports technology and high performance training for all sports and games;

(xiii) to establish close linkage with sports academies, schools, colleges, sports and recreation clubs, sports associations and international federations for the purpose of teaching, training and research in physical education and sports sciences, sports technology and high performance training for all sports and games;

(xiv) to train talented athletes so as to help them to evolve into elite athletes of international level;

(xv) to make India become a sporting power;

(xvi) such other objects, not inconsistent with the provisions of this Act, which the Central Government may, by notification in the Official Gazette, specify in this behalf.

5. (1) The University shall have the following powers and functions, namely:—

(i) to plan, design, develop and prescribe courses of study and conduct appropriate academic and training programmes in physical education and sports sciences including sports technology and to provide for instruction and training in such branches of learning as the University may, from time to time, determine and to make provisions for research and for the advancement and dissemination of knowledge;

Powers and
functions of
University.

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on, persons, on the basis of examinations, evaluation or any method of testing, and to withdraw any such certificates, diplomas, degrees or other academic distinctions for good and sufficient cause;

(iii) to provide opportunities to the students of the University to participate in the sports tournaments and competitions in co-ordination with established International Sports Federations, National Sports Federations, Indian Olympic Association and Association of Indian Universities;

(iv) to have liaison or membership with various international professional organisations or bodies;

(v) to establish and maintain, with the prior approval of the Central Government, such Outlying Campuses, Regional Centres, specialised laboratories or other units for research, instruction and training as are, in the opinion of the University, necessary for the furtherance of its objects;

(vi) to establish, maintain or recognise Study Centres in the manner laid down by the Statutes;

(vii) to establish and maintain Colleges, Institutions and Halls;

(viii) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(ix) to institute Principalships, Professorships, Associate Professorships, Assistant Professorships and other teaching or academic positions, required by the University and to appoint persons to such Principalships, Professorships, Associate Professorships, Assistant Professorships or other teaching or academic positions;

(x) to appoint persons working in any University or academic institution, including those located outside the country, as teachers of the University for a specified period;

(xi) to create administrative, ministerial and other posts and to make appointments thereto;

(xii) to co-operate or collaborate or associate with any other University or authority or Institution of higher learning, including those located outside the country, in such manner and for such purposes as the University, may determine;

(xiii) to provide facilities through the distance education system to such persons and in such manner as may be prescribed by the Statutes;

(xiv) to institute and award fellowships, scholarships, studentship, medals and prizes for raising academic standards and research;

(xv) to organise and to undertake extramural studies, training and extension services;

(xvi) to make provision for research and advisory services and for that purpose, to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(xvii) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators, other academic staff and students;

(xviii) to appoint on contract or otherwise visiting Professors, Emeritus Professors, Consultants and such other persons who may contribute to the advancement of the objects of the University;

(xix) to determine standards of admission to the University, which may include examination, evaluation or any other method of testing;

(xx) to demand and receive payment of fees and other charges;

(xxi) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xxii) to lay down conditions of service of all categories of employees, including their code of conduct;

(xxiii) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xxiv) to make arrangements for promoting the health and general welfare of the employees;

(xxv) to receive benefactions, donations and gifts and to acquire, hold and manage, and to dispose of, with the previous approval of the Central Government, any property, movable or immovable, including trust and endowment properties, for the purposes of the University;

(xxvi) to borrow, with the previous approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(xxvii) to conduct innovative experiments and promote new methods and technologies in the fields of physical education, sports sciences, sports medicine, sports technology, sports management and other related fields;

(xxviii) to purchase or to take on lease any land or building or sports complex or sports infrastructure and scientific sports research equipment or indoor stadium or works which may be necessary or convenient for the purposes of the University, on such terms and conditions as it may think fit and proper and to construct, alter and maintain any such building or work;

(xxix) to start any new allied course or research programme or diploma or training programme and discontinue any course or training programme;

(xxx) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as it may deem fit in the interest of the University;

(xxxi) to execute conveyances regarding transfers, mortgages, leases, licenses, agreements and other conveyances in respect of the property, movable or immovable, including Government securities, belonging to the University or to be acquired for the purposes of the University, after taking prior permission of the Central Government;

(xxxii) to act as a technical advisory body to Government of India and other National Organisations, State Governments and National Sports Federations on all matters related to sports;

(xxxiii) to provide training, coaching and other back up to high level sports persons for achieving success in different national and international sports competitions;

(xxxiv) to give effect to the procedures and standards provided under the Khelo India Scheme or the National Sports Talent Search and Identification Scheme;

(xxxv) to confer autonomous status on a College or an Institution in the manner laid down by the Statutes;

(xxxvi) to admit to its privileges any College or Institution in or outside India subject to such conditions as may be laid down by the Statutes:

Provided that no College or Institution shall be so admitted except with the prior approval of the Central Government;

(xxxvii) to provide for the preparation of instructional and training materials, including films, cassettes, tapes, video cassettes and other software;

(xxxviii) to recognise persons for imparting instructions in any College or Institution admitted to the privileges of the University; and

(xxxix) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

(2) The University shall in the exercise of its powers have jurisdiction over the whole of India and to the Outlying Campuses and Study Centres outside India.

(3) In exercising its powers referred to in sub-section (1), it shall be the endeavour of the University to maintain an all-India character and high standards of teaching, training and research, and the University shall, among other measures which may be necessary for the said purpose, take, in particular, the following measures, namely:—

(i) admissions of students and recruitment of faculty shall be made on all-India basis through appropriate procedures approved by the Executive Council of the University;

(ii) foreign students shall be admitted by the University to various courses and programmes as per the policy and schemes of the Government of India and the procedure approved by the Executive Council of the National Sports University;

(iii) inter-University mobility of faculty with portable pension scheme benefits, if any, and protection of seniority shall be encouraged;

(iv) semester system, continuous evaluation and choice-based credit system shall be introduced and the University shall enter into agreement with other Universities and academic institutions for credit transfer and joint degree programmes;

(v) innovative courses and programmes of studies shall be introduced with a provision for periodic review and restructuring;

(vi) active participation of students shall be ensured in all academic activities of the University, including evaluation of teachers;

(vii) accreditation shall be obtained from the National Assessment and Accreditation Council or any other accrediting agency at the national level; and

(viii) e-governance shall be introduced with effective management information.

University to be open to all caste, creed, race or class.

6. The University shall be open to persons of any sex and of whatever caste, creed, race or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle such person to be appointed as a teacher of the University or to hold any other office therein or to be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof:

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, persons with disabilities or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes, the Scheduled Tribes and the other socially and educationally backward classes of citizens:

Provided further that no such special provision shall be made on the ground of domicile.

Central Government to review work and progress of University.

7. (1) The Central Government may, from time to time, appoint one or more persons to review the work and progress of the University, including Outlying Campuses, Colleges, Institutions, Regional Centres and Study Centres maintained by it, and to submit a report thereon; and upon receipt of that report, the Central Government may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions, as it considers necessary, in respect of any of the matters dealt with in the report and the University shall abide by such action and be bound to comply with such directions.

(2) The Central Government shall have the right to cause an inspection to be made by such person or persons, as it may direct, of the University, its buildings, sports complexes, libraries, laboratories and equipment, and of any Outlying Campus or College or Institution or Regional Centres or Study Centres maintained by the University; and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions or Regional Centres or Study Centres.

(3) The Central Government shall, in every matter referred to in sub-section (2), give notice of its intention to cause an inspection or inquiry to be made, to the University, and the University shall have the right to make such representations to the Central Government, as it may consider necessary.

(4) After considering the representations, if any, made by the University, the Central Government may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(5) Where any inspection or inquiry has been caused to be made by the Central Government, the University shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(6) The Central Government may, if the inspection or inquiry is made in respect of the University or any Outlying Campus or College or Institution or Regional Centre or Study Centre established or maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Central Government may be pleased to offer, and on receipt of address made by the Central Government, the Vice-Chancellor shall communicate to the Executive Council the views of the Central Government with such advice as the Central Government may offer upon the action to be taken thereon.

(7) The Executive Council shall communicate through the Vice-Chancellor to the Central Government such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(8) Where, the Executive Council does not, within a reasonable time, take action to the satisfaction of the Central Government, it may, after considering any explanation furnished or representation made by the Executive Council, issue such directions, as it may think fit, and the Executive Council shall comply with such directions.

(9) Without prejudice to the foregoing provisions of this section, the Central Government may, by order in writing, annul any proceeding of the University which is not in conformity with the provisions of this Act or the Statutes or the Ordinances:

Provided that before making any such order, the Central Government shall call upon the Vice-Chancellor to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, it shall consider the same.

(10) The Central Government shall have such other powers, in respect of the affairs of the University, as may be prescribed by the Statutes.

8. The following shall be the officers of the University, namely:—

- (a) the Chancellor;
- (b) the Vice-Chancellor;
- (c) the Deans of Schools;
- (d) the Registrar;
- (e) the Finance Officer;
- (f) the Controller of Examinations;
- (g) the Librarian; and

(h) such other officers as may be declared by the Statutes to be the officers of the University.

Officers of
University.

Chancellor. **9. (1)** The Chancellor shall be appointed by the Central Government in such manner as may be prescribed by the Statutes.

(2) The Chancellor shall, by virtue of his office, be the head of the University and shall, if present, preside at the Convocations of the University held for conferring degrees and other ceremonial functions and also the meetings of the Court.

Vice-Chancellor. **10. (1)** The Vice-Chancellor shall be appointed by the Central Government in such manner as may be prescribed by the Statutes.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall apprise such authority at its next meeting the action taken by him on such matter:

Provided that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Central Government whose decision thereon shall be final:

Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to represent against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) Where the Vice-Chancellor is of the opinion that any decision taken by any authority of the University is beyond the powers of the authority conferred under the provisions of this Act or the Statutes or the Ordinances, or that any decision taken by the authority is not in the interest of the University, he may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Central Government whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

Deans of Schools. **11.** Every Dean of School shall be appointed in such manner, and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Registrar. **12. (1)** The Registrar shall be appointed in such manner, and on such terms and conditions of service, as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Finance Officer. **13.** The Finance Officer shall be appointed in such manner, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Controller of Examinations. **14.** Controller of Examinations shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

- 15.** The Librarian shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes. Librarian.
- 16.** The manner of appointment and powers and duties of other officers of the University shall be prescribed by the Statutes. Other officers.
- 17.** The following shall be the authorities of the University, namely:— Authorities of University.
- (a) the Court;
- (b) the Executive Council;
- (c) the Academic and Activity Council;
- (d) the Board of Sports Studies;
- (e) the Finance Committee;
- (f) such other authorities as may be declared by the Statutes to be the authorities of the University.
- 18. (1)** The constitution of the Court and the term of office of its members shall be prescribed by the Statutes. The Court.
- (2) Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—
- (a) to review, from time to time, the broad policies and programmes of the University, and to suggest measures for the improvement and development of the University;
- (b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;
- (c) to advise the Central Government in respect of any matter which may be referred to it for advice; and
- (d) to perform such other functions as may be prescribed by the Statutes.
- 19. (1)** The Executive Council shall be the principal executive body of the University. Executive Council.
- (2) The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes.
- 20. (1)** The Academic and Activity Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, co-ordinate and exercise general supervision over the academic policies of the University. Academic and Activity Council.
- (2) The constitution of the Academic and Activity Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:
- Provided that the Academic and Activity Council shall have sports persons who have achieved distinction in Olympics or world championships.
- 21.** The constitution, powers and functions of the Board of Sports Studies shall be prescribed by the Statutes. Board of Sports Studies.
- 22.** The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes. Finance Committee.
- 23.** The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes. Other authorities of University.
- 24.** Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:— Power to make Statutes.
- (a) the constitution, powers and functions of authorities and other bodies of the University, as may be constituted from time to time;

(b) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers, academic staff and other employees of the University, the emoluments and conditions of service;

(e) the appointment of teachers and academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(f) the conditions of service of employees including provisions for pension, insurance, provident fund, the manner of termination of service and disciplinary action;

(g) the principles governing the seniority of service of the employees of the University;

(h) the procedure for arbitration in cases of dispute between employees or students and the University;

(i) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(j) the conferment of autonomous status on a College or an Institution or a Department;

(k) the establishment and abolition of Schools, Departments, Centres, Halls, Colleges, Institutions, Regional Centres and Study Centres;

(l) the conferment of honorary degrees;

(m) the conferment and withdrawal of degrees, diplomas, certificates and other academic distinctions;

(n) the management of Colleges, Institutions, Regional Centres and Study Centres established and maintained by the University;

(o) the delegation of powers vested in the authorities or officers of the University;

(p) the maintenance of discipline among the employees and students; and

(q) all other matters which by this Act are to be, or may be, provided for by the Statutes.

