

ORDINANCES, 2020

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भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 1]	नई दिल्ली, शुक्रवार, जनवरी 10, 2020/पौष 20, 1941 (शक)
No. 1]	NEW DELHI, FRIDAY, JANUARY 10, 2020/PAUSHA 20, 1941 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 10th January, 2020/Pausha 20, 1941 (Saka)

THE MINERAL LAWS (AMENDMENT) ORDINANCE, 2020

No. 1 OF 2020

Promulgated by the President in the seventieth year of
the Republic of India.

*An Ordinance further to amend the Mines and
Minerals (Development and Regulation) Act, 1957 and to
amend the Coal Mines (Special Provisions) Act, 2015.*

WHEREAS Parliament is not in session and the
President is satisfied that circumstances exist which
render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred
by clause (1) of article 123 of the Constitution, the
President is pleased to promulgate the following
Ordinance:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be called the Mineral Laws (Amendment) Ordinance, 2020.

(2) It shall come into force at once.

CHAPTER II

AMENDMENTS TO THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957.

Insertion of new section 4B.

2. In the Mines and Minerals (Development and Regulation) Act, 1957 (hereafter in this Chapter referred to as the principal Act), after section 4A, the following section shall be inserted, namely:—

67 of 1957.

Conditions for efficiency in production.

“4B. Notwithstanding anything contained in section 4A, the Central Government may, in the interest of maintaining sustained production of minerals in the country, prescribe such conditions as may be necessary for commencement and continuation of production by the holders of mining leases who have acquired rights, approvals, clearances and the like under section 8B.”.

Amendment of section 5.

3. In section 5 of the principal Act, in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the previous approval of the Central Government shall not be required for grant of reconnaissance permit, prospecting licence or mining lease in respect of the minerals specified in Part A of the First Schedule, where,—

(i) an allocation order has been issued by the Central Government under section 11A; or

(ii) a notification of reservation of area has been issued by the Central Government or the State Government under sub-section (1A) or sub-section (2) of section 17A; or

11 of 2015.

(iii) a vesting order or an allotment order has been issued by the Central Government under the provisions of the Coal Mines (Special Provisions) Act, 2015.”.

4. In section 8A of the principal Act, in sub-section (4), the following proviso shall be inserted, namely:—

Amendment of section 8A.

“Provided that nothing contained in this section shall prevent the State Governments from taking an advance action for auction of the mining lease before the expiry of the lease period.”.

5. After section 8A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 8B.

“8B. (1) The provisions of this section shall apply to minerals, other than the minerals specified in Part A and Part B of the First Schedule.

Provisions for transfer of statutory clearances.

(2) Notwithstanding anything contained in this Act or any other law for the time being in force, the successful bidder of mining leases expiring under the provisions of sub-sections (5) and (6) of section 8A and selected through auction as per the procedure provided under this Act and the rules made thereunder, shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like vested with the previous lessee for a period of two years:

Provided that subject to such conditions as may be prescribed, such new lessee shall apply and obtain all necessary rights, approvals, clearances, licences and the like within a period of two years from the date of grant of new lease.

(3) Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the new lessee to continue mining operations on the land, in which mining operations were being carried out by the previous lessee, for a period of two years from the date of commencement of the new lease.”.

6. In section 10C of the principal Act, in sub-section (2), the following shall be inserted, namely:—

Amendment of section 10C.

“Provided that the holder of non-exclusive reconnaissance permit who carries out the prescribed level of exploration in respect of deep seated minerals or such minerals as may be notified by the Central Government, may submit an application to the State Government for the grant of any prospecting licence-cum-mining lease as per the procedure laid down under section 11 or a mining lease as per the procedure laid down under section 10B and with a view to increase the reconnaissance and prospecting operations of such minerals, the Central Government shall prescribe such procedure, including the bidding parameters for selection of such holders.

Explanation.—For the purposes of this sub-section, the expression “deep seated minerals” means such minerals which occur at a depth of more than three hundred meters from the surface of land with poor surface manifestations.”.

Amendment of
section 11A.

7. In section 11A of the principal Act,—

(i) in the marginal heading, after the words “or mining lease”, the words “or prospecting licence-cum-mining lease in respect of coal or lignite” shall be inserted;

(ii) in sub-section (1)—

(a) in the opening portion, for the words “in respect of an area containing coal or lignite”, the words “or prospecting licence-cum-mining lease in respect of coal or lignite” shall be substituted;

(b) for the long line, the following long line shall be substituted, namely:—

“to carry on coal or lignite reconnaissance or prospecting or mining operations, for own consumption, sale or for any other purpose as may be determined by the Central Government”;

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

“Provided that the auction by competitive bidding under this section shall not be applicable to coal or lignite—

(a) where such area is considered for allotment to a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, for own consumption, sale or for any other purpose as may be determined by the Central Government;

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

(iii) in sub-section (3),—

(a) after the words “mining lease”, the words “or prospecting licence-cum-mining lease” shall be inserted;

(b) for the words “competitive bidding or otherwise”, the words “competitive bidding or through allotment” shall be substituted.

8. In section 13 of the principal Act, in sub-section (2),—

Amendment of section 13.

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

(aa) the conditions as may be necessary for commencement and continuation of production by the holders of mining leases, under section 4B;

(ab) the conditions to be fulfilled by the new lessee for obtaining all necessary rights, approvals, clearances, licences and the like under the proviso to sub-section (2) of section 8B;

(ac) the level of exploration in respect of deep seated minerals or such minerals and the procedure,

including the bidding parameters for selection of the holders under the proviso to sub-section (2) of section 10C;

(ii) for clause (d), the following clauses shall be substituted, namely:—

(d) the terms, conditions and process of auction by competitive bidding and allotment in respect of coal or lignite;

(da) the regulation of grant of reconnaissance permit, prospecting licence, mining lease or prospecting licence-cum-mining lease in respect of coal or lignite;

(db) the details of mines and their location, the minimum size of such mines and such other conditions which may be necessary for the purpose of coal or lignite reconnaissance, prospecting or mining operations;

(dc) utilisation of coal or lignite including mining for sale by a company;".

Amendment of section 17A.

9. In section 17A of the principal Act, in sub-section (2A), in the proviso, the words and letter "Part A and" shall be omitted.

CHAPTER III

AMENDMENTS TO THE COAL MINES (SPECIAL PROVISIONS) ACT, 2015

Amendment of section 4.

10. In section 4 of the Coal Mines (Special Provisions) Act, 2015 (hereafter in this Chapter referred to as the principal Act),—

11 of 2015.

(i) in sub-section (2),—

(a) in the opening portion, for the words "in respect of any area containing coal", the words "or prospecting licence-cum-mining lease in respect of coal" shall be substituted;

(b) for the long line, the following long line shall be substituted, namely:—

“to carry on coal reconnaissance or prospecting or mining operations, for own consumption, sale or for any other purpose as may be determined by the Central Government, and the State Government shall grant such reconnaissance permit, prospecting licence, mining lease or prospecting licence-cum-mining lease in respect of Schedule I coal mine to such company as selected through auction by competitive bidding under this section.”;

(ii) sub-section (3) shall be omitted.

11. In section 5 of the principal Act, in sub-section (1),—

Amendment of section 5.

(i) for the words, brackets and figures “sub-sections (1) and (3)”, the words, brackets and figures “sub-sections (1) and (2)” shall be substituted;

(ii) for the words “or mining lease in respect of any area containing coal”, the words “,mining lease or prospecting licence-cum-mining lease in respect of such Schedule I coal mine” shall be substituted;

(iii) in the first proviso, for the words “in accordance with the permit, prospecting licence or mining lease, as the case may be”, the words “as may be determined by the Central Government” shall be substituted.

12. In section 8 of the principal Act,—

Amendment of section 8.

(i) in sub-section (4), in clause (d), for the words “a mining lease”, the words, “prospecting licence, mining lease or prospecting licence-cum-mining lease, as the case may be” shall be substituted;

(ii) in sub-section (8), for the words “a prospecting licence or a mining lease”, the words, “prospecting licence, mining lease or prospecting licence-cum-mining lease” shall be substituted;

(iii) in sub-section (9), for the words “a prospecting licence or a mining lease”, the words, “prospecting licence, mining lease or prospecting licence-cum-mining lease” shall be substituted;

(iv) after sub-section (12), the following sub-sections shall be inserted, namely:—

“(13) The vesting order or allotment order may be terminated by the nominated authority in such manner as may be prescribed.

(14) Upon termination of vesting order or allotment order, the nominated authority may auction the coal mine under section 4 or allot the coal mine under section 5 as may be determined by the Central Government.

(15) The successful bidder or allottee of the coal mine whose vesting order or allotment order has been terminated shall be deemed to be the prior allottee for the purposes of immediate next auction or allotment of the said coal mine.”.

Amendment of
section 9.

13. In section 9 of the principal Act,—

(i) in the opening portion, for the portion beginning with the words “The proceeds arising out of land” and ending with the words “as may be prescribed.”, the following shall be substituted, namely:—

“The compensation for land and mine infrastructure in relation to a Schedule I coal mine as valued in accordance with section 16 shall be deposited by the successful bidder or allottee with the nominated authority and shall be disbursed maintaining, *inter alia*, the following priority of payments and in accordance with the relevant laws and such rules as may be prescribed—”;

(ii) in clause (b), for the words “compensation payable”, the words “amount payable” shall be substituted.”.

Amendment of
section 18.

14. In section 18 of the principal Act, in sub-section (1), for the words and figure “allotment of Schedule I coal mines is not complete”, the words and figures “allotment of Schedule II coal mines is not complete, or vesting order or allotment order issued under this Act has been

terminated in case of a coal mine under production,” shall be substituted.

15. In section 20 of the principal Act,—

Amendment of
section 20.

(i) in sub-section (1), for the words “A successful bidder or allottee or coal linkage holder shall”, the words “A successful bidder or allottee shall” shall be substituted;

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

“(2) A successful bidder or allottee may also use the coal, mined from a particular Schedule I coal mine, in any of its plants or plant of its subsidiary or holding company engaged in same specified end-uses in such manner as may be prescribed.”.

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

Amendment of
section 31.

(i) in clause (b), for the words “prospecting licence or mining lease”, the words “prospecting licence, mining lease or prospecting licence-cum-mining lease” shall be substituted;

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

“(la) the manner of termination of vesting order or allotment order under sub-section (13) of section 8;”.

RAM NATH KOVIND,
President.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 21] नई दिल्ली, मंगलवार, मार्च 31, 2020/चैत्र 11, 1942 (शक)

No. 21] NEW DELHI, TUESDAY, MARCH 31, 2020/CHAITRA 11, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 31st March, 2020/Chaitra 11, 1942 (Saka)

THE TAXATION AND OTHER LAWS (RELAXATION OF CERTAIN PROVISIONS) ORDINANCE, 2020

No. 2 OF 2020

Promulgated by the President in the Seventy-first Year of the Republic of India.

An Ordinance to provide relaxation in the provisions of certain Acts and for matters connected therewith or incidental thereto.

