

## **CENTRAL ORDINANCES, 2015**

1. The Citizenship (Amendment) Ordinance, 2015.
2. The Motor Vehicles (Amendment) Ordinance, 2015.
3. The Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015.
4. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015.
5. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Second Ordinance, 2015.
6. The Negotiable Instruments (Amendment) Ordinance, 2015.
7. The Negotiable Instruments (Amendment) Second Ordinance, 2015.
8. The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015.
9. The Arbitration and Conciliation (Amendment) Ordinance, 2015.



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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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.

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## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 6th January, 2015/Pausa 16, 1936 (Saka)*

### THE CITIZENSHIP (AMENDMENT) ORDINANCE, 2015

No. 1 OF 2015

Promulgated by the President in the Sixty-fifth Year of the Republic of India.

An Ordinance further to amend the Citizenship Act, 1955.

WHEREAS the Citizenship (Amendment) Bill, 2014 has been introduced in the House of the People and is pending in that House;

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 Citizenship (Amendment) Ordinance, 2015.

(2) It shall come into force at once.

Short title  
and  
commencement.

Amendment  
of section 5.

2. In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), in section 5,-

57 of 1955.

- (i) in sub-section (1),-
  - (a) in clause (f), for the words "has been residing in India for one year", the words "is ordinarily resident in India for twelve months" shall be substituted;
  - (b) in clause (g), for the words "has been residing in India for one year", the words "is ordinarily resident in India for twelve months" shall be substituted;
  - (c) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The Central Government, if it is satisfied that special circumstances exist, may after recording the circumstances in writing, relax the period of twelve months, specified in clauses (f) and (g) and clause (i) of Explanation 1 of sub-section (1), upto a maximum of thirty days which may be in different breaks."

Substitution  
of sections  
7A, 7B, 7C  
and 7D.

Registration  
of Overseas  
Citizen of  
India  
cardholder.

3. In the principal Act, for sections 7A, 7B, 7C and section 7D, the following sections shall be substituted, namely:—

"7A. (1) The Central Government may, subject to such conditions and restrictions, as may be prescribed, on an application made in this behalf, register as Overseas Citizen of India cardholder—

- (a) any person of full age and capacity,—

(i) who is a citizen of another country, but was a citizen of India at the time of, or at any time after, the commencement of the Constitution; or

(ii) who is a citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or

(iii) who is a citizen of another country, but belonged to a territory that became part of India after the 15<sup>th</sup> day of August, 1947; or

(iv) who is a child or a grand-child or a great grandchild of such a citizen; or

(b) a person, who is a minor child of a person mentioned in clause(a); or

(c) a person, who is a minor child, and whose both parents are citizens of India or one of the parents is a citizen of India; or

(d) spouse of foreign origin of a citizen of India or spouse of foreign origin of an Overseas Citizen of India cardholder registered under section 7A and whose marriage has been registered and subsisted for a continuous period of not less than two years immediately preceding the presentation of the application under this section:

Provided that for the eligibility for registration as Overseas Citizen of India cardholder, such spouse shall be subjected to prior security clearance from a competent authority in India:

Provided further that no person, who is or had been a citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as Overseas Citizen of India cardholder.

(2) The Central Government may, by notification in the Official Gazette, specify the date from which the existing Persons of Indian Origin cardholders shall be deemed to be Overseas Citizens of India cardholders.

*Explanation.*—For the purposes of sub-section, (2), Persons of Indian Origin cardholders mean the persons registered as such under notification number 26011/4/98 F.I. dated the 19<sup>th</sup> August, 2002, issued by the Central Government in this regard.

7B. (1) Notwithstanding anything contained in any other law for the time being in force, an Overseas Citizen of India cardholder shall be entitled to such rights, other than the rights specified under sub-section (2), as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Conferment of rights on Overseas Citizen of India cardholder.

(2) An Overseas Citizen of India cardholder shall not be entitled to the rights conferred on a citizen of India—

(a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;

(b) under article 58 of the Constitution for election as President;

(c) under article 66 of the Constitution for election as Vice-President;

(d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;

(e) under article 217 of the Constitution for appointment as a judge of the High Court;

(f) under section 16 of the Representation of the People Act, 1950 in regard to registration as a voter; 43 of 1950.

(g) under sections 3 and 4 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the House of People or of the Council of States, as the case may be; 43 of 1951.

(h) under sections 5, 5A and section 6 of the Representation of the People Act, 1951 with regard to eligibility for being a member of the Legislative Assembly or the Legislative Council, as the case may be, of a State; 43 of 1951.