25. (1) The first Statutes are those set out in the Schedule to this Act.

(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal any Statutes referred to in sub-section (1):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on proposed changes, and any opinion so expressed shall be considered by the Executive Council.

(3) Every new Statutes or Statutes amending or repealing existing Statutes shall require the approval of the Central Government and unless so approved, they shall be invalid.

(4) Notwithstanding anything contained in the foregoing sub-sections, the Central Government may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (1), during the period of three years immediately after the commencement of this Act:

Statutes, how
to be made.

Provided that the Central Government may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as it may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(5) Notwithstanding anything contained in this section, the Central Government may direct the University to make provisions in the Statutes in respect of any matter specified by it and if the Executive Council is unable to implement such direction within sixty days of its receipt, the Central Government may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

26. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Power to
make
Ordinances.

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study and their duration to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to examinations, degrees and diplomas of the University;

(f) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(g) the conduct of examinations, including the term of office and manner of appointment and the duties of examining bodies, examiners and moderators;

(h) the conditions of residence of the students of the University;

(i) the special arrangements, if any, which may be made for the residence and teaching of women students and the prescribing of special courses of studies for them;

(j) the establishment of Centres of Studies, Board of Studies, Specialised Laboratories and other Committees;

(k) the manner of co-operation and collaboration with other Universities institutions and other agencies including learned bodies or associations;

(l) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(m) the institution of fellowships, scholarships, studentships, medals and prizes;

(n) the setting up of a machinery for redressal of grievances of employees and students; and

(o) any other matter which, by this Act or the Statutes, is to be or may be, provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with previous approval of the Executive Council and the Ordinances so made may also be amended or repealed at any time by the Executive Council in the manner prescribed by the Statutes.

27. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances, for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

Regulations.

28. (1) The annual report of the University shall be prepared under the directions of Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Court on or before such date as may be prescribed by the Statutes and the Court shall consider the report in its annual meeting.

Annual report.

(2) The Court shall submit the annual report to the Central Government along with its comments, if any.

(3) The Central Government shall, as soon as may be, cause a copy of the annual report to be laid before both the Houses of Parliament.

Annual
accounts.

29. (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Court and the Central Government along with the observations of the Executive Council.

(3) Any observations made by the Central Government on the annual accounts shall be brought to the notice of the Court and the observations of the Court, if any, shall, after being considered by the Executive Council, be submitted to the Central Government.

(4) The Central Government shall, as soon as may be, cause the copy of the annual accounts together with the audit report to be laid before both the Houses of Parliament.

(5) The audited annual accounts after having been laid before both the Houses of Parliament shall be published in the Official Gazette.

Fund of
University.

30. (1) There shall be a University Fund which shall include—

(a) any contribution or grant made by the University Grants Commission or the Central Government;

(b) any contribution or grant made by the State Government;

(c) any contribution made by Government, semi-Government or autonomous bodies;

(d) any loans, gifts, bequests, donations, endowments or other grants, if any;

(e) income received by the University from fees and charges;

(f) the moneys received by the University from the collaborating industries in terms of the provisions of the Memorandum of Understanding entered between the University and the industry for the establishment of sponsored chairs, fellowships or infrastructure facilities of the University; and

(g) amounts received in any other manner from any other source.

(2) All funds of the University shall be deposited in such banks or invested in such manner as the Board may decide on the recommendation of the Finance Committee.

(3) The funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its powers and discharge of its functions by or under this Act.

Returns and
information.

31. The University shall furnish to the Central Government such returns or other information with respect to its property or activities, within such period, as the Central Government may, from time to time, require.

Conditions of
service of
employees,
etc.

32. (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and an umpire appointed by the Central Government.

(3) The decision of the Tribunal shall be final and no suit shall lie in any civil court in respect of the matters decided by the Tribunal:

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

(4) Every request made by the employee under sub-section (2) shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

26 of 1996.

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

33. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

Procedure of appeal and arbitration in disciplinary cases against students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 32 shall, as far as may be, apply to a reference made under this sub-section.

34. Every employee or student of the University or of a College or an Institution or a Regional Centre or a Study Centre established or maintained by the University shall, notwithstanding anything contained in this Act, have a right to appeal to the Executive Council within such time, as may be prescribed by the Statutes, against the decision of any officer or authority of the University, or of the Principal or the management of any College or Institution or Regional Centre or Study Centre, as the case may be, and thereupon, the Executive Council may confirm, modify or reverse the decision appealed against.

Right to appeals.

35. (1) The University shall constitute for benefit of its employees such provident fund or any other similar fund or provide such insurance schemes, as it may deem fit, in such manner and subject to such conditions, as may be prescribed by the Statutes.

Provident and pension funds.

(2) Where such provident fund or other similar fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund, as if it were a Government provident fund.

19 of 1925.

36. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Central Government whose decision thereon shall be final.

Disputes as to constitution of authorities and bodies.

37. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and the persons appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Filling of casual vacancies.

38. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Proceedings of authorities or bodies not invalidated by vacancies.

39. No suit or other legal proceedings shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Protection of action taken in good faith.

Mode of proof of University record.

40. Notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force, a copy of any receipt, application, notice, order, proceeding or resolution of any authority or other body of the University, or any other document in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or document or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence.

1 of 1872.

Power to remove difficulties.

41. (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 appears to it to be necessary or expedient for removing the difficulty:

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

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, 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 both Houses agree that the order should not be made, the order 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.

Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.

42. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

(2) Every Statute, Ordinance or Regulation made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinances or Regulations or both Houses agree that the Statute, Ordinances or Regulations should not be made, the Statute, Ordinances or Regulations 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 the Statute, Ordinances or Regulations.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statutes, Ordinances or Regulations so as to prejudicially affect the interests of any person to whom such Statutes, Ordinances or Regulations may be applicable.

Transitional provisions.

43. Notwithstanding anything contained in this Act and the Statutes,—

(a) the first Vice-Chancellor shall be appointed by the Central Government in such manner and on such conditions as may be deemed fit and the said officer shall hold office for such term, not exceeding five years, as may be specified by the Central Government;

(b) the first Registrar and the first Finance Officer shall be appointed by the Central Government and each of the said officers shall hold office for a term of three years;

(b) the first Registrar and the first Finance Officer shall be appointed by the Central Government and each of the said officers shall hold office for a term of three years;

(c) the first Court and the first Executive Council shall consist of not more than thirty-one members and eleven members, respectively, who shall be nominated by the Central Government and shall hold office for a term of three years; and

(d) the first Academic and Activity Council shall consist of not more than twenty-one members, who shall be nominated by the Central Government and they shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Central Government and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held office, if such vacancy had not occurred.

Ord. 5 of 2018.

44. (1) The National Sports University Ordinance, 2018 is hereby repealed.

Repeal and savings.

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

THE SCHEDULE

[See section 25(1)]

The Statutes of the University

Chancellor.

1. (1) The Chancellor shall be appointed by the Central Government from a panel of names of not less than three persons recommended by the Executive Council:

Provided that if the Central Government does not approve any of the persons included in the panel, it may call for an extended fresh panel.

(2) The Chancellor shall be an eminent person in the field of sports who shall either be a sports person himself or a Sports Administrator or a Sports Academician.

(3) The Chancellor shall hold office for the term of five years and shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

Vice-Chancellor.

2. (1) The Vice-Chancellor shall be appointed by the Central Government from out of a panel of names recommended by a Committee as constituted under clause (2):

Provided that if the Central Government does not approve any of the persons included in the panel, it may call for an extended fresh panel.

(2) The Committee referred to in clause (1) shall consist of five persons, out of whom three shall be nominated by the Executive Council and two by the Central Government, and one of the nominees of the Central Government shall be the convener of the Committee:

Provided that none of the members of the Committee shall be an employee of the University or of a College or Institution or Regional Centre or Study Centre established or maintained by the University or a member of any authority of the University.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Central Government may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by it:

Provided also that when the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or, as the case may be, due to illness or such other cause, the Executive Council may appoint the senior-most Dean to perform the functions of the Vice-Chancellor until a new Vice-Chancellor is appointed or, as the case may be, the existing Vice-Chancellor resumes his duties.

(5) Notwithstanding anything contained in clause (4), the Central Government may, at any time after the Vice-Chancellor has entered upon his office, by an order in writing, remove the Vice-Chancellor from office on grounds of incapacity, misconduct or violation of statutory provisions:

Provided that no such order shall be made by the Central Government unless the Vice-Chancellor has been given a reasonable opportunity of showing cause against the action proposed to be taken against him:

Provided further that the Central Government may, at any time before making such order, place the Vice-Chancellor under suspension, pending enquiry.

(6) (a) The Vice-Chancellor shall be paid a monthly salary and allowances, other than house rent allowance, at the rates fixed by the Central Government from time to time and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence.

(b) The Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Central Government from time to time:

Provided that where an employee of the University or of a College, Institution, Regional Centre or Study Centre established or maintained by the University, or of any other University or any College or Institution admitted to the privileges of the University or such other University, is appointed as the Vice-Chancellor, he may be allowed to continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme.

(c) The Vice-Chancellor shall be entitled to travelling allowance at such rates as may be fixed by the Executive Council.

(d) The Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the first day of January and July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half-year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service.

(e) In addition to the leave referred to in sub-clause (d), the Vice-Chancellor shall also be entitled to half-pay leave at the rate of twenty days for each completed year of service, and half-pay leave may also be availed of as commuted leave on full pay on medical certificate:

Provided that when such commuted leave is availed of, twice the amount of half-pay leave shall be debited against half-pay leave due.

3. (1) The Vice-Chancellor shall be *ex officio* Chairman of the Executive Council, the Academic and Activity Council and the Finance Committee and shall, in the absence of the Chancellor, preside at the Convocations held for conferring degrees and at meetings of the Court.

Powers and duties of Vice-Chancellor.

(2) The Vice-Chancellor shall be entitled to be present at, and address, any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of such authority or body.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he deems fit.

(5) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the Executive Council, the Academic and Activity Council and the Finance Committee.

Deans of
Schools.

4. (1) Every Dean of School shall be appointed by the Vice-Chancellor from amongst the Professors in the School by rotation in order of seniority for a period of three years:

Provided that in case there is only one Professor or no Professor in a School, the Dean shall be appointed, for the time being, from amongst the Professor, if any, and the Associate Professors in the School, by rotation in the order of seniority:

Provided further that a Dean on attaining the age of sixty-five years shall cease to hold office as such.

(2) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by the senior-most Professor or Associate Professor, as the case may be, in the School.

(3) The Dean shall be the Head of the School and shall be responsible for the conduct and maintenance of the standards of teaching and research in the School and shall have such other functions as may be prescribed by the Ordinances.

(4) The Dean shall have the right to be present and to speak at any meeting of the Boards of Sports Studies or Committees of the School, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

Registrar.

5. (1) The Registrar shall be appointed by the Executive Council on the recommendation of a Selection Committee constituted for the purpose and shall be whole-time salaried officer of University.

(2) The Registrar shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Registrar shall retire on attaining the age of sixty-two years.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and other academic staff, as may be specified in the order of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose on them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon the conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendation:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be *ex officio* Secretary of the Executive Council and the Academic and Activity Council, but shall not be deemed to be member of either of these authorities and he shall be *ex officio* Member-Secretary of the Court.

(7) It shall be the duty of the Registrar—

(a) to be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charge;

(b) to issue all notices convening meetings of the Court, the Executive Council, the Academic and Activity Council and of any Committee appointed by those authorities;

(c) to keep the minutes of all the meetings of the Court, the Executive Council, the Academic and Activity Council and of any Committees appointed by those authorities;

(d) to conduct the official correspondence of the Court, the Executive Council and the Academic and Activity Council;

(e) to supply to the Central Government, copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(f) to represent the University in suits or proceedings by or against the University, sign powers of attorney and verify pleadings or depute his representative for the purpose; and

(g) to perform such other duties as may be specified in the Statutes, the Ordinances or Regulations or as may be required from time to time by the Executive Council.