WHEREAS, in view of the spread of pandemic COVID-19 across many countries of the world including India, causing immense loss to the lives of people, it has become imperative to relax certain provisions, including extension of time limit, in the taxation and other laws;

AND WHEREAS, Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance: -

CHAPTER I

PRELIMINARY

Short title and commencement.	1. (1) This Ordinance may be called the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020.	
	(2) Save as otherwise provided, it shall come into force at once.	
Definitions.	2. (1) In this Ordinance, unless the context otherwise requires, -	
	(a) “specified Act” means-	
	(i) the Wealth-tax Act, 1957;	27 of 1957.
	(ii) the Income-tax Act, 1961;	43 of 1961.
	(iii) the Prohibition of <i>Benami</i> Property Transactions Act, 1988;	45 of 1988.
	(iv) Chapter VII of the Finance (No. 2) Act, 2004;	22 of 2004.
	(v) Chapter VII of the Finance Act, 2013;	17 of 2013.
	(vi) the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015;	22 of 2015.
	(vii) Chapter VIII of the Finance Act, 2016; or	28 of 2016.
	(viii) the Direct Tax <i>Vivad se Vishwas</i> Act, 2020;	3 of 2020.
	(b) “notification” means the notification published in the Official Gazette.	
	(2) The words and expressions used herein and not defined, but defined in the specified Act, the Central Excise Act, 1944, the Customs Act, 1962, the Customs Tariff Act, 1975 or the Finance Act, 1994, as the case may be, shall have the meaning respectively assigned to them in that Act.	1 of 1944. 52 of 1962. 51 of 1975. 32 of 1994.

CHAPTER II

RELAXATION OF CERTAIN PROVISIONS OF SPECIFIED ACT

Relaxation of certain provisions of specified Act.	3. (1) Where, anytime limit has been specified in, or prescribed or notified under, the specified Act which falls during the period from the 20 th day of March, 2020 to the 29 th day of June, 2020 or such other date after the 29 th day of June, 2020 as the Central Government may, by notification, specify in this behalf, for the completion or compliance of such action as-	
	(a) completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the specified Act; or	

(b) filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the specified Act; or

43 of 1961.

(c) in case where the specified Act is the Income-tax Act, 1961,-

(i) making of investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purposes of claiming any deduction, exemption or allowance under the provisions contained in-

(I) sections 54 to 54GB or under any provisions of Chapter VI-A under the heading "B.—Deductions in respect of certain payments" thereof; or

(II) such other provisions of that Act, subject to fulfillment of such conditions, as the Central Government may, by notification, specify; or

28 of 2005.

(ii) beginning of manufacture or production of articles or things or providing any services referred to in section 10AA of that Act, in a case where the letter of approval, required to be issued in accordance with the provisions of the Special Economic Zones Act, 2005, has been issued on or before the 31st day of March, 2020,

and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action shall, notwithstanding anything contained in the specified Act, stand extended to the 30th day of June, 2020, or such other date after the 30th day of June, 2020, as the Central Government may, by notification, specify in this behalf:

Provided that the Central Government may specify different dates for completion or compliance of different actions.

Provided further that such action shall not include payment of any amount as is referred to in sub-section (2).

(2) Where any due date has been specified in, or prescribed or notified under, the specified Act for payment of any amount towards tax or levy, by whatever name called, which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020 or such other date after the 29th day of June, 2020 as the Central Government may, by notification, specify in this behalf, and such amount has not been paid within such date, but has been paid on or before the 30th day of June, 2020, or such other date after the 30th day of June, 2020 as the Central Government may, by notification,

specify in this behalf, then, notwithstanding anything contained in the specified Act,-

(a) the rate of interest payable, if any, in respect of such amount for the period of delay shall not exceed three-fourth per cent. for every month or part thereof;

(b) no penalty shall be levied and no prosecution shall be sanctioned in respect of such amount for the period of delay.

Explanation.- For the purposes of this sub-section, “the period of delay” means the period between the due date and the date on which the amount has been paid.

CHAPTER III

AMENDMENT TO THE INCOME-TAX ACT, 1961

Amendment of sections 10 and 80G of Act 43 of 1961. 4. In the Income-tax Act, 1961, with effect from the 1st day of April, 2020,- 43 of 1961.

(i) in section 10, in *clause* (23C), in sub-clause (i), after the word “Fund”, the words and brackets “or the Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)” shall be inserted;

(ii) in section 80G, in sub-section (2), in clause (a), in sub-clause (iiia), after the word “Fund”, the words and brackets “or the Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)” shall be inserted.

CHAPTER IV

AMENDMENTS TO THE DIRECT TAX *VIVAD SE VISHWAS* ACT

Amendment of section 3 of Act 3 of 2020. 5. In section 3 of the Direct Tax *Vivad Se Vishwas* Act, 2020, -

(a) in third column, in the heading, for the figures, letters and words “31st day of March, 2020”, the figures, letters and words “30th day of June, 2020” shall be substituted;

(b) in fourth column, in the heading, for the figures, letters and words “1st day of April, 2020”, the figures, letters and words “1st day of July, 2020” shall be substituted.

CHAPTER V

RELAXATION OF TIME LIMIT UNDER CERTAIN INDIRECT TAX LAWS

Relaxation of time limit under Central Excise Act, 1944. 6. Notwithstanding anything contained in the Central Excise Act, 1944, the Customs Act, 1962 (except sections 30, 30A, 41, 41A, 1 of 1944. 52 of 1962.

Customs Act, 1962, Customs Tariff Act, 1975 and Finance Act, 1994.

46 and 47), the Customs Tariff Act, 1975 or Chapter V of the Finance Act, 1994, as it stood prior to its omission *vide* section 173 of the Central Goods and Service Tax Act, 2017 with effect from the 1st day of July, 2017, the time limit specified in, or prescribed or notified under, the said Acts which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020 or such other date after the 29th day of June, 2020 as the Central Government may, by notification, specify, for the completion or compliance of such action as-

51 of 1975.
32 of 1994.

(a) completion of any proceeding or issuance of any order, notice, intimation, notification or sanction or approval, by whatever name called, by any authority, commission, tribunal, by whatever name called; or

(b) filing of any appeal, reply or application or furnishing of any report, document, return or statement, by whatever name called,

shall, notwithstanding that completion or compliance of such action has not been made within such time, stand extended to the 30th day of June, 2020 or such other date after the 30th day of June, 2020 as the Central Government may, by notification, specify in this behalf:

Provided that the Central Government may specify different dates for completion or compliance of different actions under clause (a) or clause (b).

CHAPTER VI

AMENDMENT TO THE FINANCE ACT (NO. 2), 2019

7. In section 127 of the Finance Act (No.2), 2019, -

Amendment of
section 127 of
Act 23 of 2019.

(i) in sub-section (1), for the words "within a period of sixty days from the date of receipt of the said declaration", the words, figures and letters "on or before the 31st day of May, 2020" shall be substituted;

(ii) in sub-section (2), for the words "within thirty days of the date of receipt of the declaration", the words, figures and letters "on or before the 1st day of May, 2020" shall be substituted;

(iii) in sub-section (4), for the words "within a period of sixty days from the date of receipt of the declaration", the words, figures and letters "on or before the 31st day of May, 2020" shall be substituted;

(iv) in sub-section (5), for the words "within a period of thirty days from the date of issue of such statement", the words, figures

and letters “on or before the 30th day of June, 2020” shall be substituted.

CHAPTER VII

AMENDMENT TO THE CENTRAL GOODS AND SERVICES TAX ACT, 2017

Insertion of new section 168A in Act 12 of 2017.

Power of Government to extend time limit in special circumstances.

8. After section 168 of the Central Goods and Services Tax Act, 2017, the following section shall be inserted, namely:-

‘168A. (1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under, this Act in respect of actions which cannot be completed or complied with due to *force majeure*.

(2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

Explanation.— For the purposes of this section, the expression “*force majeure*” means a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act.’

RAM NATH KOVIND,
President.

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



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असाधारण

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भाग II — खण्ड 1

PART II — Section 1

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MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 24th April, 2020/Vaisakha 4, 1942 (Saka)

CORRIGENDA

In the Taxation and other Laws (Relaxation of certain provisions) Ordinance, 2020 (No. 2 of 2020) as published in the Gazette of India, Extraordinary, Part II, Section 1, Issue No. 21, dated the 31st March, 2020, —

Page No.	Line(s) No.	For	Read
3	15	“fulfillment”	“fulfilment”
4	25	“ACT”	“ACT, 2020”

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 7th April, 2020/Chaitra 18, 1942 (Saka)

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT (AMENDMENT) ORDINANCE, 2020

No. 3 OF 2020

Promulgated by the President in the Seventy-first Year of the Republic of India.

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

WHEREAS India, as the rest of the world, is grappling with Corona Virus (COVID-19) pandemic which has severe health and economic ramifications for the people of the country;

AND WHEREAS the Corona Virus (COVID-19) pandemic has shown the importance of expeditious relief and assistance and therefore, it is necessary to take certain emergency measures to prevent and contain the spread of said pandemic;

AND WHEREAS in order to manage and control such situation, it has become necessary to raise resources by reduction of salaries and allowances of Members of Parliament;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Salary, Allowances And Pension of Members of Parliament (Amendment) Ordinance, 2020.

(2) It shall come into force at once.

Amendment of
section 3.

2. In the Salary, Allowances and Pension of Members of Parliament Act, 1954, in section 3, after sub-section (1), the following sub-section shall be inserted, namely:—

30 of 1954.

“(1A) Notwithstanding anything contained in sub-section (1), the salary payable to Members of Parliament under sub-section (1) shall be reduced by thirty per cent. for a period of one year commencing from the 1st April, 2020, to meet the exigencies arising out of Corona Virus (COVID-19) pandemic.”.

RAM NATH KOVIND,
President.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 26] नई दिल्ली, शुक्रवार, अप्रैल 24, 2020/वैशाख 4, 1942 (शक)
No. 26] NEW DELHI, FRIDAY, APRIL 24, 2020/VAISAKHA 4, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 24th April, 2020/Vaisakha 4, 1942 (Saka)

CORRIGENDUM

In the Salary, Allowances and Pension of Members of Parliament (Amendment) Ordinance, 2020 (No. 3 of 2020) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 7th April, 2020 (Issue No. 22) at page No. 2, in section 1, *for* the marginal heading, *read* “Short title and commencement.”.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 23]	नई दिल्ली, बृहस्पतिवार, अप्रैल 9, 2020/चैत्र 20, 1942 (शक)
No. 23]	NEW DELHI, THURSDAY, APRIL 9, 2020/CHAITRA 20, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 9th April, 2020/Chaitra 20, 1942 (Saka)

THE SALARIES AND ALLOWANCES OF MINISTERS (AMENDMENT) ORDINANCE, 2020

NO. 4 OF 2020

Promulgated by the President in the Seventy-first Year of the Republic of India.

An Ordinance further to amend the Salaries and Allowances of Ministers Act, 1952.

WHEREAS, India, as the rest of the world, is grappling with Corona Virus (COVID-19) pandemic which has severe health and economic ramifications for the people of the country;

AND WHEREAS, the Corona Virus (COVID-19) pandemic has shown the importance of expeditious relief and assistance and therefore, it is necessary to take certain emergency measures to prevent and contain the spread of said pandemic;

AND WHEREAS, in order to manage and control such situation, it has become necessary to raise resources by reduction of sumptuary allowances of Minister;

AND WHEREAS, Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Salaries and Allowances of Ministers (Amendment) Ordinance, 2020.

Short title and commencement.

(2) It shall come into force at once.

Amendment of section 5.

2. In the Salaries and Allowances of Ministers Act, 1952, section 5 shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

58 of 1952.