6. (1) The Finance Officer shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

Finance
Officer.

(2) The Finance Officer shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Finance Officer shall retire on attaining the age of sixty-two years.

(4) When the office of the Finance Officer is vacant or when the Finance Officer is, by reason of illness, absence or any other cause, unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Finance Officer shall be *ex officio* Secretary of the Finance Committee, but shall not be deemed to be a member of such Committee.

(6) The Finance Officer shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial function as may be assigned to him by the Executive Council or as may be prescribed by the Statutes or the Ordinances.

(7) Subject to the control of the Executive Council, the Finance Officer shall—

(a) hold and manage the property and investments of the University including trust and endowed property;

(b) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(d) keep a constant watch on the state of the cash and bank balances and on the state of investments;

(e) watch the progress of the collection of revenues and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up to date and that stock-checking is conducted, of equipment and other consumable materials in all offices, Departments, Centres and Specialised Laboratories;

(g) bring to the notice of the Vice-Chancellor any unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(h) call for, from any office, Department, Centre, Laboratory, College, Institution, Regional Centre or Study Centre established or maintained by the University, any information or returns that he may consider necessary for the performance of his duties.

(8) Any receipt given by the Finance Officer or the person or persons duly authorised in this behalf by the Executive Council for any money payable to University shall be sufficient discharge for payment of such money.

Controller of Examinations.

7. (1) The Controller of Examinations shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Controller of Examinations shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Controller of Examinations shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Controller of Examinations shall retire on attaining the age of sixty-two years.

(4) When the officer of the Controller of Examinations is vacant or when the Controller of Examinations is, by reason of illness, absence or any other cause, unable to perform the duties of his office, shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Controller of Examinations shall arrange for and superintend the examinations of the University in the manner prescribed by the Ordinances.

Librarian.

8. (1) The Librarian shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

(2) The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Executive Council.

Constitution and meetings of Court.

9. (1) The Court shall consist of the following members who shall hold office for a period of three years, namely:—

(a) *Ex officio* Members:—

(i) the Chancellor;

(ii) the Vice-Chancellor;

(iii) the Proctor;

(iv) the Deans of Schools;

- (v) the Dean of Students' Welfare;
- (vi) the Finance Officer;
- (vii) one Senior Warden, by rotation;
- (viii) the Librarian of the University;
- (ix) the President, Alumni Association;

(b) other Members:

(i) Heads of Departments or Professors who are members of the Academic and Activity Council;

(ii) one representative from each institution recognised by the university, nominated by the Vice-Chancellor on recommendations of the Head of the Institution;

(iii) not more than four persons from amongst eminent sports scientists, sports academicians and sports administrators to be nominated by the Central Government;

(iv) not more than two persons representing sports industry, to be nominated by the Central Government;

(v) not more than ten persons from amongst eminent sports persons and highly recognised coaches to be nominated by the Central Government;

(c) the Registrar, who shall be the *ex officio* Member Secretary.

(2) An annual meeting of the Court shall be held on a date to be fixed by the Executive Council unless some other date has been fixed by the Court in respect of any year.

(3) At an annual meeting of the Court, a report on the working of the University during the previous year, together with a statement of the receipts and expenditure, the balance-sheet as audited, and financial estimates for the next year shall be presented.

(4) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (2) shall be sent to every member of the Court at least seven days before the date of the annual meeting.

(5) Special meetings of the Court may be convened by the Executive Council or the Vice-Chancellor or if there is no Vice-Chancellor, by the Registrar.

(6) Eleven members of the Court shall form a quorum for a meeting of the Court.

10. Seven members of the Executive Council shall form a quorum for a meeting of the Executive Council.

Quorum for meeting of Executive Council.

11. (1) The Executive Council shall consist of the following members to be nominated by the Central Government who shall hold office for a period of two years, namely:—

Constitution, powers and functions of Executive Council.

(a) *Ex officio* Members:

- (i) the Vice-Chancellor;
- (ii) the Proctor;
- (iii) the Deans of Students' Welfare;
- (iv) the Additional Secretary and Financial Advisor, Ministry of Youth Affairs and Sports;
- (v) the Joint Secretary, Ministry of Youth Affairs and Sports;
- (vi) the Deans of Schools;

(b) Other Members:

(i) three Senior Professors by rotation;

(ii) four persons from amongst sports scientists, sports administrators, eminent sports persons and distinguished coaches.

(2) The Executive Council shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

(3) Subject to the provision of this Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers vested in it, have the following powers, namely:—

(i) to create teaching and other academic posts including Chairs, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Associate Professors, Assistant Professors and other academic staff;

Provided that no action shall be taken by the Executive Council in respect of the number and qualifications of teachers and other academic staff otherwise than after consideration of the recommendations of the Academic and Activity Council;

(ii) to appoint such Professors, Associate Professors, Assistant Professors and other academic staff including Chair, as may be necessary, on the recommendation of the Selection Committee constituted for the purpose and to fill up temporary vacancies therein;

(iii) to promote interfacial research by making joint appointments of teaching staff in different Schools, Department and Centres;

(iv) to create administrative, ministerial and other necessary posts and to define their duties and conditions of their service and to make appointments thereto in the manner prescribed by the Ordinances;

(v) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(vi) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(vii) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University and for that purpose to appoint such agents as it may think fit;

(viii) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendation of the Finance Committee;

(ix) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time, as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(x) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(xi) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(xii) to enter into, vary, carry out and cancel contracts on behalf of the University;

(xiii) to entertain, adjudicate upon, and if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(xiv) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic and Activity Council;

(xv) to select a common seal for the University and provide for the use of such seal;

(xvi) to make such special arrangements as may be necessary for the residence of women students;

(xvii) to institute fellowships, scholarships, studentships, medals and prizes;

(xviii) to provide for the appointment of Visiting Professors, Emeritus Professors, Consultants and Scholars and determine the terms and conditions of such appointments;

(xix) to enter into partnership with industry and non-Government agencies for the advancement of knowledge and establish a corpus of funds out of the profits of such partnership; and

(xx) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or these Statutes.

12. (1) The members of the Academic and Activity Council shall include sports persons who have achieved distinction in Olympics or world championships.

Members of Academic and Activity Council and quorum for meeting.

(2) Nine members of the Academic and Activity Council shall form quorum for the meeting of the Academic and Activity Council.

13. Subject to the provisions of this Act, the Statutes and the Ordinances, the Academic and Activity Council shall, in addition to all other powers vested in it, have the following powers, namely:—

Powers and functions of Academic and Activity Council.

(a) to exercise general supervision over the academic policies of the University and to give directions regarding methods of instruction, co-ordination of teaching among the Colleges, Institutions, Regional Centres and Study Centres and evaluation of research and improvement of academic standards;

(b) to bring about and promote inter-School co-ordination and to establish or appoint such committees or boards as may be deemed necessary for the purpose;

(c) to consider matters of general academic interest either on its own initiative, or on a reference by a School or the Executive Council, and to take appropriate action thereon;

(d) to frame such regulations and rules consistent with the Statutes and the Ordinances regarding the academic functioning of the University, discipline, residence, admissions, award of fellowships and studentships, fees, concessions, corporate life and attendance.

14. (1) The University shall have such Schools of Studies as may be specified in the Statutes.

Schools of Studies and Departments.

(2) Every School shall have a School Board and the members of the first School Board shall be nominated by the Executive Council for a period of three years.

(3) The composition, powers and functions of a School Board shall be prescribed by the Ordinances.

(4) The conduct of the meetings of a School Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(5) (a) Every School shall consist of such Departments as may be assigned to it by the Ordinances:

Provided that the Executive Council may, on the recommendation of the Academic and Activity Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(b) Each Department shall consist of the following members, namely:—

(i) teachers of the Department;

(ii) persons conducting research in the Department;

(iii) Dean of the School;

(iv) Honorary Professors, if any, attached to the Department; and

(v) such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

Board of
Sports Studies.

15. (1) Each Department shall have a Board of Sports Studies.

(2) The term of office of the Board of Sports Studies and of its members shall be prescribed by the Ordinances.

(3) Subject to the overall control and supervision of the Academic and Activity Council, the functions of a Board of Sports Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances,—

(a) courses of studies and appointment of examiners for courses, but excluding research degrees;

(b) appointment of supervisors for research; and

(c) measures for the improvement of the standard of teaching and research:

Provided that the above functions of a Board of Sports Studies shall, during the period of three years immediately after the commencement of this Act, be performed by the Department.

Finance
Committee.

16. (1) The Finance Committee shall consist of the following members, namely:—

(i) the Vice-Chancellor;

(ii) one person to be nominated by the Court;

(iii) three persons to be nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and

(iv) three persons to be nominated by the Central Government.

(2) Five members of the Finance Committee shall form a quorum for a meeting of the Finance Committee.

(3) All the members of the Finance Committee, other than *ex officio* members, shall hold office for a term of three years.

(4) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(5) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure.

(6) All proposals relating to creation of posts, and those items which have not been included in the budget, shall be examined by the Finance Committee before they are considered by the Executive Council.

(7) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(8) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

17. (1) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the post of Professor, Associate Professor, Assistant Professor, Registrar, Finance Officer, Controller of Examinations, Librarian and Principals of Colleges, Institutions, Regional Centres and Study Centres established or maintained by the University.

Selection
Committees.

(2) The Selection Committee for appointment to the posts specified in column 1 of the Table below shall consist of the Vice-Chancellor, a nominee of the Central Government and the persons specified in the corresponding entry in column 2 of the said Table:

TABLE

1	2
Professor.	(i) The Dean of the School. (ii) The Head of the Department, if he is a Professor. (iii) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic and Activity Council for their special knowledge of, or interest in, the subject with which the Professor will be concerned.
Associate Professor/ Assistant Professor.	(i) The head of the Department. (ii) One Professor nominated by the Vice-Chancellor. (iii) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic and Activity Council for their special knowledge of, or interest in, the subject with which the Associate Professor or Assistant Professor will be concerned.
Registrar/ Finance Officer/ Controller of Examination.	(i) Two members of the Executive Council nominated by it. (ii) One person not in the service of the University nominated by the Executive Council.
Librarian.	(i) One person not in the service of the University who has special knowledge of the subject of the Library Science or Library Administration nominated by the Executive Council. (ii) One person not in the service of the University nominated by the Executive Council.
Principal of College or Institution maintained by the University.	Three persons not in the service of the University of whom two shall be nominated by the Executive Council and one by the Academic and Activity Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the College or Institution.

Note 1: Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

Note 2: The Professor to be nominated by the Vice-Chancellor shall be a Professor concerned with the speciality for which the selection is being made and the Vice-Chancellor shall consult the Head of the Department and the Dean of the School before nominating the Professor.

(3) The Vice-Chancellor shall convene and preside at the meeting of the Selection Committee:

Provided that the meeting of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of the Central Government's nominee and the experts nominated by the Executive Council:

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(a) where the number of the Central Government's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(b) where the number of the Central Government's nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(4) The procedure to be followed by the Selection Committee shall be laid down in the Ordinances.

(5) If the Executive Council is unable to accept the recommendations made by the Selection Committee, it shall record its reasons and submit the case to the Central Government for final orders.

(6) (a) Appointments to temporary posts shall,—

(i) if the temporary vacancy is for duration longer than one academic session, be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis on the advice of a local Selection Committee referred to in sub-clause (ii) for a period not exceeding six months;

(ii) if the temporary vacancy is for a period less than a year, be made on the recommendation of a local Selection Committee consisting of the Dean of the School concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor:

Provided further that in the case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment.

(b) No teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

Special mode
of
appointment.

18. (1) Notwithstanding anything contained in Statute 17, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or Associate Professor or any other equivalent academic post in the University on such terms and conditions as it deems fit and on the person agreeing to do so appoint him to the post:

Provided that the Executive Council may also create supernumerary posts for a specified period for appointment of such persons:

Provided further that the number of supernumerary posts so created should not exceed five per cent. of the total posts in the University.