“(2) Notwithstanding anything contained in sub-section (1), the sumptuary allowance payable to each Minister under that sub-section shall be reduced by thirty per cent. for a period of one year commencing from the 1st April, 2020, to meet the exigencies arising out of Corona Virus (COVID-19) pandemic.”.

RAM NATH KOVIND,
President.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 25] नई दिल्ली, बुधवार, अप्रैल 22, 2020/वैशाख 2, 1942 (शक)
No. 25] NEW DELHI, WEDNESDAY, APRIL 22, 2020/VAISAKHA 2, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 22nd April, 2020/Vaisakha 2, 1942 (Saka)

THE EPIDEMIC DISEASES (AMENDMENT) ORDINANCE, 2020

No. 5 OF 2020

Promulgated by the President in the Seventy-first Year
of the Republic of India.

An ordinance further to amend the Epidemic Diseases
Act, 1897.

WHEREAS Parliament is not in session and the
President is satisfied that circumstances exist which
render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers
conferred by clause (1) of article 123 of the Constitution,
the President is pleased to promulgate the following
Ordinance:—

	1. (1) This Ordinance may be called the Epidemic Diseases (Amendment) Ordinance, 2020.	Short title and commencement.
	(2) It shall come into force at once.	
3 of 1897.	2. In section 1 of the Epidemic Diseases Act, 1897 (hereinafter referred to as the principal Act), in sub-section (2), the words “except the territories which, immediately before the 1st November, 1956, were comprised in Part B States” shall be omitted.	Amendment of section 1.
	3. After section 1 of the principal Act, the following section shall be inserted, namely:—	Insertion of new section 1A.
	‘1A. In this Act, unless the context otherwise requires,—	Definitions.
	(a) “act of violence” includes any of the following acts committed by any person against a health care service personnel serving during an epidemic, which causes or may cause—	
	(i) harassment impacting the living or working conditions of such healthcare service personnel and preventing him from discharging his duties;	
	(ii) harm, injury, hurt, intimidation or danger to the life of such healthcare service personnel, either within the premises of a clinical establishment or otherwise;	
	(iii) obstruction or hindrance to such healthcare service personnel in the discharge of his duties, either within the premises of a clinical establishment or otherwise; or	
	(iv) loss or damage to any property or documents in the custody of, or in relation to, such healthcare service personnel;	
	(b) “healthcare service personnel” means a person who while carrying out his duties in relation to epidemic related responsibilities, may come in direct contact with affected patients and thereby is at the risk of being impacted by such disease, and includes—	
	(i) any public and clinical healthcare provider such as doctor, nurse, paramedical worker and community health worker;	
	(ii) any other person empowered under the Act to take measures to prevent the outbreak of the	

disease or spread thereof; and

(iii) any person declared as such by the State Government, by notification in the Official Gazette;

(c) “property” includes---

(i) a clinical establishment as defined in the Clinical Establishments (Registration and Regulation) Act, 2010;

(ii) any facility identified for quarantine and isolation of patients during an epidemic;

(iii) a mobile medical unit; and

(iv) any other property in which a healthcare service personnel has direct interest in relation to the epidemic;

(d) the words and expressions used herein and not defined, but defined in the Indian Ports Act, 1908, the Aircraft Act, 1934 or the Land Ports Authority of India Act, 2010, as the case may be, shall have the same meaning as assigned to them in that Act.’

23 of 2010.

15 of 1908.

22 of 1934.

31 of 2010.

4. In section 2A of the principal Act, for the portion beginning with the words “the Central Government may take measures” and ending with the words “as may be necessary”, the following shall be substituted, namely:—

Amendment of section 2A.

“the Central Government may take such measures, as it deems fit and prescribe regulations for the inspection of any bus or train or goods vehicle or ship or vessel or aircraft leaving or arriving at any land port or port or aerodrome, as the case may be, in the territories to which this Act extends and for such detention thereof, or of any person intending to travel therein, or arriving thereby, as may be necessary”.

5. After section 2A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 2B.

“2B. No person shall indulge in any act of violence against a healthcare service personnel or cause any damage or loss to any property during an epidemic.”.

Prohibition of violence against health care service personnel and damage to property.

6. Section 3 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so

Amendment of section 3.

renumbered, the following sub-sections shall be inserted, namely:—

“(2) Whoever, —

(i) commits or abets the commission of an act of violence against a healthcare service personnel; or

(ii) abets or causes damage or loss to any property, shall be punished with imprisonment for a term which shall not be less than three months, but which may extend to five years, and with fine, which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

45 of 1860.

(3) Whoever, while committing an act of violence against a healthcare service personnel, causes grievous hurt as defined in section 320 of the Indian Penal Code to such person, shall be punished with imprisonment for a term which shall not be less than six months, but which may extend to seven years and with fine, which shall not be less than one lakh rupees, but which may extend to five lakh rupees.”.

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

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

2 of 1974.

‘3A. Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

Cognizance, investigation and trial of offences.

(i) an offence punishable under sub-section (2) or sub-section (3) of section 3 shall be cognizable and non-bailable;

(ii) any case registered under sub-section (2) or sub-section (3) of section 3 shall be investigated by a police officer not below the rank of Inspector;

(iii) investigation of a case under sub-section (2) or sub-section (3) of section 3 shall be completed within a period of thirty days from the date of registration of the First Information Report;

(iv) in every inquiry or trial of a case under sub-section (2) or sub-section (3) of section 3, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of

the same beyond the following day to be necessary for reasons to be recorded, and an endeavour shall be made to ensure that the inquiry or trial is concluded within a period of one year:

Provided that where the trial is not concluded within the said period, the 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.

3B. Where a person is prosecuted for committing an offence punishable under sub-section (2) of section 3, such offence may, with the permission of the Court, be compounded by the person against whom such act of violence is committed.

Composition of certain offences.

3C. Where a person is prosecuted for committing an offence punishable under sub-section (3) of sections 3, the Court shall presume that such person has committed such offence, unless the contrary is proved.

Presumption as to certain offences.

3D. (1) In any prosecution for an offence under sub-section (3) of section 3 which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Presumption of culpable mental state.

(2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Explanation.—In this section, "culpable mental state" includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact.

3E.(1) In addition to the punishment provided for an offence under sub-section (2) or sub-section (3) of section 3, the person so convicted shall also be liable to pay, by way of compensation, such amount, as may be determined by the Court for causing hurt or grievous hurt to any healthcare service personnel.

Compensation for acts of violence.

(2) Notwithstanding the composition of an offence under section 3B, in case of damage to any property or

loss caused, the compensation payable shall be twice the amount of fair market value of the damaged property or the loss caused, as may be determined by the Court.

(3) Upon failure to pay the compensation awarded under sub-sections (1) and (2), such amount shall be recovered as an arrear of land revenue under the Revenue Recovery Act, 1890.’

1 of 1890.

RAM NATH KOVIND,
President.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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No. 32]	NEW DELHI, FRIDAY, APRIL 24, 2020/VAISAKHA 4, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 24th April, 2020/Vaisakha 4, 1942 (Saka)

THE HOMOEOPATHY CENTRAL COUNCIL (AMENDMENT) ORDINANCE, 2020

No. 6 OF 2020

Promulgated by the President in the Seventy-first Year of the Republic of India.

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

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This ordinance may be called the Homoeopathy Central Council (Amendment) Ordinance, 2020.

Short title and commencement.

(2) It shall come into force at once.

59 of 1973. 2. In section 3A of the Homoeopathy Central Council Act, 1973, in sub-section (2), for the words “within a period of two years”, the words “within a period of three years” shall be substituted. Amendment of section 3A.

RAM NATH KOVIND,
President.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 31]	नई दिल्ली, शुक्रवार, अप्रैल 24, 2020/वैशाख 4, 1942 (शक)
No. 31]	NEW DELHI, FRIDAY, APRIL 24, 2020/VAISAKHA 4, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 24th April, 2020/Vaisakha 4, 1942 (Saka)

THE INDIAN MEDICINE CENTRAL COUNCIL (AMENDMENT) ORDINANCE, 2020

No. 7 OF 2020

Promulgated by the President in the Seventy-first Year of the Republic of India.

An ordinance further to amend the Indian Medicine Central Council Act, 1970.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

1. (1) This ordinance may be called the Indian Medicine Central Council (Amendment) Ordinance, 2020.

Short title and commencement.

(2) It shall come into force at once.

48 of 1970.

2. In the Indian Medicine Central Council Act, 1970, after section 3, the following sections shall be inserted, namely:—

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

“3A.(1) On and from the date of commencement of the Indian Medicine Central Council (Amendment) Ordinance, 2020, 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.

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

(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 supersession of the Central Council under sub-section (1) and until a new Council is constituted in accordance with the provisions of 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 the Board of Governors which shall consist of not more than ten persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of Indian Medicine and Indian Medicine education and eminent administrators, and who may be either nominated members or *ex officio* members, 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 other members, other than *ex officio* members, 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 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.

(9) A member having any financial or other interest in any matter coming before the Board of Governors for its decision shall disclose his interest in such 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.

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

Certain
modifications of
Act.

(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 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;

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 questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Power of
Central
Government to
give directions.

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

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

RAM NATH KOVIND,
President.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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सं० 33]	नई दिल्ली, शुक्रवार, जून 5, 2020/ ज्येष्ठ 15, 1942 (शक)
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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th June, 2020/Jyaishtha 15, 1942 (Saka)

THE ESSENTIAL COMMODITIES (AMENDMENT) ORDINANCE, 2020

NO. 8 OF 2020

Promulgated by the President in the Seventy-first Year
of the Republic of India.

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

WHEREAS for the purposes of increasing the
competitiveness in the agriculture sector and enhancing
the income of the farmers, the regulatory system needs to
be liberalised while protecting the interests of consumers;

AND WHEREAS Parliament is not in session and the
President is satisfied that circumstances exist which
render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers
conferred by clause (1) of article 123 of the Constitution,
the President is pleased to promulgate the following
Ordinance:—

1. (1) This Ordinance may be called the Essential Commodities (Amendment) Ordinance, 2020. Short title and commencement.

(2) It shall come into force at once.

10 of 1955. 2. In section 3 of the Essential Commodities Act, 1955, after sub-section (1), the following sub-section shall be inserted, namely:— Amendment of section 3.

‘(1A) Notwithstanding anything contained in sub-section (1), —

(a) the supply of such food stuffs, including cereals, pulses, potato, onions, edible oilseeds and oils, as the Central Government may, by notification in the Official Gazette, specify, may be regulated only under extraordinary circumstances which may include war, famine, extraordinary price rise and natural calamity of grave nature;

(b) any action on imposing stock limit shall be based on price rise and an order for regulating stock limit of any agricultural produce may be issued under this Act only if there is—

(i) hundred per cent. increase in the retail price of horticultural produce; or

(ii) fifty per cent. increase in the retail price of non-perishable agricultural foodstuffs,

over the price prevailing immediately preceding twelve months, or average retail price of last five years, whichever is lower:

Provided that such order for regulating stock limit shall not apply to a processor or value chain participant of any agricultural produce, if the stock limit of such person does not exceed the overall ceiling of installed capacity of processing, or the demand for export in case of an exporter:

Provided further that nothing contained in this sub-section shall apply to any order, relating to the Public Distribution System or the Targeted Public Distribution System, made by the Government under this Act or under any other law for the time being in force.

Explanation.— The expression “value chain participant”, in relation to any agricultural product, means and includes a set of participants, from production of any agricultural produce in the field to final consumption, involving processing, packaging, storage, transport and distribution, where at each stage value is added to the product.’

RAM NATH KOVIND,
President.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th June, 2020/Jyaishtha 15, 1942 (Saka)

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ORDINANCE, 2020

No. 9 OF 2020

Promulgated by the President in the Seventy-first Year
of the Republic of India.

An Ordinance further to amend the Insolvency and
Bankruptcy Code, 2016.

WHEREAS the entire ecosystem for implementation of
the Insolvency and Bankruptcy Code, 2016 is in place;

AND WHEREAS the provisions relating to corporate
insolvency resolution process and liquidation process for
corporate persons under the Code are in operation;

AND WHEREAS COVID-19 pandemic has impacted
business, financial markets and economy all over the world,
including India, and created uncertainty and stress for business
for reasons beyond their control;

AND WHEREAS a nationwide lockdown is in force since

25th March, 2020 to combat the spread of COVID-19 which has added to disruption of normal business operations;

AND WHEREAS it is difficult to find adequate number of resolution applicants to rescue the corporate person who may default in discharge of their debt obligation;

AND WHEREAS it is considered expedient to suspend under sections 7, 9 and 10 of the Insolvency and Bankruptcy Code, 2016 to prevent corporate persons which are experiencing distress on account of unprecedented situation, being pushed into insolvency proceedings under the said Code for some time;

AND WHEREAS it is considered expedient to exclude the defaults arising on account of unprecedented situation for the purposes of insolvency proceeding under this code;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

Short title and commencement.

1. (1) This Ordinance may be called the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020.

(2) It shall come into force at once.

Insertion of new section 10A.

2. After section 10 of the principle Act, the following section shall be inserted, namely:—

Suspension of initiation of corporate insolvency resolution process.

“10A. Notwithstanding anything contained in sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after 25th March, 2020 for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:

Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.

Explanation.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020.”

Amendment of
section 66.

3. In section 66 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

“(3) Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub-section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.”

RAM NATH KOVIND,
President.

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



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th June, 2020/Jyaishtha 15, 1942 (Saka)

THE FARMERS' PRODUCE TRADE AND COMMERCE (PROMOTION AND FACILITATION) ORDINANCE, 2020

No. 10 OF 2020

Promulgated by the President in the Seventy-first Year of
the Republic of India.

An Ordinance to provide for the creation of an ecosystem where the farmers and traders enjoy the freedom of choice relating to sale and purchase of farmers' produce which facilitates remunerative prices through competitive alternative trading channels; to promote efficient, transparent and barrier-free inter-State and intra-State trade and commerce of farmers' produce outside the physical premises of markets or deemed markets notified under various State agricultural produce market legislations; to provide a facilitative framework for electronic trading and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance.

CHAPTER I PRELIMINARY

1. (1) This Ordinance may be called the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020. Short title and commencement.

(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,— Definitions.

(a) "farmers' produce" means,—

(i) foodstuffs including cereals like wheat, rice or other coarse grains, pulses, edible oilseeds, oils, vegetables, fruits, nuts, spices, sugarcane and products of poultry, piggery, goatery, fishery and dairy intended for human consumption in its natural or processed form;

(ii) cattle fodder including oilcakes and other concentrates; and

(iii) raw cotton whether ginned or unginned, cotton seeds and raw jute;

(b) "electronic trading and transaction platform" means a platform set up to facilitate direct and online buying and selling for conduct of trade and commerce of farmers' produce through a network of electronic devices and internet applications, where each such transaction results in physical delivery of farmers' produce.

(c) "farmer" means a person engaged in the production of farmers' produce by self or by hired labour or otherwise, and includes the farmer producer organisation;

(d) "farmer producer organisation" means an association or group of farmers, by whatever name called,—

(i) registered under any law for the time being in force; or

(ii) promoted under a scheme or programme sponsored by the Central or State Government;

(e) “inter-State trade” means the act of buying or selling of farmers’ produce, wherein a trader of one State buys the farmers’ produce from the farmer or a trader of another State and such farmers’ produce is transported to a State other than the State in which the trader purchased such farmers’ produce or where such farmers’ produce originated;

(f) “intra-State trade” means the act of buying or selling of farmers’ produce, wherein a trader of one State buys the farmers’ produce from a farmer or a trader of the same State in which the trader purchased such farmers’ produce or where such farmers’ produce originated;

(g) “notification” means a notification published by the Central Government or the State Governments in the Official Gazette and the expressions “notify” and “notified” shall be construed accordingly;

(h) “person” includes—

(a) an individual;

(b) a partnership firm;

(c) a company;

(d) a limited liability partnership;

(e) a co-operative society;

(f) a society; or

(g) any association or body of persons duly incorporated or recognised as a group under any ongoing programmes of the Central Government or the State Government;

(i) “prescribed” means prescribed by the rules made by the Central Government under this Ordinance;

(j) “scheduled farmers’ produce” means the agricultural produce specified under any State APMC Act for regulation;

(k) “State” includes the Union territory;

(l) “State APMC Act” means any State legislation or Union territory legislation in force in India, by whatever name called, which regulates markets for agricultural produce in that State;

(m) “trade area” means any area or location, place of production, collection and aggregation including—

- (a) farm gates;
- (b) factory premises;
- (c) warehouses;
- (d) silos;
- (e) cold storages; or
- (f) any other structures or places,

from where trade of farmers’ produce may be undertaken in the territory of India but does not include the premises, enclosures and structures constituting—

(i) physical boundaries of principal market yards, sub-market yards and market sub-yards managed and run by the market committees formed under each State APMC Act in force in India; and

(ii) private market yards, private market sub-yards, direct marketing collection centres, and private farmer-consumer market yards managed by persons holding licenses or any warehouses, silos, cold storages or other structures notified as markets or deemed markets under each State APMC Act in force in India;

(n) “trader” means a person who buys farmers’ produce by way of inter-State trade or intra-State trade or a combination thereof, either for self or on behalf of one or more persons for the purpose of wholesale trade, retail, end-use, value addition, processing, manufacturing, export, consumption or for such other purpose.

CHAPTER II

PROMOTION AND FACILITATION OF TRADE AND COMMERCE OF FARMERS’ PRODUCE

3. Subject to the provisions of this Ordinance, any farmer or trader or electronic trading and transaction platform shall have

Freedom to
conduct trade
and commerce in

the freedom to carry on the inter-State or intra-State trade and commerce in farmers' produce in a trade area.

4. (1) Any trader may engage in the inter-State trade or intra-State trade of scheduled farmers' produce with a farmer or another trader in a trade area:

Trade and commerce of scheduled farmers' produce.

43 of 1961.

Provided that no trader, except the farmer producer organisations or agricultural cooperative society, shall trade in any scheduled farmers' produce unless such a trader has a permanent account number allotted under the Income-tax Act, 1961 or such other document as may be notified by the Central Government.

(2) The Central Government may, if it is of the opinion that it is necessary and expedient in the public interest so to do, prescribe a system for electronic registration for a trader, modalities of trade transaction and mode of payment of the scheduled farmers' produce in a trade area.

(3) Every trader who transacts with farmers shall make payment for the traded scheduled farmers' produce on the same day or within the maximum three working days if procedurally so required subject to the condition that the receipt of delivery mentioning the due payment amount shall be given to the farmer on the same day:

Provided that the Central Government may prescribe a different procedure of payment by farmer produce organisation or agriculture co-operative society, by whatever name called, linked with the receipt of payment from the buyers.

43 of 1961.

5. (1) Any person (other than individual), having a permanent account number allotted under the Income-tax Act, 1961 or such other document as may be notified by the Central Government or any farmer producer organisation or agricultural cooperative society may establish and operate an electronic trading and transaction platform for facilitating inter-State or intra-State trade and commerce of scheduled farmers' produce in a trade area:

Electronic trading and transaction platform.

Provided that the person establishing and operating an electronic trading and transaction platform shall prepare and implement the guidelines for fair trade practices such as mode of trading, fees, technical parameters including inter-operability with other platforms, logistics arrangements, quality assessment, timely payment, dissemination of guidelines in local language of the place of operation of the platform and such other matters.

(2) If the Central Government is of the opinion that it is

necessary and expedient in public interest so to do, it may, for electronic trading platforms, by rules—

(a) specify the procedure, norms, manner of registration; and

(b) specify the code of conduct, technical parameters including inter-operability with other platform and modalities of trade transaction including logistics arrangements and quality assessment of scheduled farmers' produce and mode of payment,

for facilitating fair inter-State and intra-State trade and commerce of scheduled farmers' produce in a trade area.

6. No market fee or cess or levy, by whatever name called, under any State APMC Act or any other State law, shall be levied on any farmer or trader or electronic trading and transaction platform for trade and commerce in scheduled farmers' produce in a trade area.

Market fee under State APMC Act, etc. in trade area.

7.(1) The Central Government may, through any Central Government Organisation, develop a price information and market intelligence system for farmers' produce and a framework for dissemination of information relating thereto.

Price Information and market intelligence System.

(2) The Central Government may require any person owning and operating an electronic trading and transaction platform to provide information regarding such transactions as may be prescribed.

Explanation.—For the purposes of this section, the expression “Central Government Organisation” includes any sub-ordinate or attached office, Government owned or promoted company or society.

CHAPTER III DISPUTE RESOLUTION

8. (1) In case of any dispute arising out of a transaction between the farmer and a trader under section 4 of this Ordinance, the parties may seek a mutually acceptable solution through conciliation by filing an application to the Sub-Divisional Magistrate who shall refer such dispute to a Conciliation Board to be appointed by him for facilitating the binding settlement of the dispute.

Dispute Resolution Mechanism for farmers.

(2) Every Board of Conciliation appointed by the Sub-Divisional Magistrate under sub-section (1), shall consist of a chairperson and such members not less than two and not more than four, as the Sub-Divisional Magistrate may deem fit.

(3) The chairperson shall be an officer serving under the supervision and control of the Sub-Divisional Magistrate and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make such recommendation within seven days, the Sub-Divisional Magistrate shall appoint such persons as he thinks fit to represent that party.

(4) Where, in respect of any dispute, a settlement is arrived at during the course of conciliation proceedings, a memorandum of settlement shall be drawn accordingly and signed by the parties to such dispute which shall be binding upon the parties.

(5) If the parties to the transaction under sub-section (1) are unable to resolve the dispute within thirty days in the manner set out under this section, they may approach the Sub-divisional Magistrate concerned who shall be the "Sub-divisional Authority" for settlement of such dispute.

(6) The Sub-Divisional Authority on its own motion or on a petition or on the reference from any Government agency take cognizance of any contravention of the provisions of section 4 or rules made thereunder and take action under sub-section (7).

(7) The Sub-divisional Authority shall decide the dispute or contravention under this section in a summary manner within thirty days from the date of its filing and after giving the parties an opportunity of being heard, he may—

(a) pass an order for the recovery of the amount under dispute; or

(b) impose a penalty as stipulated in sub-section (1) of section 11; or

(c) pass an order for restraining the trader in dispute from undertaking any trade and commerce of scheduled farmers' produce, directly or indirectly under this Ordinance for such period as it may deem fit.

(8) Any party aggrieved by the order of the Sub-Divisional Authority may prefer an appeal before the Appellate Authority (Collector or Additional Collector nominated by the Collector) within thirty days of such order who shall dispose of the appeal

within thirty days from the date of filing of such appeal.