(2) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

19. The Executive Council may appoint a person selected in accordance with the procedure laid down in Statute 17 for a fixed tenure on such terms and conditions as it deems fit.

Appointment for fixed tenure.

20. (1) An authority of the University may appoint as many standing or special committees as it may deem fit, and may appoint to such committees persons who are not members of such authority.

Committees.

(2) A committee appointed under clause (1) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing it.

21. (1) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Terms and conditions of service and code of conduct of teachers, etc.

(2) The emoluments of members of the academic staff shall be such as may be prescribed by the Ordinances.

(3) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(4) A copy of every contract referred to in clause (3) shall be deposited with the Registrar.

22. (1) All the employees of the University, other than the teachers and other academic staff shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Terms and conditions of service and code of conduct of other employees.

(2) The manner of appointment and emoluments of employees, other than the teachers and other academic staff, shall be such as may be prescribed by the Ordinances.

23. (1) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade and in accordance with such other principles as the Executive Council may, from time to time, prescribe.

Seniority list.

(2) It shall be the duty of the Registrar to prepare and maintain in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

24. (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or a member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee may, by order in

Removal of employees of University.

writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and condition of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority in respect of other employees, shall have the power to remove a teacher or a member of the academic staff or other employee, as the case may be, on grounds of misconduct.

(3) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of the Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof:

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

Honorary
degrees.

25. (1) The Executive Council may, on the recommendation of the Academic and Activity Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Central Government for the conferment of honorary degrees:

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(2) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Central Government, any honorary degree conferred by the University.

Withdrawal of
degrees, etc.

26. The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw a degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice as to why such a resolution should not be passed and until his objections, if

any, and any evidence he may produce in support of them, have been considered by the Executive Council.

27. (1) All powers relating to the maintenance of discipline and disciplinary action in relation to the students of the University shall vest in Vice-Chancellor.

Maintenance of discipline amongst students of University.

(2) There shall be Proctor of the University to assist the Vice-Chancellor in the exercise of the powers referred to in clause (1), who shall be appointed by the Executive Council from amongst the Professors and Associate Professors in the manner prescribed by the Ordinances.

(3) The Vice-Chancellor may delegate all or any of the powers referred to in clause (1), as he deems proper, to the Proctor and to such other officers as he may specify in this behalf.

(4) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of such powers, by order, direct that any student or students be expelled or rusticated, for a specified period, or be not admitted to a course or courses of study in a College, Institution or Regional Centre or a Department or a School of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or Regional Centre or Department or a School for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be withheld or cancelled.

(5) The Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Institutions, Schools and teaching Departments in the University, as may be necessary for the proper conduct of such Colleges, Institution, Schools and teaching Departments.

(6) Without prejudice to the powers of the Vice-Chancellor and the Principals and other persons specified in clause (5), detailed rules of discipline and proper conduct shall be made by the University and the Principals of Colleges, Institutions, Deans of Schools of Studies and Heads of teaching Departments in the University may also make such supplementary rules as they deem necessary for the purposes stated therein.

(7) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

28. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances.

Convocations.

29. Where no provision is made for Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting.

Acting Chairman of meetings.

30. Any member, other than an *ex officio* member of the Court, the Executive Council, the Academic and Activity Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar.

Resignation.

31. (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities, or for being appointed as, and for being, an officer, of the University if—

Disqualification.

(i) he is of unsound mind;

(ii) he is an undischarged insolvent; or

(iii) he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in sub-clause (i), the question shall be referred to the Central Government and its decision shall be final and no suit or other proceeding shall lie in any civil court against such decision.

Residence conditions for membership and office.

32. Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University.

Membership of authorities by virtue of membership of other bodies.

33. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Alumni Association.

34. (1) There shall be an Alumni Association for the University.

(2) The subscription for membership of the Alumni Association shall be prescribed by the Ordinances.

(3) No member of the Alumni Association shall be entitled to vote or stand for election unless he has been a member of the Association for at least one year prior to the date of election and is a degree holder of the University of at least five years standing:

Provided that the condition relating to the completion of one year's membership shall not apply in the case of the first election.

Students Council.

35. (1) There shall be constituted in the University, a Students' Council for every academic year, consisting of,—

(i) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(ii) twenty students to be nominated by the Academic and Activity Council on the basis of merit in studies, sports and extra-curricular activities; and

(iii) twenty students to be elected by the students as their representatives:

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council, if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(2) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance, in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(3) The Students' Council shall meet at least twice in every academic year and the first meeting of the Council be held in the beginning of the academic session.

Ordinances how to be made.

36. (1) The first Ordinances made under sub-section (2) of section 26 may be amended or repealed at any time by the Executive Council in the manner specified in the following clauses.

(2) No Ordinances in respect of the matters enumerated in sub-section (1) of section 26 of this Act shall be made by the Executive Council unless a draft of such Ordinances has been proposed by the Academic and Activity Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinances proposed by the Academic and Activity Council under clause (2), but may reject the proposal or return the draft to the Academic and Activity Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic and Activity Council, the Academic and Activity Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half of the total number of members of the Academic and Activity Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Central Government whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

(6) Every Ordinance made by the Executive Council shall be submitted to the Central Government within two weeks from the date of its adoption.

(7) The Central Government shall have the power to direct the University to suspend the operation of any Ordinance.

(8) The Central Government shall inform the Executive Council about its objection to the Ordinances referred to in clause (7) and may, after receiving the comments of the University, either withdraw the order suspending the Ordinances or disallow the Ordinances, and its decision shall be final.

37. (1) The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances for the following matters, namely:—

Regulations.

(i) laying down the procedure to be observed at their meeting and the number of members required to form a quorum;

(ii) providing for all matters which are required by this Act, the Statutes or the Ordinances, to be prescribed by Regulations; and

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by this Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meeting and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment in such manner as it may specify of any Regulation made under the Statutes or the annulment of any such Regulation.

38. Subject to the provisions of this Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers.

Delegation of powers.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 17th August, 2018 / Shravana 26, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 17th August, 2018 and is hereby re-published for general information:—

THE INSOLVENCY AND BANKRUPTCY CODE
(SECOND AMENDMENT) ACT, 2018

No. 26 OF 2018

[17th August, 2018.]

An Act further to amend the Insolvency and Bankruptcy Code, 2016.

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

1. (1) This Act may be called the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018. Short title and commencement.

(2) It shall be deemed to have come into force on the 6th day of June, 2018.

31 of 2016.

2. In the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in section 3, in clause (12), for the word "repaid", the word "paid" shall be substituted. Amendment of section 3.

3. In section 5 of the principal Act,—

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

'(5A) "corporate guarantor" means a corporate person who is the surety in a contract of guarantee to a corporate debtor;';

(ii) in clause (8), in sub-clause (f), the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this sub-clause,—

(i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and

(ii) the expressions, "allottee" and "real estate project" shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016;';

16 of 2016.

(iii) in clause (12), the following proviso shall be inserted, namely:—

"Provided that where the interim resolution professional is not appointed in the order admitting application under section 7, 9 or section 10, the insolvency commencement date shall be the date on which such interim resolution professional is appointed by the Adjudicating Authority;";

(iv) in clause (21), for the word "repayment", the word "payment" shall be substituted;

(v) after clause (24), the following clause shall be inserted, namely:—

'(24A) "related party", in relation to an individual, means—

(a) a person who is a relative of the individual or a relative of the spouse of the individual;

(b) a partner of a limited liability partnership, or a limited liability partnership or a partnership firm, in which the individual is a partner;

(c) a person who is a trustee of a trust in which the beneficiary of the trust includes the individual, or the terms of the trust confers a power on the trustee which may be exercised for the benefit of the individual;

(d) a private company in which the individual is a director and holds along with his relatives, more than two per cent. of its share capital;

(e) a public company in which the individual is a director and holds along with relatives, more than two per cent. of its paid-up share capital;

(f) a body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of the individual;

(g) a limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, act on the advice, directions or instructions of the individual;

(h) a person on whose advice, directions or instructions, the individual is accustomed to act;

(i) a company, where the individual or the individual along with its related party, own more than fifty per cent. of the share capital of the company or controls the appointment of the board of directors of the company.

Explanation.—For the purposes of this clause,—

(a) "relative", with reference to any person, means anyone who is related to another, in the following manner, namely:—

(i) members of a Hindu Undivided Family,

(ii) husband,

(iii) wife,

(iv) father,

(v) mother,

(vi) son,

(vii) daughter,

(viii) son's daughter and son,

(ix) daughter's daughter and son,

- (x) grandson's daughter and son,
- (xi) granddaughter's daughter and son,
- (xii) brother,
- (xiii) sister,
- (xiv) brother's son and daughter,
- (xv) sister's son and daughter,
- (xvi) father's father and mother,
- (xvii) mother's father and mother,
- (xviii) father's brother and sister,
- (xix) mother's brother and sister, and

(b) wherever the relation is that of a son, daughter, sister or brother, their spouses shall also be included;'

4. In section 7 of the principal Act, in sub-section (1), for the words "other financial creditors", the words "other financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government," shall be substituted. Amendment of section 7.

5. In section 8 of the principal Act,— Amendment of section 8.

(a) in sub-section (2),—

(i) in clause (a), for the words "if any, and", the words "if any, or" shall be substituted;

(ii) in clause (b), for the word "repayment", the word "payment" shall be substituted;

(b) in the *Explanation*, for the word "repayment", the word "payment" shall be substituted.

6. In section 9 of the principal Act,—

(a) in sub-section (3),—

(i) in clause (c), for the words "by the corporate debtor; and", the words "by the corporate debtor, if available;" shall be substituted;

(ii) for clause (d), the following clauses shall be substituted, namely:—

"(d) a copy of any record with information utility confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available; and

(e) any other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information, as may be prescribed.";

(b) in sub-section (5),—

(A) in clause (i), in sub-clause (b), for the word "repayment", the word "payment" shall be substituted;

(B) in clause (ii), in sub-clause (b), for the word "repayment", the word "payment" shall be substituted.

Amendment of section 9.

Amendment
of section 10.

7. In section 10 of the principal Act,—

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

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

(a) the information relating to its books of account and such other documents for such period as may be specified;

(b) the information relating to the resolution professional proposed to be appointed as an interim resolution professional; and

(c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.";

(b) in sub-section (4),—

(i) in clause (a), after the words "if it is complete", the words "and no disciplinary proceeding is pending against the proposed resolution professional" shall be inserted;

(ii) in clause (b), after the words "if it is incomplete", the words "or any disciplinary proceeding is pending against the proposed resolution professional" shall be inserted.

Amendment
of section 12.

8. In section 12 of the principal Act, in sub-section (2), for the word "seventy-five", the word "sixty-six" shall be substituted.

Insertion of new
section 12A.

9. After section 12 of the principal Act, the following section shall be inserted, namely:—

"12A. The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made by the applicant with the approval of ninety per cent. voting share of the committee of creditors, in such manner as may be specified."

Withdrawal of
application
admitted
under section
7, 9 or 10.

Amendment
of section 14.

10. In section 14 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The provisions of sub-section (1) shall not apply to—

(a) such transaction as may be notified by the Central Government in consultation with any financial regulator;

(b) a surety in a contract of guarantee to a corporate debtor."

Amendment
of section 15.

11. In section 15 of the principal Act, in sub-section (1), in clause (c), for the word "claims", the words "claims, as may be specified" shall be substituted.

Amendment
of section 16.

12. In section 16 of the principal Act, in sub-section (5), for the words "shall not exceed thirty days from date of his appointment", the words and figures "shall continue till the date of appointment of the resolution professional under section 22" shall be substituted.

Amendment
of section 17.

13. In section 17 of the principal Act, in sub-section (2),—

(i) in clause (d), for the words "may be specified.", the words "may be specified; and" shall be substituted;

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

"(e) be responsible for complying with the requirements under any law for the time being in force on behalf of the corporate debtor."

14. In section 18 of the principal Act, in the *Explanation*, for the word "sub-section", the word "section" shall be substituted.

Amendment
of section 18.

15. In section 21 of the principal Act,—

Amendment
of section 21.

(i) in sub-section (2),—

(a) in the proviso, for the words "related party to whom a corporate debtor owes a financial debt", the words, brackets, figures and letter "financial creditor or the authorised representative of the financial creditor referred to in sub-section (6) or sub-section (6A) or sub-section (5) of section 24, if it is a related party of the corporate debtor," shall be substituted;

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

"Provided further that the first proviso shall not apply to a financial creditor, regulated by a financial sector regulator, if it is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.";

(ii) in sub-section (3), for the word "Where", the words, brackets, figures and letter "Subject to sub-sections (6) and (6A), where" shall be substituted;

(iii) in sub-section (6), in the opening portion, the words "or issued as securities" shall be omitted;

(iv) after sub-section (6), the following sub-sections shall be inserted, namely:—

"(6A) Where a financial debt—

(a) is in the form of securities or deposits and the terms of the financial debt provide for appointment of a trustee or agent to act as authorised representative for all the financial creditors, such trustee or agent shall act on behalf of such financial creditors;

(b) is owed to a class of creditors exceeding the number as may be specified, other than the creditors covered under clause (a) or sub-section (6), the interim resolution professional shall make an application to the Adjudicating Authority along with the list of all financial creditors, containing the name of an insolvency professional, other than the interim resolution professional, to act as their authorised representative who shall be appointed by the Adjudicating Authority prior to the first meeting of the committee of creditors;

(c) is represented by a guardian, executor or administrator, such person shall act as authorised representative on behalf of such financial creditors,

and such authorised representative under clause (a) or clause (b) or clause (c) shall attend the meetings of the committee of creditors, and vote on behalf of each financial creditor to the extent of his voting share.

(6B) The remuneration payable to the authorised representative—

(i) under clauses (a) and (c) of sub-section (6A), if any, shall be as per the terms of the financial debt or the relevant documentation; and

(ii) under clause (b) of sub-section (6A) shall be as specified which shall form part of the insolvency resolution process costs.";

(v) for sub-sections (7) and (8), the following sub-sections shall be substituted, namely:—

"(7) The Board may specify the manner of voting and the determining of the voting share in respect of financial debts covered under sub-sections (6) and (6A).

(8) Save as otherwise provided in this Code, all decisions of the committee of creditors shall be taken by a vote of not less than fifty-one per cent. of voting share of the financial creditors:

Provided that where a corporate debtor does not have any financial creditors, the committee of creditors shall be constituted and shall comprise of such persons to exercise such functions in such manner as may be specified."

Amendment of section 22.

16. In section 22 of the principal Act,—

(a) in sub-section (2), for the word, "seventy-five", the word "sixty-six" shall be substituted;

(b) in sub-section (3),—

(i) in clause (a), after the words "resolution professional", the words "subject to a written consent from the interim resolution professional in the specified form" shall be inserted;

(ii) in clause (b), after the words "appointment of the proposed resolution professional", the words "along with a written consent from the proposed resolution professional in the specified form" shall be inserted.

Amendment of section 23.

17. In section 23 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that the resolution professional shall, if the resolution plan under sub-section (6) of section 30 has been submitted, continue to manage the operations of the corporate debtor after the expiry of the corporate insolvency resolution process period until an order is passed by the Adjudicating Authority under section 31."

Amendment of section 24.

18. In section 24 of the principal Act,—

(i) in sub-section (3), in clause (a), for the words "Committee of creditors", the words, brackets, figures and letter "committee of creditors, including the authorised representatives referred to in sub-sections (6) and (6A) of section 21 and sub-section (5)" shall be substituted;

(ii) in sub-section (5), for the words "Any creditor", the words, brackets, figures and letters "Subject to sub-sections (6), (6A) and (6B) of section 21, any creditor" shall be substituted.

Insertion of new section 25A.

19. After section 25 of the principal Act, the following section shall be inserted, namely:—

Rights and duties of authorised representative of financial creditors.

'25A. (1) The authorised representative under sub-section (6) or sub-section (6A) of section 21 or sub-section (5) of section 24 shall have the right to participate and vote in meetings of the committee of creditors on behalf of the financial creditor he represents in accordance with the prior voting instructions of such creditors obtained through physical or electronic means.

(2) It shall be the duty of the authorised representative to circulate the agenda and minutes of the meeting of the committee of creditors to the financial creditor he represents.

(3) The authorised representative shall not act against the interest of the financial creditor he represents and shall always act in accordance with their prior instructions:

Provided that if the authorised representative represents several financial creditors, then he shall cast his vote in respect of each financial creditor in accordance with instructions received from each financial creditor, to the extent of his voting share:

Provided further that if any financial creditor does not give prior instructions through physical or electronic means, the authorised representative shall abstain from voting on behalf of such creditor.

(4) The authorised representative shall file with the committee of creditors any instructions received by way of physical or electronic means, from the financial creditor he represents, for voting in accordance therewith, to ensure that the appropriate voting instructions of the financial creditor he represents is correctly recorded by the interim resolution professional or resolution professional, as the case may be.

Explanation.—For the purposes of this section, the "electronic means" shall be such as may be specified.'

20. In section 27 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:— Amendment of section 27.

"(2) The committee of creditors may, at a meeting, by a vote of sixty-six per cent. of voting shares, resolve to replace the resolution professional appointed under section 22 with another resolution professional, subject to a written consent from the proposed resolution professional in the specified form."

21. In section 28 of the principal Act, in sub-section (3), for the word, "seventy-five", the word "sixty-six" shall be substituted. Amendment of section 28.

22. In section 29A of the principal Act,— Amendment of section 29A.

(i) in clause (c),—

(A) for the words "has an account,", the words "at the time of submission of the resolution plan has an account," shall be substituted;

(B) after the words and figures "the Banking Regulation Act, 1949", the words "or the guidelines of a financial sector regulator issued under any other law for the time being in force," shall be inserted;

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

'Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

Explanation I.—For the purposes of this proviso, the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

Explanation II.—For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval of such resolution plan by the Adjudicating Authority under this Code;";

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

"(d) has been convicted for any offence punishable with imprisonment—

(i) for two years or more under any Act specified under the Twelfth Schedule; or

(ii) for seven years or more under any other law for the time being in force:

Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment:

Provided further that this clause shall not apply in relation to a connected person referred to in clause (iii) of *Explanation I*;"

(iii) in clause (e), the following proviso shall be inserted, namely:—

"Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of *Explanation I*;"

(iv) in clause (g), the following proviso shall be inserted, namely:—

"Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this Code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;"

(v) in clause (h),—

(A) for the words "an enforceable guarantee", the words "a guarantee" shall be substituted;

(B) after the words "under this Code", the words "and such guarantee has been invoked by the creditor and remains unpaid in full or part" shall be inserted;

(vi) in clause (i), for the words "has been", the word "is" shall be substituted;

(vii) the *Explanation* occurring after clause (j) shall be numbered as *Explanation I*, and in *Explanation I* as so numbered, for the proviso, the following provisos shall be substituted, namely:—

'Provided that nothing in clause (iii) of *Explanation I* shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:

Provided further that the expression "related party" shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date;'

(viii) after *Explanation I* as so numbered, the following *Explanation* shall be inserted, namely:—

'*Explanation II.*—For the purposes of this section, "financial entity" shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely:—

(a) a scheduled bank;

(b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;

(c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999;

(d) an asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(e) an Alternate Investment Fund registered with the Securities and Exchange Board of India;

(f) such categories of persons as may be notified by the Central Government.'

23. In section 30 of the principal Act,—

(i) in sub-section (1), after the words "resolution plan", the words, figures and letter "along with an affidavit stating that he is eligible under section 29A" shall be inserted;

(ii) in sub-section (2),—

(A) in clauses (a) and (b), for the word "repayment" at both the places where it occurs, the word "payment" shall be substituted;

(B) after clause (f), the following *Explanation* shall be inserted, namely:—

'*Explanation.*—For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013 or any other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law.';

(iii) in sub-section (4),—

(a) for the word "seventy-five", the word "sixty-six" shall be substituted;

42 of 1999

54 of 2002

18 of 2013.

Amendment
of section 30.

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

"Provided also that the eligibility criteria in section 29A as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 shall apply to the resolution applicant who has not submitted resolution plan as on the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018."

ord. 6 of 2018.

Amendment
of section 31.

24. In section 31 of the principal Act,—

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

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

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

"(4) The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later:

Provided that where the resolution plan contains a provision for combination, as referred to in section 5 of the Competition Act, 2002, the resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors."

12 of 2003.

Amendment
of section 33.

25. In section 33 of the principal Act, in sub-section (2), after the words "decision of the committee of creditors", the words "approved by not less than sixty-six per cent. of the voting share" shall be inserted.

Amendment
of section 34.

26. In section 34 of the principal Act,—

(a) in sub-section (1), for the words and figures "Chapter II shall", the words and figures "Chapter II shall, subject to submission of a written consent by the resolution professional to the Adjudicatory Authority in specified form," shall be substituted;

(b) in sub-section (4),—

(i) in clause (b), for the words "in writing", the words "in writing; or" shall be substituted;

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

"(c) the resolution professional fails to submit written consent under sub-section (1).";

(c) in sub-section (5), for the word, brackets and letter "clause (a)", the words, brackets and letters "clauses (a) and (c)" shall be substituted;

(d) in sub-section (6), after the words "another insolvency professional", the words "along with written consent from the insolvency professional in the specified form," shall be inserted.

Amendment
of section 42.

27. In section 42 of the principal Act, after the words "of the liquidator", the words "accepting or" shall be inserted.

- 28.** In section 45 of the principal Act, in sub-section (1), the words and figures "of section 43" shall be omitted. Amendment of section 45.
- 29.** In section 60 of the principal Act,—
- (a) in sub-section (2), for the words "bankruptcy of a personal guarantor of such corporate debtor", the words "liquidation or bankruptcy of a corporate guarantor or personal guarantor, as the case may be, of such corporate debtor" shall be substituted;
- (b) in sub-section (3), for the words "bankruptcy proceeding of a personal guarantor of the corporate debtor", the words "liquidation or bankruptcy proceeding of a corporate guarantor or personal guarantor, as the case may be, of the corporate debtor" shall be substituted.
- 30.** In section 69 of the principal Act, for the words "On or after the insolvency commencement date, if", the word "If" shall be substituted. Amendment of section 69.
- 31.** In section 76 of the principal Act,—
- (a) in the marginal heading, for the word "repayment", the word "payment" shall be substituted;
- (b) in clause (a), for the word "repayment", the word "payment" shall be substituted.
- 32.** In section 196 of the principal Act, in sub-section (1),—
- (i) after clause (a), the following clause shall be inserted namely:—
- "(aa) promote the development of, and regulate, the working and practices of, insolvency professionals, insolvency professional agencies and information utilities and other institutions, in furtherance of the purposes of this Code;"
- (ii) in clause (c), for the words "for the registration", the words "for carrying out the purposes of this Code, including fee for registration and renewal" shall be substituted.
- 33.** In section 231 of the principal Act, for the words "Adjudicating Authority" at both the places where they occur, the words "Adjudicating Authority or the Board" shall be substituted. Amendment of section 231.
- 34.** After section 238 of the principal Act, the following section shall be inserted, namely:—
- "238A. The provisions of the Limitation Act, 1963 shall, as far as may be, apply to the proceedings or appeals before the Adjudicating Authority, the National Company Law Appellate Tribunal, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be."
- Insertion of new section 238A. Limitation.
- 35.** In section 239 of the principal Act, in sub-section (2), after clause (e), the following clause shall be inserted, namely:—
- "(ea) other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information under clause (e) of sub-section (3) of section 9;"
- 36.** In section 240 of the principal Act, in sub-section (2),—
- (i) clause (g) shall be omitted;
- (ii) after clause (j), the following clause shall be inserted, namely:—
- "(ja) the last date for submission of claims under clause (c) of sub-section (1) of section 15;"
- Amendment of section 240.

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

"(na) the number of creditors within a class of creditors under clause (b) of sub-section (6A) of section 21;

(nb) the remuneration payable to authorised representative under clause (ii) of the proviso to sub-section (6B) of section 21;

(nc) the manner of voting and determining the voting share in respect of financial debts under sub-section (7) of section 21;"

Insertion of
new section
240A.

37. After section 240 of the principal Act, the following section shall be inserted, namely:—

Application
of this Code
to micro,
small and
medium
enterprises.

'240A. (1) Notwithstanding anything to the contrary contained in this Code, the provisions of clauses (c) and (h) of section 29A shall not apply to the resolution applicant in respect of corporate insolvency resolution process of any micro, small and medium enterprises.