(9) Every order of the Sub-Divisional Authority or Appellant Authority under this section shall have force of the decree of a civil court and shall be enforceable as such, and decretal amount shall be recovered as arrears of land revenue.

(10) The manner and procedure for filing a petition or an application before the Sub-Divisional Authority and appeal before the appellate authority shall be such as may be prescribed.

9. (1) The Agriculture Marketing Adviser, Directorate of Marketing and Inspection, Government of India or an officer of the State Government to whom such powers are delegated by the Central Government in consultation with the respective State Government may, on its own motion or on a petition or on the reference from any Government Agency, take cognizance of any breach of the procedures, norms, manner of registration and code of conduct or any breach of the guidelines for fair trade practices by the electronic trading and transaction platform established under section 5 or contravene the provisions of section 7 and, by an order within sixty days from the date of receipt and for the reasons to be recorded, he may—

Suspension or cancellation of right to operate in Electronic Trading and Transaction Platform.

(a) pass an order for the recovery of the amount payable to the farmers and traders;

(b) impose a penalty as stipulated in sub-section (2) of section 11; or

(c) suspend for such period as he deems fit or cancel the right to operate as an electronic trading and transaction platform:

Provided that no order for recovery of amount, imposition of penalty or suspension or cancellation of the right to operate shall be passed without giving the operator of such electronic trading and transaction platform an opportunity of being heard.

(2) Every order made under sub-section (1) shall have force of the decree of a Civil Court and shall be enforceable as such and the decretal amount shall be recovered as arrears of land revenue.

10. (1) Any person aggrieved by an order under section 9 may, prefer an appeal within sixty days from the date of such order, to an officer not below the rank of joint secretary to the Government of India to be nominated by the Central Government for this purpose:

Appeal against cancellation of the Right to operate.

Provided that an appeal may be admitted even after the expiry of the said period of sixty days, but not beyond a total period of ninety days, if the appellant satisfies the appellate authority, that he had sufficient cause for not preferring the appeal within the said period.

(2) Every appeal made under this section shall be made in such form and manner, and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(3) The procedure for disposing of an appeal shall be such as may be prescribed.

(4) An appeal filed under this section shall be heard and disposed of within a period of ninety days from the date of its filing:

Provided that before disposing of an appeal, the appellant shall be given an opportunity of being heard.

CHAPTER IV PENALTIES

11. (1) Whoever contravenes the provisions of section 4 or the rules made thereunder shall be liable to pay a penalty which shall not be less than twentyfive thousand rupees but which may extend to five lakh rupees, and where the contravention is a continuing one, further penalty not exceeding five thousand rupees for each day after the first day during which the contravention continues.

Penalty for
contravention of
Ordinance and
rules.

(2) If any person, who owns, controls or operates an electronic trading and transaction platform, contravenes the provisions of sections 5 and 7 or the rules made thereunder shall be liable to pay a penalty which shall not be less than fifty thousand rupees but which may extend to ten lakh rupees, and where the contravention is a continuing one, further penalty not exceeding ten thousand rupees for each day after the first day during which the contravention continues.

CHAPTER V MISCELLANEOUS

12. The Central Government may, for carrying out the provisions of this Ordinance, give such instructions, directions, orders or issue guidelines as it may deem necessary to any authority or officer subordinate to the Central Government, any State Government or any authority or officer subordinate to a State Government, an electronic trading and transaction platform

Powers of
Central
Government to
issue
instructions,
directions,
orders or

or to any person or persons owning or operating an electronic trading and transaction platform, or a trader or class of traders. guidelines.

13. No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government, or any officer of the Central Government or the State Government or any other person in respect of anything which is in good faith done or intended to be done under this Ordinance or of any rules or orders made thereunder. Protection of action taken in good faith.

14. The provisions of this Ordinance shall have effect, notwithstanding anything inconsistent therewith contained in any State APMC Act or any other law for time being in force or in any instrument having effect by virtue of any law for the time being in force. Ordinance to have overriding effect.

15. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter, the cognizance of which can be taken and disposed of by any authority empowered by or under this Ordinance or the rules made thereunder. Bar of jurisdiction of civil court.

16. Nothing contained in this Ordinance, shall be applicable to the Stock Exchanges and Clearing Corporations recognised under the Securities Contracts (Regulation) Act, 1956 and the transactions made thereunder. Ordinance not to apply to certain transactions.

17. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Ordinance. Power of Central Government to make rules.

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

(a) the system of electronic registration for a trader and modalities of trade transaction of scheduled farmers' produce under sub-section (2) of section 4;

(b) the procedure of payment under proviso to sub-section (3) of section 4;

(c) the manner and procedure for filing a petition or an application before the Sub-divisional Authority and appeal before the appellate authority under sub-section (10) of section 8;

(d) the information regarding transactions under sub-section (2) of section 9;

(e) the form and manner and the fee payable for filing an appeal under sub-section (2) of section 10;

(f) the procedure for disposing of an appeal under sub-section (3) of section 10.

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

18. Every rule made by the Central Government under this Ordinance 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.

Laying of rules.

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

Power to remove difficulties.

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

RAM NATH KOVIND,
President.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 5th June, 2020/Jyaishtha 15, 1942 (Saka)

THE FARMERS (EMPOWERMENT AND
PROTECTION) AGREEMENT ON PRICE
ASSURANCE AND FARM SERVICES ORDINANCE,

2020
No. 11 OF 2020

Promulgated by the President in the Seventy-first
Year of the Republic of India.

An ordinance to provide for a national framework on farming agreements that protects and empowers farmers to engage with agri-business firms, processors, wholesalers, exporters or large retailers for farm services and sale of future farming produce at a mutually agreed remunerative price framework in a fair and transparent manner and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I
PRELIMINARY

1. (1) This Ordinance may be called the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020. Short title and commencement.

(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,— Definitions.

(a) “farming produce” includes—

(i) foodstuffs, including edible oilseeds and oils, all kinds of cereals like wheat, rice or other coarse grains, pulses, vegetables, fruits, nuts, spices, sugarcane and products of poultry, piggery, goatery, fishery and dairy, intended for human consumption in its natural or processed form;

(ii) cattle fodder, including oilcakes and other concentrates;

(iii) raw cotton, whether ginned or unginned;

(iv) cotton seeds and raw jute;

(b) “APMC yard” means the physical premises covering Agriculture Produce Market Committee Yard, by whatever name called, established for regulating markets and trade in farming produce under any State Act;

(c) “company” means a company as defined in clause (20) of section 2 of the Companies Act, 2013; 18 of 2013.

(d) “electronic trading and transaction platform” means a platform set up to facilitate direct and online buying and selling for conduct of trade and commerce of farming produce through a network of electronic devices and internet applications;

(e) “farm services” includes supply of seed, feed, fodder, agro-chemicals, machinery and technology, advice, non-chemical agro-inputs and such other inputs for farming;

(f) “farmer” means a person engaged in production of farming produce by self or by hired labour or otherwise, and includes Farmer Producer Organisation;

(g) “Farmer Producer Organisation” means an association or group of farmers, by whatever name called,—

(i) registered under any law for the time being in force; or

(ii) promoted under a scheme or programme sponsored by the Central Government or State Government;

(h) “farming agreement” means a written agreement entered into between a farmer and a Sponsor, or a farmer,

a Sponsor and any third party, prior to the production or rearing of any farming produce of a predetermined quality, in which the Sponsor agrees to purchase such farming produce from the farmer and to provide farm services.

Explanation.— For the purposes of this clause, the term “farming agreement” may include—

(i) ‘trade and commerce agreement’, where the ownership of commodity remains with the farmer during production and he gets the price of produce on its delivery as per the agreed terms with the Sponsor;

(ii) ‘production agreement’, where the Sponsor agrees to provide farm services, either fully or partially and to bear the risk of output, but agrees to make payment to the farmer for the services rendered by such farmer; and

(iii) such other agreements or a combination of agreements specified above.

9 of 1932. (i) “firm” means a firm as defined in section 4 of the Indian Partnership Act, 1932;

(j) “force majeure” means any unforeseen external event, including flood, drought, bad weather, earthquake, epidemic outbreak of disease, insect-pests and such other events, which is unavoidable and beyond the control of parties entering into a farming agreement;

(k) “notification” means a notification published by the Central Government or the State Government, as the case may be, in the Official Gazette and the expression “notified” shall be construed accordingly;

(l) “person” includes—

(i) an individual;

(ii) a partnership firm;

(iii) a company;

(iv) a limited liability partnership;

(v) a co-operative society;

(vi) a society; or

(vii) any association or body of persons duly incorporated or recognised as a group under any ongoing programmes of the Central Government or the State Government;

(m) “prescribed” means prescribed by rules made

under this Ordinance;

(n) “Registration Authority” means an authority notified as such by the State Government under section 12;

(o) “Sponsor” means a person who has entered into a farming agreement with the farmer to purchase a farming produce.

(p) “State” includes Union territory.

CHAPTER II

FARMING AGREEMENT

3. (1) A farmer may enter into a written farming agreement in respect of any farming produce and such agreement may provide for— Farming agreement and its period.

(a) the terms and conditions for supply of such produce, including the time of supply, quality, grade, standards, price and such other matters; and

(b) the terms related to supply of farm services:

Provided that the responsibility for compliance of any legal requirement for providing such farm services shall be with the Sponsor or the farm service provider, as the case may be.

(2) No farming agreement shall be entered into by a farmer under this section in derogation of any rights of a share cropper.

Explanation.— For the purposes of this sub-section, the term “share cropper” means a tiller or occupier of a farm land who formally or informally agrees to give fixed share of crop or to pay fixed amount to the land owner for growing or rearing of farming produce.

(3) The minimum period of the farming agreement shall be for one crop season or one production cycle of livestock, as the case may be, and the maximum period shall be five years:

Provided that where the production cycle of any farming produce is longer and may go beyond five years, in such case, the maximum period of farming agreement may be mutually decided by the farmer and the Sponsor and explicitly mentioned in the farming agreement.

(4) For the purposes of facilitating farmers to enter into written farming agreements, the Central Government may issue necessary guidelines alongwith model farming

agreements, in such manner, as it deems fit.

4. (1) The parties entering into a farming agreement may identify and require as a condition for the performance of such agreement compliance with mutually acceptable quality, grade and standards of a farming produce.

Quality, grade and standards of farming produce.

(2) For the purposes of sub-section (1), the parties may adopt the quality, grade and standards—

(a) which are compatible with agronomic practices, agro-climate and such other factors; or

(b) formulated by any agency of the State Government or of the Central Government, or any agency authorised by such Government for this purpose,

and explicitly mention such quality, grade and standards in the farming agreement:

(3) The quality, grade and standards for pesticide residue, food safety standards, good farming practices and labour and social development standards may also be adopted in the farming agreement.

(4) The parties entering into a farming agreement may require as a condition that such mutually acceptable quality, grade and standards shall be monitored and certified during the process of cultivation or rearing, or at the time of delivery, by third party qualified assayers to ensure impartiality and fairness.

5. The price to be paid for the purchase of a farming produce may be determined and mentioned in the farming agreement itself, and in case, such price is subject to variation, then, such agreement shall explicitly provide for-

Pricing of farming produce.

(a) a guaranteed price to be paid for such produce;

(b) a clear price reference for any additional amount over and above the guaranteed price, including bonus or premium, to ensure best value to the farmer and such price reference may be linked to the prevailing prices in specified APMC yard or electronic trading and transaction platform or any other suitable benchmark prices:

Provided that the method of determining such price or guaranteed price or additional amount shall be annexed to the farming agreement.