(2) Subject to sub-section (1), the Central Government may, in the public interest, by notification, direct that any of the provisions of this Code shall—

(a) not apply to micro, small and medium enterprises; or

(b) apply to micro, small and medium enterprises, with such modifications as may be specified in the notification.

(3) A draft of every notification proposed to be issued under sub-section (2), shall be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

(4) If both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or shall be issued only in such modified form as may be agreed upon by both the Houses, as the case may be.

(5) The period of thirty days referred to in sub-section (3) shall not include any period during which the House referred to in sub-section (4) is prorogued or adjourned for more than four consecutive days.

(6) Every notification issued under this section shall be laid, as soon as may be after it is issued, before each House of Parliament.

Explanation.—For the purposes of this section, the expression "micro, small and medium enterprises" means any class or classes of enterprises classified as such under sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006.¹

Insertion of
new Schedule.

38. After the Eleventh Schedule to the principal Act, the following Schedule shall be inserted, namely:—

27 of 2006.

"THE TWELFTH SCHEDULE

[See clause (d) of section 29A]

ACTS FOR THE PURPOSES OF CLAUSE (d) OF SECTION 29A

- (1) The Foreign Trade (Development and Regulation) Act, 1922 (22 of 1922);
- (2) The Reserve Bank of India Act, 1934 (2 of 1934);
- (3) The Central Excise Act, 1944 (1 of 1944);
- (4) The Prevention of Food Adulteration Act, 1954 (37 of 1954);
- (5) The Essential Commodities Act, 1955 (10 of 1955);
- (6) The Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (7) The Income-tax Act, 1961 (43 of 1961);
- (8) The Customs Act, 1962 (52 of 1962);
- (9) The Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);
- (10) The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974);
- (11) The Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);
- (12) The Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);
- (13) The Environment (Protection) Act, 1986 (29 of 1986);
- (14) The Prohibition of Benami Property Transactions Act, 1988 (45 of 1988);
- (15) The Prevention of Corruption Act, 1988 (49 of 1988);
- (16) The Securities and Exchange Board of India Act, 1992 (15 of 1992);
- (17) The Foreign Exchange Management Act, 1999 (42 of 1999);
- (18) The Competition Act, 2002 (12 of 2003);
- (19) The Prevention of Money-laundering Act, 2002 (15 of 2003);
- (20) The Limited Liability Partnership Act, 2008 (6 of 2009);
- (21) The Foreign Contribution (Regulation) Act, 2010 (42 of 2010);
- (22) The Companies Act, 2013 (18 of 2013) or any previous company law;
- (23) The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015);
- (24) The Insolvency and Bankruptcy Code, 2016 (31 of 2016);
- (25) The Central Goods and Services Tax Act, 2017 (12 of 2017) and respective State Acts imposing State goods and services tax;
- (26) such other Acts as may be notified by the Central Government.

Every notification issued under this Schedule shall be laid, as soon as may be after it is issued, before each House of Parliament."

Amendment
of section
434 of Act 18
of 2013.

39. In section 434 of the Companies Act, 2013, [as substituted by paragraph 34 of the Eleventh Schedule to the Insolvency and Bankruptcy Code, 2016], in sub-section (1), in clause (c), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that any party or parties to any proceedings relating to the winding up of companies pending before any Court immediately before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, may file an application for transfer of such proceedings and the Court may by order transfer such proceedings to the Tribunal and the proceedings so transferred shall be dealt with by the Tribunal as an application for initiation of corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016."

31 of 2016.

Repeal and
savings.

40. (1) The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 is hereby repealed.

Ord. 6 of
2018.

(2) Notwithstanding such repeal, anything done or any action taken under the Insolvency and Bankruptcy Code, 2016, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Code, as amended by this Act.

31 of 2016.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 17th August, 2018 / Shravana 26, 1940 (Saka) .

The following Act of Parliament received the assent of the President on the 17th August, 2018 and is hereby re-published for general information:—

THE SCHEDULED CASTES AND THE SCHEDULED TRIBES
(PREVENTION OF ATROCITIES) AMENDMENT ACT, 2018

No. 27 OF 2018

[17th August, 2018.]

An Act further to amend the Scheduled Castes and the Scheduled Tribes
(Prevention of Atrocities) Act, 1989.

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

1. (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018.

Short title and commencement.

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

2. After section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the following section shall be inserted, namely:—

Insertion of new section 18A

"18A. (1) For the purposes of this Act,—

(a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or

(b) the investigating officer shall not require approval for the arrest, if necessary, of any person,

No enquiry or approval required.

against whom an accusation of having committed an offence under this Act has been made and no procedure other than that provided under this Act or the Code shall apply.

(2) The provisions of section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court."

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 21st August, 2018 / Shravana 30, 1940 (Saka).

The following Act of Parliament received the assent of the President on the 20th August, 2018 and is hereby re-published for general information:—

THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND
COMMERCIAL APPELLATE DIVISION OF HIGH COURTS
(AMENDMENT) ACT, 2018

No. 28 OF 2018

[20th August, 2018.]

An Act to amend the Commercial Courts, Commercial Division and
Commercial Appellate Division of High Courts Act, 2015.

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

1. (1) This Act may be called the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018.

Short title
and
commence-
ment.

(2) Save as otherwise provided, it shall be deemed to have come into force on the 3rd day of May, 2018.

4 of 2016. 2. In the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter referred to as the principal Act), in the long title, after the words "Commercial Courts", the words "Commercial Appellate Courts," shall be inserted.

Amendment
of long title.

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

Amendment
of section 1.

"(1) This Act may be called the Commercial Courts Act, 2015."

4. In section 2 of the principal Act, in sub-section (1),—

Amendment
of section 2.

(1) clause (a) shall be renumbered as clause (aa) thereof, and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—

'(a) "Commercial Appellate Courts" means the Commercial Appellate Courts designated under section 3A;'

(II) in clause (i), for the words "which shall not be less than one crore rupees", the words "which shall not be less than three lakh rupees" shall be substituted.

Substitution
of Chapter
heading.

5. In the principal Act, in Chapter II, for the Chapter heading, the following Chapter heading shall be substituted, namely:—

"COMMERCIAL COURTS, COMMERCIAL APPELLATE COURTS,
COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS".

Amendment
of section 3.

6. In section 3 of the principal Act,—

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

"Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.";

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

"(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.";

(c) in sub-section (3),—

(i) for the words "State Government shall", the words "State Government may" shall be substituted;

(ii) for the words "Commercial Court, from amongst the cadre of Higher Judicial Service in the State", the following words shall be substituted, namely:—

"Commercial Court either at the level of District Judge or a court below the level of a District Judge".

7. After section 3 of the principal Act, the following section shall be inserted, namely:—	Insertion of new section 3A.
"3A. Except the territories over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act."	Designation of Commercial Appellate Courts.
8. In section 4 of the principal Act, in sub-section (1), for the words "ordinary civil jurisdiction", the words "ordinary original civil jurisdiction" shall be substituted.	Amendment of section 4.
9. Section 9 of the principal Act shall be omitted.	Omission of section 9.
10. In section 12 of the principal Act, in sub-section (1),—	Amendment of section 12.
(i) in clause (c), after the words "Specified Value;", the word "and" shall be inserted;	
(ii) in clause (d), the word "and", occurring at the end, shall be omitted;	
(iii) clause (e) shall be omitted.	
11. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—	Insertion of new Chapter IIIA.
"CHAPTER IIIA	
PRE-INSTITUTION MEDIATION AND SETTLEMENT	
12A. (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.	Pre-Institution Mediation and Settlement.
39 of 1987.	(2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987, for the purposes of pre-institution mediation.
39 of 1987.	(3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987, the Authority authorised by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1):
	Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:
36 of 1963.	Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963.
	(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.
26 of 1996.	(5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996."
12. In section 13 of the principal Act, for sub-section (1), the following shall be substituted, namely:—	Amendment of section 13.

"(I) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(IA) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996."

5 of 1908.
26 of 1996.

Amendment
of section 14.

13. In section 14 of the principal Act, for the words "Commercial Appellate Division", the words "Commercial Appellate Court and the Commercial Appellate Division" shall be substituted.

Amendment
of section 15.

14. In section 15 of the principal Act, in sub-section (4), for the words, figures and letter "with Order XIV-A", the words, figures and letter "with Order XV-A" shall be substituted.

Amendment
of section 17.

15. In section 17 of the principal Act, for the words "Commercial Courts" and "Commercial Court", wherever they occur, the words "Commercial Courts, Commercial Appellate Courts" shall be substituted.

Amendment
of section 20.

16. In section 20 of the principal Act, for the words "Commercial Court", the words "Commercial Courts, Commercial Appellate Courts" shall be substituted.

Insertion of
new section
21A.

17. After section 21 of the principal Act, the following section shall be inserted, namely:—

Power of
Central
Government
to make rules.

"21A. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

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

(a) the manner and procedure of pre-institution mediation under sub-section (1) of section 12A;

(b) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules made by the Central Government.

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

Amendment
of Schedule.

18. In the Schedule to the principal Act,—

(i) in Paragraph 4, in sub-paragraph (D), in item (iv),—

(a) in the opening portion, the words "after the first proviso," shall be omitted;

(b) for the words "Provided further that", the words "Provided that" shall be substituted;

(ii) in Paragraph 11, for the words "Commercial Court", the words "Commercial Court, Commercial Appellate Court" shall be substituted;

(iii) after Paragraph 11, the following shall be inserted and shall be deemed to have been inserted with effect from the 23rd October, 2015, namely:—

‘12. After Appendix H, the following Appendix shall be inserted, namely:—

“APPENDIX-I

STATEMENT OF TRUTH

(Under First Schedule, Order VI- Rule 15A and Order XI- Rule 3)

I ----- the deponent do hereby solemnly affirm and declare as under:

1. I am the party in the above suit and competent to swear this affidavit.

2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.

3. I say that the statements made in -----paragraphs are true to my knowledge and statements made in -----paragraphs are based on information received which I believe to be correct and statements made in ---paragraphs are based on legal advice.

4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.

5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.

6. I say that the above-mentioned pleading comprises of a total of ---- pages, each of which has been duly signed by me.

7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.

8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law for the time being in force.

Place:

Date:

DEPONENT

VERIFICATION

I, do hereby declare that the statements made above are true to my knowledge.

Verified at [place] on this [date]

DEPONENT."!

Application of provisions of this Act to cases filed on or after its commencement.

Repeal and savings.

19. Save as otherwise provided, the provisions of this Act shall apply only to cases relating to commercial disputes filed on or after the date of commencement of this Act.

20. (1) The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018 is hereby repealed.

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

Ordinance 3 of 2018.

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

New Delhi, the 25th August, 2018 / Bhadrapada 3, 1940 (Saka).

The following Act of Parliament received the assent of the President on the 24th August, 2018 and is hereby re-published for general information:—

THE APPROPRIATION (No. 4) ACT, 2018

No. 29 OF 2018

[24th August, 2018.]

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 2018-19.

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

- | | |
|---|---|
| <p>1. This Act may be called the Appropriation (No. 4) Act, 2018.</p> | <p>Short title.</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 eleven thousand six hundred ninety-seven crore and ninety-two lakh rupees towards defraying the several charges which will come in course of payment during the financial year 2018-19 in respect of the services specified in column 2 of the Schedule.</p> | <p>Issue of
Rs. 11697,92,00,000
out of the
Consolidated
Fund of India
for the
financial year
2018-19.</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>Appropriation.</p> |

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding			
		Voted by Parliament	Charged on the Consolidated Fund	Total	
		Rs.	Rs.	Rs.	
1	Department of Agriculture, Cooperation and Farmers' Welfare	Revenue	1791,64,00,000	..	1791,64,00,000
2	Department of Agricultural Research and Education	Revenue	1,00,000	..	1,00,000
3	Department of Animal Husbandry, Dairying and Fisheries	Revenue	2,00,000	..	2,00,000
4	Atomic Energy	Revenue	2,00,000	..	2,00,000
		Capital	2,00,000	..	2,00,000
5	Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH)	Revenue	30,00,00,000	..	30,00,00,000
6	Department of Chemicals and Petrochemicals	Revenue	200,00,00,000	..	200,00,00,000
7	Department of Fertilisers	Revenue	2,00,00,000	..	2,00,00,000
9	Ministry of Civil Aviation	Capital	980,00,00,000	..	980,00,00,000
11	Department of Commerce	Revenue	500,01,00,000	..	500,01,00,000
12	Department of Industrial Policy and Promotion	Revenue	3,00,000	..	3,00,000
13	Department of Posts	Revenue	600,00,00,000	..	600,00,00,000
14	Department of Telecommunications	Revenue	..	78,82,00,000	78,82,00,000
15	Department of Consumer Affairs	Revenue	1,00,000	..	1,00,000
16	Department of Food and Public Distribution	Revenue	463,31,00,000	..	463,31,00,000
17	Ministry of Corporate Affairs	Revenue	1,00,000	..	1,00,000
18	Ministry of Culture	Revenue	2,00,000	..	2,00,000
		Capital	150,00,00,000	..	150,00,00,000
19	Ministry of Defence (Misc.)	Revenue	1057,84,00,000	..	1057,84,00,000
23	Ministry of Development of North Eastern Region	Revenue	110,00,00,000	..	110,00,00,000
24	Ministry of Drinking Water and Sanitation	Revenue	1,00,000	..	1,00,000
25	Ministry of Earth Sciences	Capital	1,00,000	..	1,00,000
26	Ministry of Electronics and Information Technology	Revenue	200,01,00,000	..	200,01,00,000
27	Ministry of Environment, Forests and Climate Change	Revenue	50,01,00,000	..	50,01,00,000
28	Ministry of External Affairs	Revenue	250,00,00,000	..	250,00,00,000
		Capital	1,00,000	..	1,00,000
29	Department of Economic Affairs	Revenue	3,00,000	..	3,00,000
		Capital	2,00,000	..	2,00,000
31	Department of Financial Services	Capital	20,00,00,000	..	20,00,00,000
32	Department of Investment and Public Asset Management (DIPAM)	Revenue	27,15,00,000	..	27,15,00,000
34	Direct Taxes	Capital	2,00,000	..	2,00,000
35	Indirect Taxes	Revenue	1,00,000	..	1,00,000
36	Indian Audit and Accounts Department	Revenue	14,00,00,000	..	14,00,00,000
41	Ministry of Food Processing Industries	Revenue	2,00,000	..	2,00,000
42	Department of Health and Family Welfare	Revenue	4,00,000	..	4,00,000
		Capital	2,00,000	..	2,00,000
44	Department of Heavy Industry	Capital	2,00,000	..	2,00,000
46	Ministry of Home Affairs	Revenue	1,00,000	2,17,00,000	2,18,00,000
47	Cabinet	Revenue	150,00,00,000	..	150,00,00,000
		Capital	715,89,00,000	..	715,89,00,000
48	Police	Revenue	516,31,00,000	..	516,31,00,000
		Capital	25,64,00,000	..	25,64,00,000
49	Andaman and Nicobar Islands	Revenue	86,00,00,000	..	86,00,00,000
52	Daman and Diu	Revenue	1,00,000	..	1,00,000
		Capital	1,00,000	..	1,00,000

1 No. of Vote	2 Services and purposes	3 Sums not exceeding			
		Voted by Parliament	Charged on the Consolidated Fund	Total	
		Rs.	Rs.	Rs.	
56	Ministry of Housing and Urban Affairs	Revenue	3,00,000	..	3,00,000
		Capital	4,00,000	..	4,00,000
57	Department of School Education and Literacy	Revenue	3,00,000	..	3,00,000
58	Department of Higher Education	Revenue	3,00,000	..	3,00,000
59	Ministry of Information and Broadcasting	Revenue	1,00,000	..	1,00,000
		Capital	1,00,000	..	1,00,000
64	Ministry of Micro, Small and Medium Enterprises ..	Revenue	2,00,000	..	2,00,000
		Capital	1,00,000	..	1,00,000
65	Ministry of Mines	Revenue	1,00,000	..	1,00,000
68	Ministry of Panchayati Raj	Revenue	4,00,000	..	4,00,000
70	Ministry of Personnel, Public Grievances and Pensions	Revenue	1,00,000	..	1,00,000
		Capital	9,00,000	..	9,00,000
	CHARGED.— <i>Central Vigilance Commission</i>	Revenue	..	1,00,000	1,00,000
72	Ministry of Petroleum and Natural Gas	Revenue	1708,01,00,000	..	1708,01,00,000
73	Ministry of Planning	Revenue	20,90,00,000	..	20,90,00,000
74	Ministry of Power	Revenue	1,00,000	..	1,00,000
76	Lok Sabha	Revenue	20,00,00,000	10,00,000	20,10,00,000
77	Rajya Sabha	Revenue	23,84,00,000	1,13,00,000	24,97,00,000
80	Ministry of Railways	Capital	1,00,000	..	1,00,000
81	Ministry of Road Transport and Highways	Capital	1,00,000	..	1,00,000
82	Department of Rural Development	Revenue	3,00,000	..	3,00,000
84	Department of Science and Technology	Revenue	1,00,000	..	1,00,000
85	Department of Biotechnology	Revenue	2,00,000	..	2,00,000
87	Ministry of Shipping	Revenue	218,60,00,000	..	218,60,00,000
89	Department of Social Justice and Empowerment	Revenue	156,50,00,000	..	156,50,00,000
		Capital	1,00,000	..	1,00,000
91	Department of Space	Revenue	1,00,000	..	1,00,000
		Capital	1,00,000	..	1,00,000
92	Ministry of Statistics and Programme Implementation ..	Revenue	2,00,000	..	2,00,000
93	Ministry of Steel	Revenue	1,00,000	..	1,00,000
94	Ministry of Textiles	Revenue	1500,02,00,000	..	1500,02,00,000
		Capital	1,00,000	..	1,00,000
95	Ministry of Tourism	Revenue	1,00,000	..	1,00,000
96	Ministry of Tribal Affairs	Revenue	1,00,000	1,00,000	2,00,000
97	Ministry of Water Resources, River Development and Ganga Rejuvenation	Revenue	4,00,000	..	4,00,000
		Capital	1,00,000	..	1,00,000
98	Ministry of Women and Child Development	Revenue	4,00,000	..	4,00,000
		Capital	27,00,00,000	..	27,00,00,000
99	Ministry of Youth Affairs and Sports	Revenue	2,00,000	..	2,00,000
	TOTAL:		11615,68,00,000	82,24,00,000	11697,92,00,000

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
Additional Secretary to the Government,
Law Department.

New Delhi, the 25th August, 2018 / Bhadrapada 3, 1940 (Saka).

The following Act of Parliament received the assent of the President on the 24th August, 2018 and is hereby re-published for general information:—

THE APPROPRIATION (No. 5) ACT, 2018.

No. 30 OF 2018

[24th August, 2018.]

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, 2016, in excess of the amounts granted for those services and for that year.

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

1. This Act may be called the Appropriation (No. 5) Act, 2018. 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 two hundred eighty-six crore forty-four lakh twenty thousand and two hundred fifty-five 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, 2016, in excess of the amounts granted for those services and for that year. Issue of Rs.
286,44,20,255
out of the
Consolidated
Fund of India
to meet certain
excess
expenditure for
the year ended
on the 31st
March, 2016.
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, 2016. Appropriation.

THE SCHEDULE
(See sections 2 and 3)

1 No. of Vote	2 Services and purposes	3 Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
		Rs.	Rs.	Rs.
	Civil Ministries			
15	Department of Telecommunication Revenue	210,22,20,526	...	210,22,20,526
22	Defence Pensions Revenue	...	14,65,728	14,65,728
	Ministry of Railways			
2	Miscellaneous Expenditure Revenue	75,62,93,767	...	75,62,93,767
3	Working Expenses—General Superintendence and Services Revenue	...	11,02,690	11,02,690
4	Working Expenses—Repairs and maintenance of permanent way and works Revenue	...	14,04,773	14,04,773
6	Working Expenses—Repairs and Maintenance of Carriage and Wagons Revenue	...	158	158
11	Working Expenses—Staff Welfare and Amenities ... Revenue	...	200	200
13	Working Expenses—Provident Fund, Pension and Other retirement benefits Revenue	...	19,32,413	19,32,413
	TOTAL:	285,85,14,293	59,05,962	286,44,20,255

DR. G. NARAYANA RAJU,
Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
Additional Secretary to the Government,
Law Department.

CORRIGENDA

In the Insurance Laws (Amendment) Act, (5 of 2015), as published in the Gazette of India Extraordinary, Part II, Section 1, Issue No. 8, dated the 20th March, 2015,—

- (i) at page 5, in line No. 41, for “sub-section (1)”, read “sub-section (2);
- (ii) at page 7, in line No. 40 and 41, for “the Securities” read “Securities”;
- (iii) at page 35, in line No. 30, for “sub-section (12)”, read “sub-section (2).

New Delhi, the 30th August, 2018 / Bhadrapada 8, 1940 (Saka).

The following Act of Parliament received the assent of the President on the 29th August, 2018 and is hereby re-published for general information:—

THE CENTRAL GOODS AND SERVICES TAX (AMENDMENT)
ACT, 2018
(No. 31 OF 2018)

[29th August, 2018]

An Act further to amend the Central Goods and Services Tax Act, 2017.

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

1. (1) This Act may be called the Central Goods and Services Tax (Amendment) Act, 2018.

Short title
and
commencement.

(2) Save as otherwise provided, the provisions of this Act 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.

12 of 2017.

2. In section 2 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act),—

Amendment
of section 2.

(a) in clause (4),—

(i) for the words “Central Board of Excise and Customs”, the words “Central Board of Indirect Taxes and Customs” shall be substituted;

(ii) for the words “the Appellate Authority and the Appellate Tribunal”, the words, brackets and figures “the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171” shall be substituted;

(b) in clause (17), for sub-clause (h), the following sub-clause shall be substituted, namely:—

“(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and”;

(c) clause (18) shall be omitted;

(d) in clause (35), for the word, brackets and letter “clause (c)”, the word, brackets and letter “clause (b)” shall be substituted;

(e) in clause (69), in sub-clause (f), after the word and figures “article 371”, the words, figures and letter “and article 371J” shall be inserted;

(f) in clause (102), the following *Explanation* shall be inserted, namely:—

Explanation.—For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities;’.

Amendment
of section 7.

3. In section 7 of the principal Act, with effect from the 1st day of July, 2017,—

(a) in sub-section (1), —

(i) in clause (b), after the words “or furtherance of business;”, the word “and” shall be inserted and shall always be deemed to have been inserted;

(ii) in clause (c), after the words “a consideration”, the word “and” shall be omitted and shall always be deemed to have been omitted;

(iii) clause (d) shall be omitted and shall always be deemed to have been omitted;

(b) after sub-section (1), the following sub-section shall be inserted and shall always be deemed to have been inserted, namely:—

“(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.”;

(c) in sub-section (3), for the words, brackets and figures “sub-sections (1) and (2)”, the words, brackets, figures and letter “sub-sections (1), (1A) and (2)” shall be substituted.

Amendment
of section 9.

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

“(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.”.

Amendment
of section 10.

5. In section 10 of the principal Act,—

(a) in sub-section (1) —

(i) for the words “in lieu of the tax payable by him, an amount calculated at such rate”, the words, brackets and figures “in lieu of the tax payable by him

under sub-section (1) of section 9, an amount of tax calculated at such rate” shall be substituted;

(ii) in the proviso, for the words “one crore rupees”, the words “one crore and fifty lakh rupees” shall be substituted;

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

“Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.”;

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

“(a) save as provided in sub-section (1), he is not engaged in the supply of services;”.

6. In section 12 of the principal Act, in sub-section (2), in clause (a), the words, brackets and figure “sub-section (1) of” shall be omitted. Amendment of section 12.

7. In section 13 of the principal Act, in sub-section (2), the words, brackets and figure “sub-section (2) of” occurring at both the places, shall be omitted. Amendment of section 13.

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

(a) in clause (b), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

“*Explanation.*—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.”;

(b) in clause (c), for the word and figures “section 41”, the words, figures and letter “section 41 or section 43A” shall be substituted.