6. (1) Where, under a farming agreement, the delivery of any farming produce is to be— Sale or purchase of farming produce.

(a) taken by the Sponsor at the farm gate, he shall take such delivery within the agreed time;

(b) effected by the farmer, it shall be the responsibility of the Sponsor to ensure that all preparations for the timely acceptance of such delivery have been made.

(2) The Sponsor may, before accepting the delivery of any farming produce, inspect the quality or any other feature of such produce as specified in the farming agreement, otherwise, he shall be deemed to have inspected the produce and shall have no right to retract from acceptance of such produce at the time of its delivery or thereafter.

(3) The Sponsor shall,—

(a) where the farming agreement relates to seed production, make payment of not less than two-third of agreed amount at the time of delivery and the remaining amount after due certification, but not later than thirty days of delivery;

(b) in other cases, make payment of agreed amount at the time of accepting the delivery of farming produce and issue a receipt slip with details of the sale proceeds.

(4) The State Government may prescribe the mode and manner in which payment shall be made to the farmer under sub-section (3).

7. (1) Where a farming agreement has been entered into in respect of any farming produce under this Ordinance, such produce shall be exempt from the application of any State Act, by whatever name called, established for the purpose of regulation of sale and purchase of such farming produce. Exemptions with respect to farming produce.

(2) Notwithstanding anything contained in the Essential Commodities Act, 1955 or in any control order issued thereunder or in any other law for the time being in force, any obligation related to stock limit shall not be

applicable to such quantities of farming produce as are purchased under a farming agreement entered into in accordance with the provisions of this Ordinance.

8. No farming agreement shall be entered into for the purpose of—

(a) any transfer, including sale, lease and mortgage of the land or premises of the farmer; or

(b) raising any permanent structure or making any modification on the land or premises of the farmer, unless the Sponsor agrees to remove such structure or to restore the land to its original condition, at his cost, on the conclusion of the agreement or expiry of the agreement period, as the case may be:

Sponsor prohibited from acquiring ownership rights or making permanent modifications on farmer's land or premises.

Provided that where such structure is not removed as agreed by the Sponsor, the ownership of such structure shall vest with the farmer after conclusion of the agreement or expiry of the agreement period, as the case may be.

9. A Farming agreement may be linked with insurance or credit instrument under any scheme of the Central Government or State Government or any financial service provider to ensure risk mitigation and flow of credit to farmer or Sponsor or both.

Linkage of farming agreement with insurance or credit.

10. Save as otherwise provided in the Ordinance, an aggregator or farm service provider may become a party to the farming agreement and in such case, the role and services of such aggregator or farm service provider shall be explicitly mentioned in such farming agreement.

Other parties to farming agreement.

Explanation.— For the purposes of this section,—

(i) “aggregator” means any person, including a Farmer Producer Organisation, who acts as an intermediary between a farmer or a group of farmers and a Sponsor and provides aggregation related services to both farmers and Sponsor;

(ii) “farm service provider” means any person who provides farm services.

11. At any time after entering into a farming agreement, the parties to such agreement may, with mutual consent, alter or terminate such agreement for any reasonable cause.

Alteration or termination of farming agreement.

12. (1) A State Government may notify a Registration Authority to provide for electronic registry for that State that provides facilitative framework for registration of farming agreements.

Establishment of
Registration
Authority.

(2) The constitution, composition, powers and functions of the Registration Authority and the procedure for registration shall be such as may be prescribed by the State Government.

CHAPTER III

DISPUTE SETTLEMENT

13. (1) Every farming agreement shall explicitly provide for a conciliation process and formation of a conciliation board consisting of representatives of parties to the agreement:

Conciliation
board for dispute
settlement.

Provided that representation of parties in such conciliation board shall be fair and balanced.

(2) A dispute arising from any farming agreement shall be first referred to the conciliation board formed as per the provisions of the farming agreement and every endeavour shall be made by such board to bring about settlement of such dispute.

(3) Where, in respect of any dispute, a settlement is arrived during the course of conciliation proceeding, a memorandum of settlement shall be drawn accordingly and signed by the parties to such dispute and such settlement shall be binding on the parties.

14. (1) Where, the farming agreement does not provide for conciliation process as required under sub-section (1) of section 13, or the parties to the farming agreement fail to settle their dispute under that section within a period of thirty days, then, any such party may approach the concerned Sub-Divisional Magistrate who shall be the Sub-divisional Authority for deciding the disputes under farming agreements.

Mechanism for
dispute
resolution.

(2) On receipt of a dispute under sub-section (1), the Sub-Divisional Authority may, if—

(a) the farming agreement did not provide for conciliation process, constitute a conciliation board for bringing about settlement of such dispute; or

(b) the parties failed to settle their dispute through conciliation process, decide the dispute in a summary manner within thirty days from the date of receipt of such

dispute, after giving the parties a reasonable opportunity of being heard and pass an order for recovery of the amount under dispute, with such penalty and interest, as it deems fit, subject to the following conditions, namely:—

(i) where the sponsor fails to make payment of the amount due to the farmer, such penalty may extend to one and half times the amount due;

(ii) where the order is against the farmer for recovery of the amount due to the Sponsor on account of any advance payment or cost of inputs, as per terms of farming agreement, such amount shall not exceed the actual cost incurred by the sponsor;

(iii) where the farming agreement in dispute is in contravention of the provisions of the Ordinance, or default by the farmer is due to force majeure, then, no order for recovery of amount shall be passed against the farmer.

5 of 1908. (3) Every order passed by the Sub-Divisional Authority under this section shall have same force as a decree of a civil court and be enforceable in the same manner as that of a decree under the Code of Civil Procedure, 1908, unless an appeal is preferred under sub-section (4).

(4) Any party aggrieved by the order of the Sub-Divisional Authority may prefer an appeal to the Appellate Authority, which shall be presided over by the Collector or Additional Collector nominated by the Collector, within thirty days from the date of such order.

(5) The Appellate Authority shall dispose of the appeal within thirty days.

5 of 1908. (6) Every order passed by the Appellant Authority under this section shall have same force as a decree of a civil court and be enforceable in the same manner as that of a decree under the Code of Civil Procedure, 1908.

(7) The amount payable under any order passed by the Sub-Divisional Authority or the Appellant Authority, as the case may be, may be recovered as arrears of land revenue.

(8) The Sub-Divisional Authority or the Appellate Authority shall, while deciding disputes under this section, have all the powers of a civil court for the purposes of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects and for such other

purposes as may be prescribed by the Central Government.

(9) The manner and procedure for filing a petition or an application before the Sub-Divisional Authority and an appeal before the Appellate Authority shall be such as may be prescribed by the Central Government.

15. Notwithstanding anything contained in section 14, no action for recovery of any amount due in pursuance of an order passed under that section, shall be initiated against the agricultural land of the farmer.

No action for recovery of dues against farmer's land.

CHAPTER IV

MISCELLANEOUS

16. The Central Government may, from time to time, give such directions, as it may consider necessary, to the State Governments for effective implementation of the provisions of this Act and the State Governments shall comply with such directions.

Power of Central Government to give directions.

17. All authorities, including Registration Authority, Sub-Divisional Authority and Appellate Authority, constituted or prescribed under this Ordinance, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Authorities under Ordinance to be public servants.

45 of 1860.

18. No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Registration Authority, the Sub-Divisional Authority, the Appellate Authority or any other person for anything which is in good faith done or intended to be done under the provisions of this Ordinance or any rule made thereunder.

Protection of action taken in good faith.

19. No civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any dispute which a Sub-Divisional Authority or the Appellate Authority is empowered by or under this Ordinance to decide 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 Ordinance or any rules made thereunder.

Bar of jurisdiction of civil court.

20. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any state law for the time being in force or in any instrument having effect by virtue of any such law other than this Ordinance:

Ordinance to have an overriding effect.

Provided that a farming agreement or such contract

entered into under any State law for the time being in force, or any rules made thereunder, before the date of coming into force of this Ordinance, shall continue to be valid for the period of such agreement or contract.

42 of 1956.

21. Nothing contained in this Ordinance, shall be applicable to the stock exchanges and clearing corporations recognised under the Securities Contracts (Regulation) Act, 1956 and the transactions undertaken therein.

Ordinance not to apply to stock exchanges and clearing corporations.

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

Power of Central Government to make rules.

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

(a) other purposes for which the Sub-Divisional Authority or the Appellate Authority shall have the powers of civil court under sub-section (8) of section 14;

(b) the manner and procedure for filing petition or application before the Sub-Divisional Authority, and an appeal before the Appellate Authority, under sub-section (9) of section 14;

(c) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules, 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.

23. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

Power of State Government to make rules.

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

for all or any of the following matters, namely:—

(a) the mode and manner of payment to the farmer under sub-section (4) of section 6;

(b) the constitution, composition, powers and functions of the Registration Authority, and the procedure for registration under sub-section (2) of section 12;

(c) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules, by the State Government.

(3) Every rule made by the State Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

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

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

RAM NATH KOVIND,
President.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 37]	नई दिल्ली, शुक्रवार, जून 26, 2020/ आषाढ़ 5, 1942 (शक)
No. 37]	NEW DELHI, FRIDAY, JUNE 26, 2020/ASHADHA 5, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th June, 2020/Ashadha 5, 1942 (Saka)

THE BANKING REGULATION (AMENDMENT) ORDINANCE, 2020

No. 12 OF 2020

Promulgated by the President in the Seventy-first Year
of the Republic of India.

An Ordinance further to amend the Banking
Regulation Act, 1949.

WHEREAS the Banking Regulation (Amendment)
Bill, 2020 has been introduced in the House of the People
on the 3rd day of March, 2020;

AND WHEREAS the aforesaid Bill could not be
taken up for consideration and passing in the House of
the People;

AND WHEREAS Parliament is not in session and the
President is satisfied that circumstances exist which
render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers
conferred by clause (1) of article 123 of the Constitution,
the President is pleased to promulgate the following
Ordinance:—

1. (1) This Ordinance may be called the Banking Regulation (Amendment) Ordinance, 2020. Short title and commencement.

(2) It shall come into force at once, except section 4, which shall come into force on such date as the Central Government may by notification, appoint:

Provided that different dates may be appointed for state co-operative banks, central co-operative banks and primary co-operative banks and any reference in any such provision to the commencement of this Ordinance shall be construed as a reference to the coming into force of that provision.

10 of 1949. 2. In the Banking Regulation Act, 1949 (hereinafter referred to as the principal Act), for section 3, the following section shall be substituted, namely:— Substitution of new section for section 3.

“3. Notwithstanding anything contained in the National Bank for Agriculture and Rural Development Act, 1981, this Act shall not apply to— Act not to apply to certain co-operative societies.

(a) a primary agricultural credit society; or

(b) a co-operative society whose primary object and principal business is providing of long-term finance for agricultural development,

if such society does not use as part of its name, or in connection with its business, the words “bank”, “banker” or “banking” and does not act as drawee of cheques.”.

3. In section 45 of the principal Act,—

Amendment of section 45.

(i) in the marginal heading, for the word “reconstitution”, the word “reconstruction” shall be substituted;

(ii) in sub-section (3), after the words “other creditors”, the words “or grant any loans or advances or make investments in any credit instruments” shall be inserted;

(iii) in sub-section (4), after the words “During the period of moratorium”, the words “or at any other time” shall be inserted;

(iv) in sub-section (5), in clauses (e), (i) and (j), for the words "date of the order of moratorium", the words "reconstruction or amalgamation" shall be substituted;

(v) in sub-section (6), in clause (a), for the word "amalgamation", the words "reconstruction or amalgamation" shall be substituted;

(vi) in sub-section (15), the words "or a subsidiary bank" shall be omitted.

4. In section 56 of the principal Act,—

Amendment of
section 56.

(A) in the opening portion, for the words "The provisions of this Act, as in force for the time being," the words "Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act" shall be substituted;

(B) in clause (a), after sub-clause (ii), the following sub-clauses shall be inserted, namely:—

'(iii) references to "memorandum of association" or "articles of association" shall be construed as references to bye-laws;

1 of 1956. (iv) references to the provisions of the Companies Act, 1956, except in Part III and Part IIIA, shall be construed as references to the corresponding provisions, if any, of the law under which a co-operative bank is registered;

(v) references to "Registrar" or "Registrar of Companies" shall be construed as references to "Central Registrar" or "Registrar of Co-operative Societies", as the case may be, under the law under which a co-operative bank is registered;';

(C) clause (d) shall be omitted;

(D) in clause (e), sub-clauses (i) and (iii) shall be omitted;

(E) in clause (f), in section 7 as so substituted, in sub-section (2),-

(I) in clause (b), the words “or co-operative land mortgage banks” shall be omitted;

(II) in clause (c), in sub-clause (ii), the words “or a co-operative land mortgage bank” shall be omitted;

(F) clauses (fi), (fii) and (g) shall be omitted;

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

‘(i) for section 12, the following section shall be substituted, namely:—

Issue and
regulation of
paid-up share
capital and
securities by co-
operative banks.

“12. (1) A co-operative bank may, with the prior approval of the Reserve Bank, issue, by way of public issue or private placement,—

(i) equity shares or preference shares or special shares, on face value or at premium; and

(ii) unsecured debentures or bonds or other like securities with initial or original maturity of not less than ten years,

to any member of such co-operative bank or any other person residing within its area of operation, subject to such conditions and ceiling, limit or restriction on its issue or subscription or transfer, as may be specified by the Reserve Bank in this behalf.

(2) Save as otherwise provided in this Act,—

(i) no person shall be entitled to demand payment towards surrender of shares issued to him by a co-operative bank; and

(ii) a co-operative bank shall not withdraw or reduce its share capital, except to the extent and subject to such conditions as the Reserve Bank may specify in this behalf.”;

(H) clauses (l), (n) and (p) shall be omitted;

(I) in clause (q), sub-clauses (ii) and (iv) shall be omitted;

(J) clauses (r), (ria) and (sa) shall be omitted;

(K) in clause (t), sub-clause (i) shall be omitted;

(L) clauses (u), (v), (x), (y), (z) and (za) shall be omitted;

(M) in clause (zaa),-

(a) in section 36AAA as so inserted,-

(i) for the words “multi-State co-operative bank”, wherever they occur, the words “co-operative bank” shall be substituted;

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

“Provided that in the case of a co-operative bank registered with the Registrar of Co-operative Societies of a State, the Reserve Bank shall issue such order in consultation with the concerned State Government seeking its comments, if any, within such period as the Reserve Bank may specify.”;

(iii) after sub-section (9), the following sub-section shall be inserted, namely:-

“(10) The provisions of section 36ACA shall not apply to a co-operative bank.”;

(b) section 36AAB as so inserted shall be omitted;

(N) for clause (zb), the following clause shall be substituted, namely:-

“(zb) Part IIC shall be omitted.”;

(O) in clause (zc), sub-clause (i) shall be omitted;

(P) clauses (zd) and (zf) shall be omitted;

(Q) for clause (zg), the following clause shall be substituted, namely:-

“(zg) in section 49B, references to “Central Government” shall be construed as references to “Central Registrar” or “Registrar of Co-operative Societies”, as the case may be, under the law under which a co-operative bank is registered.”;

(R) clause (zh) shall be omitted;

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

‘(zj) after section 53, the following section shall be inserted, namely:—

Power to exempt
co-operative
banks in certain
cases.

“53A. Notwithstanding anything contained in any other provisions of this Act, the Reserve Bank may, from time to time, on being satisfied that it is necessary so to do, declare, by notification in the Official Gazette, that the provisions of item (iii) of clause (b) of sub-section (1) and sub-section (2), of section 10, clause (a) of sub-section (2) of section 10A, sub-section (1A) of section 10B and clause (b) of sub-section (1) of section 35B of this Act shall not apply to a co-operative bank or class of co-operative banks, either generally or for such period as may be specified therein, subject to such conditions, limitations or restrictions as it may think fit to impose.”.

RAM NATH KOVIND,
President.

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



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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सं० 66] नई दिल्ली, बुधवार, अक्टूबर 28, 2020/ कार्तिक 6, 1942 (शक)
No. 66] NEW DELHI, WEDNESDAY, OCTOBER 28, 2020/KARTIKA 6, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 28th October, 2020/Kartika 6, 1942 (Saka)

**THE COMMISSION FOR AIR QUALITY
MANAGEMENT IN NATIONAL CAPITAL REGION AND
ADJOINING AREAS ORDINANCE, 2020**

No. 13 OF 2020

Promulgated by the President in the Seventy-first Year of
the Republic of India.

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

WHEREAS the quality of air in the airshed of the National
Capital Region and Adjoining Areas remains a major cause of
concern;

AND WHEREAS it has become necessary to evolve and

implement a consolidated approach for monitoring, tackling and eliminating the causes for air pollution and identifying, specifying and rigorously enforcing measures for elimination and mitigation of air pollution including, but not limited to, controlling or eliminating the activities of stubble burning, vehicular pollution, road dust and urban construction;

29 of 1986.

AND WHEREAS the committee appointed under the Environment (Protection) Act, 1986 has taken measures to deal with the menace of air pollution specially in the National Capital Region, but the quality of air remains a cause of concern on account of the absence of a statutory mechanism for vigorous implementation of measures put in place;

AND WHEREAS, by orders passed from time to time, the courts have also set up ad hoc committees to aid and assist the monitoring of the implementation of its orders and generally to take steps to deal with air pollution, but it is now considered necessary to have a statutory authority with appropriate powers, and charged with the duty of taking comprehensive measures to tackle air pollution on a war footing, with power to coordinate with relevant States and the Central Government and issue directions to statutory authorities established under various laws;

AND WHEREAS it is necessary to provide for a consolidated and conjoint approach in monitoring, tackling, and researching in air pollution, and specifically monitoring the measures which have been directed by the relevant States and the Central Government to prevent factors causing air pollution, including stubble burning, industrial emissions, road dust, vehicular pollution, construction activities, biomass burning and other major sources;

14 of 1981.

AND WHEREAS India is committed to create a clean environment and pollution free air as mandated in the Constitution of India. The commitments and obligations to environmental conservation and protection within the ambit of the targeted goals on environmental sustainability under the Sustainable Development Goals, particularly towards the issue of air pollution, is manifested in the Air (Prevention and Control of Pollution) Act, 1981, which was enacted under article 253 of the Constitution and more recently in the National Clean Air Programme;

AND WHEREAS it has been noticed that there is lack of a permanent, dedicated and participative mechanism adopting a

collaborative and participatory approach involving relevant Central Ministries, State Governments, local bodies and other stakeholders to tackle air pollution, in the National Capital Region and Adjoining Areas. It has been further noticed that sources of air pollution, especially in the National Capital Region, consists of a variety of factors which are beyond the local limits of the National Capital Region. It has been emphasized that special focus is required on all sources of air pollution which are associated with different economic sectors, which *inter alia* include power, agriculture, transport, industry, residential and construction. In that manner, it has been noticed that air pollution is not a localized phenomenon, the effect is felt in areas even far away from the source, thus creating the need for regional-level initiatives through inter-State and inter-city coordination in addition to multi-sectorial synchronization;

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

29 of 1986.

AND WHEREAS the Hon'ble Supreme Court also, noting the lack of inter-state co-operation, on multiple occasions has directed the presence of Chief Secretaries of the four States in

question i.e. Punjab, Haryana, Delhi and Uttar Pradesh in order to ensure inter-State co-operation. Further, due to the lack of an oversight mechanism over the joint functioning of the States on issues concerning air pollution, and specifically stubble burning, the Hon'ble Supreme Court in *Aditya Dubey (minor) and Another versus Union of India and Others*, W.P(C) No. 1135/2020, had further appointed a one man Monitoring Committee to monitor the measures taken by the States to prevent stubble burning. The Hon'ble Supreme Court has, on numerous occasions sought to improve and propose innovative measures and research initiatives to resolve the problem of air pollution;

AND WHEREAS in order to provide a permanent solution and establish a self-regulated, democratically monitored mechanism for tackling air pollution in National Capital Region and Adjoining Areas, rather than the above-mentioned limited and ad-hoc measures, it is deemed fit to set-up a Commission for Air Quality Management in National Capital Region and Adjoining Areas. The said Commission seeks to replace the above-mentioned Committees in order to streamline the public participation, the inter-State co-operation, the expert involvement and persistent research and innovation;

AND WHEREAS the three broad sectors of the participation process which the Commission seeks to enable would include, monitoring of air pollution, enforcement of laws post such monitoring and research and innovation. The Ordinance seeks to provide a broad based Central Commission under which at least three separate Sub-Committees can function in the above mentioned fields in order to synergise the collaborative efforts to alleviate the recurring problems associated with air pollution in the National Capital Region. A commission, with a broad based participation from various sectors, different States, public representatives, experts and innovators would further replace the inadequate, haphazard and temporary committees or commissions or authorities or bodies at present either appointed judicially or administratively. As a matter of participative oversight, the legislative formulation of the Commission for Air Quality Management in National Capital Region and Adjoining Areas provides impetus to the public debate and participation on the subject as the said Commission would function under the oversight of the elected

representatives with regular reports to the Parliament. The highest degree of democratic oversight would ensure effective enforcement of the efforts and proposals of the Commission;

AND WHEREAS the Commission for Air Quality Management in National Capital Region and Adjoining Areas would provide a consolidated and conjoint approach in monitoring, tackling, and researching in air pollution, and specifically monitoring the measures taken by the States to prevent factors causing air pollution like stubble burning, industrial emissions, road dust, vehicular pollution, construction activities, biomass burning and other major sources;

AND WHEREAS the Commission is to function under the aegis and the overall supervision and guidance of the Central Government adopting the broad policies and the decisions taken by the Central Government regarding the curbing of air pollution in the National Capital Region and Adjoining Areas;

AND WHEREAS there is a need to replace multitudes of Committees, Task forces, Commissions and informal groups formed temporarily or otherwise, by various orders of the constitutional courts or the Central Government or the State Governments concerned and to synergise the efforts, thereby limiting duplication and ensuring constant policy innovations through inter-State and inter-sectorial co-operation under the aegis of the Commission;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020.

Short title,
application and
commencement.

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

(3) It shall come into force at once.

CHAPTER 1

PRELIMINARY

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

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

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

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

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

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

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

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

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

CHAPTER II

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

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

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

(a) a full-time Chairperson who is or has been Secretary to the Government of India or Chief Secretary to the Government of a State;

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

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

(d) two full-time members who are or have been Joint Secretaries to the Government of India;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) There shall be a full-time Secretary who shall be the Chief Coordinating Officer of the Commission and shall assist in managing the affairs of the Commission.