9. In section 17 of the principal Act,— Amendment of section 17.

(a) in sub-section (3), the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.”;

(b) in sub-section (5), for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—

(A) further supply of such motor vehicles; or

(B) transportation of passengers; or

(C) imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used—

(i) for making the following taxable supplies, namely:—

(A) further supply of such vessels or aircraft; or

(B) transportation of passengers; or

(C) imparting training on navigating such vessels; or

(D) imparting training on flying such aircraft;

(ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available—

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged—

(I) in the manufacture of such motor vehicles, vessels or aircraft; or

(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

(b) the following supply of goods or services or both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”.

Amendment
of section 20.

10. In section 20 of the principal Act, in the *Explanation*, in clause (c), for the words and figures “under entry 84,”, the words, figures and letter “under entries 84 and 92A” shall be substituted.

Amendment
of section 22.

11. In section 22 of the principal Act,—

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

“Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified.”;

(b) in the *Explanation*, in clause (iii), after the words “State of Jammu and Kashmir”, the words “and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand” shall be inserted.”.

12. In section 24 of the principal Act, in clause (x), after the words “commerce operator”, the words and figures “who is required to collect tax at source under section 52” shall be inserted. Amendment of section 24.

13. In section 25 of the principal Act,—

(a) in sub-section (1), after the proviso and before the *Explanation*, the following proviso shall be inserted, namely:— Amendment of section 25.

28 of 2005.

“Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.”;

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

“Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.”.

14. In section 29 of the principal Act,—

(a) in the marginal heading after the word “Cancellation”, the words “or suspension” shall be inserted; Amendment of section 29.

(b) in sub-section (1), after clause (c), the following proviso shall be inserted, namely:—

“Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.”;

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

“Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.”.

15. In section 34 of the principal Act,—

(a) in sub-section (1),— Amendment of section 34.

(i) for the words “Where a tax invoice has”, the words “Where one or more tax invoices have” shall be substituted;

(ii) for the words “a credit note”, the words “one or more credit notes for supplies made in a financial year” shall be substituted;

(b) in sub-section (3),—

(i) for the words “Where a tax invoice has”, the words “Where one or more tax invoices have” shall be substituted;

(ii) for the words “a debit note”, the words “one or more debit notes for supplies made in a financial year” shall be substituted.

16. In section 35 of the principal Act, in sub-section (5), the following proviso shall be inserted, namely:— Amendment of section 35.

“Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.”.

Amendment
of section 39.

17. In section 39 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “in such form and manner as may be prescribed”, the words “in such form, manner and within such time as may be prescribed” shall be substituted;

(ii) the words “on or before the twentieth day of the month succeeding such calendar month or part thereof” shall be omitted;

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

“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein.”;

(b) in sub-section (7), the following proviso shall be inserted, namely:—

“Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.”;

(c) in sub-section (9),—

(i) for the words “in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed”, the words “in such form and manner as may be prescribed” shall be substituted;

(ii) in the proviso, for the words “the end of the financial year”, the words “the end of the financial year to which such details pertain” shall be substituted.

Insertion of new
section 43A.

18. After section 43 of the principal Act, the following section shall be inserted, namely:—

Procedure for
furnishing
return and
availing input
tax credit.

“43A. (1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.

(2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.

(3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.

(4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.

(5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.

(6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.

(7) For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees.

(8) The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person,—

(i) within six months of taking registration;

(ii) who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount,

shall be such as may be prescribed.”.

19. In section 48 of the principal Act, in sub-section (2), after the word and figures “section 45”, the words “and to perform such other functions” shall be inserted. Amendment of section 48.

20. In section 49 of the principal Act,— Amendment of section 49.

(a) in sub-section (2), for the word and figures “section 41”, the words, figures and letter “section 41 or section 43A” shall be substituted;

(b) in sub-section (5),—

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

“Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;”;

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

“Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;”.

21. After section 49 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 49A and 49B.

“49A. Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment. Utilisation of input tax credit subject to certain conditions.

49B. Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.”. Order of utilisation of input tax credit.

22. In section 52 of the principal Act, in sub-section (9), for the word and figures “section 37”, the words and figures “section 37 or section 39” shall be substituted. Amendment of section 52.

23. In section 54 of the principal Act,— Amendment of section 54.

(a) in sub-section (8), in clause (a), for the words “zero-rated supplies”, the words “export” and “exports” shall respectively be substituted;

(b) in the *Explanation*, in clause (2),—

(i) in sub-clause (c), in item (i), after the words “foreign exchange”, the words “or in Indian rupees wherever permitted by the Reserve Bank of India” shall be inserted;

(ii) for sub-clause (e), the following sub-clause shall be substituted, namely:—

“(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;”.

Amendment of section 79. **24.** In section 79 of the principal Act, after sub-section (4), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*—For the purposes of this section, the word person shall include “distinct persons” as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.’.

Amendment of section 107. **25.** In section 107 of the principal Act, in sub-section (6), in clause (b), after the words “arising from the said order,”, the words “subject to a maximum of twenty-five crore rupees,” shall be inserted.

Amendment of section 112. **26.** In section 112 of the principal Act, in sub-section (8), in clause (b), after the words “arising from the said order,” the words “subject to a maximum of fifty crore rupees,” shall be inserted.

Amendment of section 129. **27.** In section 129 of the principal Act, in sub-section (6), for the words “seven days”, the words “fourteen days” shall be substituted.

Amendment of section 140. **28.** In section 140 of the principal Act, with effect from the 1st day of July, 2017,—

(a) in sub-section (1), after the letters and word “CENVAT credit”, the words “of eligible duties” shall be inserted and shall always be deemed to have been inserted;

(b) in the *Explanation 1*—

(i) for the word, brackets and figures “sub-sections (3), (4)”, the word, brackets and figures “sub-sections (1), (3), (4)” shall be substituted and shall always be deemed to have been substituted;

(ii) clause (iv) shall be omitted and shall always be deemed to have been omitted;

(c) in the *Explanation 2*—

(i) for the word, brackets and figure “sub-section (5)”, the words, brackets and figures “sub-sections (1) and (5)” shall be substituted and shall always be deemed to have been substituted;

(ii) clause (iv) shall be omitted and shall always be deemed to have been omitted;

(d) after *Explanation 2* as so amended, the following *Explanation* shall be inserted and shall always be deemed to have been inserted, namely:—

‘*Explanation 3.*—For removal of doubts, it is hereby clarified that the expression “eligible duties and taxes” excludes any cess which has not been specified in *Explanation 1* or *Explanation 2* and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.’.

29. In section 143 of the principal Act, in sub-section (1), in clause (b), after the proviso, the following proviso shall be inserted, namely:—
- Amendment
of section
143.
- “Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.”
30. In Schedule I of the principal Act, in paragraph 4, for the words “taxable person”, the word “person” shall be substituted.
- Amendment
of Schedule I.
31. In Schedule II of the principal Act, in the heading, after the word “ACTIVITIES”, the words “OR TRANSACTIONS” shall be inserted and shall always be deemed to have been inserted with effect from the 1st day of July, 2017.
- Amendment of
Schedule II.
32. In Schedule III of the principal Act, —
- Amendment of
Schedule III.
- (i) after paragraph 6, the following paragraphs shall be inserted, namely:—
- “7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
8. (a) Supply of warehoused goods to any person before clearance for home consumption;
- (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.”;
- (ii) the *Explanation* shall be numbered as *Explanation 1* and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—
- Explanation 2.*—For the purposes of paragraph 8, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.’.

52 of 1962.

DR. REETA VASISHTA,
Additional Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

The following Act of Parliament received the assent of the President on the 29th August, 2018 and is hereby re-published for general information:—

THE INTEGRATED GOODS AND SERVICES TAX (AMENDMENT)
ACT, 2018

No. 32 OF 2018

[29th August, 2018.]

An Act further to amend the Integrated Goods and Services Tax Act, 2017.

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

1. (1) This Act may be called the Integrated Goods and Services Tax (Amendment) Act, 2018. Short title and commencement.

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

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

13 of 2017.

2. In section 2 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act),— Amendment of section 2.

(i) in clause (6), in sub-clause (iv), after the words "foreign exchange", the words "or in Indian rupees wherever permitted by the Reserve Bank of India" shall be inserted;

(ii) in clause (16), in the *Explanation*, in the long line, after the words "function entrusted", the words, figures and letter "to a Panchayat under article 243G or" shall be inserted.

3. In section 5 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:— Amendment of section 5.

"(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both."

4. In section 8 of the principal Act, in sub-section (2), in *Explanation 1*, in clause (iii), the words, "being a business vertical" shall be omitted. Amendment of section 8.

Amendment of section 12. **5.** In section 12 of the principal Act, in sub-section (8), the following proviso shall be inserted, namely:—

"Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods."

Amendment of section 13. **6.** In section 13 of the principal Act, in sub-section (3), in clause (a), for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process;"

Amendment of section 17. **7.** In section 17 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A). The amount not apportioned under sub-section (1) and sub-section (2) may, for the time being, on the recommendations of the Council, be apportioned at the rate of fifty per cent. to the Central Government and fifty per cent. to the State Governments or the Union territories, as the case may be, on *ad hoc* basis and shall be adjusted against the amount apportioned under the said sub-sections."

Amendment of section 20. **8.** In section 20 of the principal Act, after the fourth proviso, the following proviso shall be inserted, namely:—

"Provided also that where the appeal is to be filed before the Appellate Authority or the Appellate Tribunal, the maximum amount payable shall be fifty crore rupees and one hundred crore rupees respectively."

DR. REETA VASISHTA,
Additional Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

The following Act of Parliament received the assent of the President on the 29th August, 2018 and is hereby re-published for general information:—

THE UNION TERRITORY GOODS AND SERVICES TAX
ACT, (AMENDMENT) 2018

No. 33 OF 2018

[29th August, 2018.]

An Act to amend the Union Territory Goods and Services Tax Act, 2017.

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

1. (1) This Act may be called the Union Territory Goods and Services Tax (Amendment) Act, 2018. 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.

14 of 2017.

2. In section 7 of the Union Territory Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), for sub-section (4), the following sub-section shall be substituted, namely:— Amendment of section 7.

"(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both."

3. In section 9 of the principal Act, in clause (b), the following proviso shall be inserted, namely:— Amendment of section 9.

"Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax."

4. After section 9 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 9A and 9B.

"9A. Notwithstanding anything contained in section 9, the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised towards such payment. Utilisation of input tax credit.

Order of
utilisation of
input tax
credit.

9B. Notwithstanding anything contained in this Chapter and subject to the provisions of clause (c) of section 9, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, Central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax."

DR. REETA VASISHTA,
Additional Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
*Additional Secretary to the Government,
Law Department.*

The following Act of Parliament received the assent of the President on the 29th August, 2018 and is hereby re-published for general information:—

AMENDMENT ACT, 2018

No. 34 OF 2018

[29th August, 2018.]

An act further to amend the Goods and Services Tax (Compensation to States) Act, 2017.

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

1. (1) This Act may be called the Goods and Services Tax (Compensation to States) Amendment Act, 2018. 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.

15 of 2017.

2. In section 7 of the Goods and Services Tax (Compensation to States) Act, 2017 (hereinafter referred to as the principal Act), in sub-section (4), in clause (b), in sub-clause (ii), for the words "Central Board of Excise and Customs", the words "Central Board of Indirect Taxes and Customs" shall be substituted. Amendment of section 7.

Amendment of section 10.

3. In section 10 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Notwithstanding anything contained in sub-section (3), fifty per cent. of such amount, as may be recommended by the Council, which remains unutilised in the Fund, at any point of time in any financial year during the transition period shall be transferred to the Consolidated Fund of India as the share of Centre, and the balance fifty per cent. shall be distributed amongst the States in the ratio of their base year revenue determined in accordance with the provisions of section 5:

Provided that in case of shortfall in the amount collected in the Fund against the requirement of compensation to be released under section 7 for any two months' period, fifty per cent. of the same, but not exceeding the total amount transferred to the Centre and the States as recommended by the Council, shall be recovered from the Centre and the balance fifty per cent. from the States in the ratio of their base year revenue determined in accordance with the provisions of section 5."

DR. REETA VASISHTA,
Additional Secretary to the Government of India.

(Re-published by Order of the Governor)

K. RAVIKUMAR,
Additional Secretary to the Government,
Law Department.