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

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

Provided that the powers, functions and duties of the Commission shall not be in derogation of the powers, functions and duties of the Central Government, the Governments of the States of Punjab, Haryana, Rajasthan, Delhi and Uttar Pradesh, the Central Pollution Control Board, the State Pollution Control Boards of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh and the Pollution Control Committee of the State of Delhi:

Provided further that in case of any conflict in the orders or directions of the Commission and the Governments of the States of Punjab, Haryana, Rajasthan, Delhi and Uttar Pradesh or the Central Pollution Control Board or the State Pollution Control Boards of the States of Punjab, Haryana, Rajasthan

and Uttar Pradesh or the Pollution Control Committee of the State of Delhi or any other statutory authority set up or established under a State Act, the order or direction of the Commission shall prevail.

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

Appointment of
Chairperson,
Members and
Secretary.

Provided that every appointment under this sub-section shall be made on the recommendations of a Selection Committee consisting of—

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

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

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

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

(e) Cabinet Secretary— member.

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

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

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

Resignation and
removal of
Chairperson and
Members.

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

(a) is adjudged an insolvent;

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

(c) is unfit to continue in office by reason of infirmity of

mind or body;

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

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

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

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

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

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

Term of office
of Chairperson
and Members.

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

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

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

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

Terms and
conditions of
service of
Chairperson and
Members.

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

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

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

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

Procedure to be regulated by Commission.

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

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

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

Sub-Committees and other staff of Commission.

- (a) Sub-Committee on Monitoring and Identification;
- (b) Sub-Committee on Safeguarding and Enforcement;
- (c) Sub-Committee on Research and Development.

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

- (a) one representative from the Central Pollution Control Board;
- (b) one representative each from the State Pollution Control Board or Committee, as the case may be, of the States of Delhi, Punjab, Haryana, Rajasthan and Uttar Pradesh;
- (c) one representative from the National Environmental Engineering Research Institute; and
- (d) such other members as may be specified by regulations.

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

- (a) one representative each, not below the rank of Secretary from the department tackling air pollution from the States of Delhi, Punjab, Haryana, Rajasthan and Uttar Pradesh;
- (b) one representative each from the State Pollution Control Board or Committee, as the case may be, from the States of Delhi, Punjab, Haryana, Rajasthan and Uttar Pradesh;
- (c) one officer not below the rank of Inspector General of Police or equivalent from the States of Delhi, Punjab,

Haryana, Rajasthan and Uttar Pradesh;

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

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

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

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

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

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

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

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

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

(8) The officers and other staff of the Commission shall discharge their duties and functions under the General Superintendence of the Chairperson.

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

CHAPTER III

POWERS AND FUNCTIONS OF THE COMMISSION

12. (1) Notwithstanding anything contained in any other law for the time being in force, the Commission shall have the power to take all such measures, issue directions and entertain complaints, as it deems necessary or expedient for

Powers and
functions of
Commission.

the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas and shall also have the duty to take all such measures as may become necessary for protecting and improving the quality of the air in the National Capital Region and Adjoining Areas.

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

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

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

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

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

Provided that different parameters for emission or discharge may be laid down under this clause from different sources having regard to the quality or composition of the emission or discharge of environmental pollutants from such sources that have implications on air quality in the region;

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

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

(vii) inspection of any premises, plant, equipment,

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

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

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

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

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

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

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

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

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

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

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

(iii) examining and testing any equipment, industrial plant,

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

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

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

2 of 1974.

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) For removal of doubts, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, and notwithstanding any judgment or

order of any court, and subject to the provisions of this Ordinance, the Commission shall have exclusive jurisdiction in respect of matters covered by this Ordinance and no other body or authority or committee or individual shall have any power or jurisdiction in that matter.

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

(a) take up matters *suomotu*, or on the basis of complaints made by any individual, representative body or organisation functioning in the field of environment, against any individual, association, company, public undertaking or local body carrying on any industry, operation or process;

(b) provide the mechanism and the means to implement in the National Capital Region and Adjoining Areas –

(i) the National Clean Air Programme;

(ii) the National Air Quality Monitoring Programme;

(iii) the National Ambient Air Quality Standards;

(c) provide an effective framework and platform in the National Capital Region and Adjoining Areas for –

(i) source identification of air pollutants on a periodic basis;

(ii) taking on-ground steps for curbing air pollution;

(iii) specific research and development in the field of air pollution;

(iv) synergising the energies and efforts of all stakeholders in developing innovative ways to monitor, enforce and research on the issues concerning air pollution;

(v) building a network between technical institutions working or researching in the field of air pollution;

(vi) international co-operation including sharing of international best practices in the field of air pollution;

(vii) training and creating a special work-force for tackling the problem of air pollution;

(d) provide an effective frame work, action plan and take appropriate steps for –

(i) tackling the problem of stubble burning;

(ii) monitoring, assessing and inspecting air polluting agents;

(iii) increasing plantation;

(e) monitoring the measures taken by the States to prevent stubble burning;

(f) undertake and promote research in the field of air pollution;

(g) spread awareness regarding air pollution among various sections of society and promote awareness of the collective steps that the public may take through publications, the media, seminars and other available means;

(h) encourage the efforts of non-governmental organisations and institutions working in the field of air pollution;

(i) any other functions as have been entrusted to any *ad hoc* committee or commission or task force or body formed for the purpose of dealing with issues concerning air pollution, stubble burning or the monitoring of related factors, in pursuance of any judicial order passed for the time being in force;

(j) such other functions as it may considered necessary for the prevention of air pollution in the National Capital Region and Adjoining Areas.

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

Annual report.

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

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

Penalty for contravention of the provisions of the Ordinance, rules, order or direction.

(2) Notwithstanding anything contained in the Code of

Criminal Procedure, 1973, the offence under this Ordinance shall be non-cognizable and shall be triable by the Judicial Magistrate of the First Class who shall not take cognizance of the offence except upon a complaint made by the Commission or any officer authorised by the Commission in this behalf.

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

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

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

Explanation.—For the purposes of this section,—

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

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

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

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

the commission of such offence.

(6) Notwithstanding anything contained in sub-section (5), where an offence under this Ordinance has been committed by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

2 of 1974.

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

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

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

Grants by
Central
Government.

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

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

Accounts and
audit.

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

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Ordinance shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of

books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

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

CHAPTER V

MISCELLANEOUS

19 of 2010. 17. An appeal shall lie only to the National Green Tribunal constituted under the National Green Tribunal Act, 2010 against any order, direction or action taken by or on behalf of the Commission constituted under section 3 of the Ordinance. Appeal.

18. No civil court shall have jurisdiction to entertain any suit, proceeding or dispute pertaining to or arising out of the actions taken or directions issued by the Commission in respect of any matter which the Commission is empowered by or under this Ordinance except the National Green Tribunal referred to in section 17. Bar of jurisdiction.

19. Notwithstanding anything contained in any other law for the time being in force or any judicial order by any Court, where the Commission considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such officers or such persons, as it thinks necessary, for purposes of carrying out its functions under this Ordinance. Constitution of special investigation teams.

20. No suit or other legal proceeding shall lie against the Central Government, the State Government, the Commission, or any Member thereof, or any person acting under the direction either of the Central Government, State Government, or the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or of any rules or any order made thereunder. Protection of action taken in good faith.

21. Every Member of the Commission and every officer appointed or authorised by the Commission to exercise functions under this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Members and officers to be public servants.

45 of 1860.

Code.

22. (1) The Central Government may, by notification, make rules to carry out the provisions of this Ordinance.

Power of
Central
Government to
make rules.

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

(a) the other Associate Members under clause (h) of sub-section (3) of section 3;

(b) the manner and the terms and conditions regarding appointment of the Secretary under sub-section (3) of section 4;

(c) the manner of removal of Chairperson or a Member under sub-section (2) of section 5;

(d) the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (1) of section 8;

(e) the allowance payable to the members, other than *ex officio* members of the Sub-Committees, under sub-section (6) of section 11;

(f) the appointment of such officers and other employees under sub-section (7) of section 11;

(g) the salaries, allowances and conditions of service of the officers and other staff under sub-section (9) of section 11;

(h) the manner of taking samples under clause (a) of sub-section (4) of section 12;

(i) the form of notice under sub-clause (i) of clause (c) of sub-section (4) of section 12;

(j) the form in which an annual statement of accounts shall be prepared under sub-section (1) of section 16;

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

(3) Every rule made under this Ordinance 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.

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

Power of
Commission to
make
regulations.

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

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

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

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

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

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

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

Power to
remove
difficulties.

removing the difficulty.

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

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

Ordinance to have overriding effect.

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

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

Repeal and savings.

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

RAM NATH KOVIND,
President,

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



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 67] नई दिल्ली, बुधवार, नवम्बर 4, 2020/कार्तिक 13, 1942 (शक)
No. 67] NEW DELHI, WEDNESDAY, NOVEMBER 4, 2020/KARTIKA 13, 1942 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 4th November, 2020/Kartika 13, 1942 (Saka)

THE ARBITRATION AND CONCILIATION (AMENDMENT) ORDINANCE, 2020

No. 14 OF 2020

Promulgated by the President in the Seventy-first Year of the Republic of India.

An Ordinance further to amend the Arbitration and Conciliation Act, 1996.

WHEREAS to address the concerns raised by stakeholders after the enactment of the Arbitration and Conciliation (Amendment) Act, 2019 and to ensure that all the stakeholder parties get an opportunity to seek unconditional stay of enforcement of arbitral awards where the underlying arbitration agreement or contract or making of the arbitral award are induced by fraud or corruption, it has become necessary to make further amendments to the Arbitration and Conciliation Act, 1996;

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:--

1. (1) This Ordinance may be called the Arbitration and Conciliation (Amendment) Ordinance, 2020.

Short title and
commencement.

(2) Save as otherwise provided in this Ordinance, it shall come into force at once.

Amendment
of section 36.

2. In section 36 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the principal Act), in sub-section (3), after the proviso, the following shall be inserted and shall be deemed to have been inserted with effect from 23rd day of October, 2015, namely:—

"Provided further that where the Court is satisfied that a prima facie case is made out,—

(a) that the arbitration agreement or contract which is the basis of the award; or

(b) the making of the award,

was induced or effected by fraud or corruption, it shall stay the award unconditionally pending disposal of the challenge under section 34 to the award."

Explanation.— For the removal of doubts, it is hereby clarified that the above proviso shall apply to all court cases arising out of or in relation to arbitral proceedings, irrespective of whether the arbitral or court proceedings were commenced prior to or after the commencement of the Arbitration and Conciliation (Amendment) Act, 2015.

Substitution of
new section
for section
43J.

3. For section 43J of the principal Act, the following section shall be substituted, namely:—

Norms for
accreditation
of arbitrators.

"43J. The qualifications, experience and norms for accreditation of arbitrators shall be such as may be specified by the regulations."

Omission of
Eighth
Schedule.

4. The Eighth Schedule to the principal Act shall be omitted.

RAMNATH KOVIND,

President

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



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

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MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 5th November, 2020/Kartika 14, 1942 (Saka)

CORRIGENDUM

In the Arbitration and Conciliation (Amendment) Ordinance, 2020 (No. 14 of 2020) as published in the Gazette of India, Extraordinary, Part II, Section 1, Issue No. 67, dated the 4th November, 2020, at page 2 in line 15, Section 3 in the marginal heading for “Subsitution” read “Substitution”.

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