(i) for appointment to public services and posts in connection with affairs of the Union or of any State except for appointment in such services and posts as the Central Government may by special order in that behalf specify.

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

Renunciation  
of Overseas  
Citizen of  
India card.

7C. (1) If any Overseas Citizen of India cardholder of full age and capacity makes in prescribed manner a declaration renouncing the card registering him as an Overseas Citizen of India cardholder, the declaration shall be registered by the Central Government, and upon such registration, that person shall cease to be an Overseas Citizen of India cardholder.

(2) Where a person ceases to be an Overseas Citizen of India cardholder under sub-section (1), the spouse of foreign origin of that person, who has obtained Overseas Citizen of India card under clause (d) of sub-section (1) of section 7A, and every minor child of that person registered as an Overseas Citizen of India cardholder shall thereupon cease to be an Overseas Citizen of India cardholder.

7D. The Central Government may, by order cancel the registration granted under sub-section (1) of section 7A, if it is satisfied that-

Cancellation of registration as Overseas Citizen of India card holder.

- (a) the registration as an Overseas Citizen of India cardholder was obtained by means of fraud, false representation or the concealment of any material fact; or
- (b) the Overseas Citizen of India cardholder has shown disaffection towards the Constitution of India, as by law established; or
- (c) the Overseas Citizen of India cardholder has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or
- (d) the Overseas Citizen of India cardholder has, within five years after registration under sub-section (1) of section 7A, been sentenced to imprisonment for a term of not less than two years; or
- (e) it is necessary so to do in the interests of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public; or
- (f) the marriage of an Overseas Citizen of India cardholder, who has obtained such card under clause (d) of sub-section (1) of section 7A,-
  - (i) has been dissolved by a competent court of law or otherwise; or

(ii) has not been dissolved but, during the subsistence of such marriage, he has solemnized marriage with any other person.”.

4. In the principal Act, in section 18, in sub-section (2), after clause (ee), following clauses shall be inserted, namely:- Amendment of section 18.

“(eea) conditions and restrictions subject to which a person may be registered as Overseas Citizen of India cardholder under sub-section (1) of section 7A;

(eeb) manner of making declarations for renunciation of Overseas Citizen of India card under sub-section (1) of section 7C;”.

Amendment  
of Third  
Schedule.

5. In the Third Schedule to the principal Act, in clause (c), the following proviso shall be inserted, namely:-

“Provided that if the Central Government is satisfied that special circumstances exist, it may, after recording the circumstances in writing, relax the period of twelve months upto a maximum of thirty days which may be in different breaks.”.

PRANAB MUKHERJEE,  
*President.*

DR. SANJAY SINGH,  
*Secy. to the Government of India.*

**CORRIGENDA****THE COAL MINES (SPECIAL PROVISIONS) SECOND ORDINANCE, 2014**

No. 7 OF 2014

In the Coal Mines (Special Provisions) Second Ordinance, 2014 (No. 7 of 2014) published in the Gazette of India, Extraordinary, Part II, Section I, dated 26th December, 2014, issue No. 44,—

Page No.	Column	Line(s) No	<i>For</i>	<i>Read</i>
30	4	41	"Maharastra"	"Maharashtra"
31	3	10	"Maharastra"	"Maharashtra"
31	3	36	"Maharastra"	"Maharashtra"
36	4	9	"Maharastra"	"Maharashtra"
36	4	11	"Maharastra"	"Maharashtra"
36	4	13	"Maharastra"	"Maharashtra"
36	4	15	"Maharastra"	"Maharashtra"
36	4	17	"Maharastra"	"Maharashtra"
36	4	19	"Maharastra"	"Maharashtra"
36	4	21	"Maharastra"	"Maharashtra"
36	4	23	"Maharastra"	"Maharashtra"
36	4	25	"Maharastra"	"Maharashtra"
38	4	21	"Maharastra"	"Maharashtra"
38	4	23	"Maharastra"	"Maharashtra"
38	4	26	"Maharastra"	"Maharashtra"



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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 7th January, 2015/Pausa 17, 1936 (Saka)*

### THE MOTOR VEHICLES (AMENDMENT) ORDINANCE, 2015 No. 2 OF 2015

Promulgated by the President in the Sixty-fifth Year of the Republic of India.

An Ordinance further to amend the Motor Vehicles Act, 1988.

WHEREAS the Motor Vehicles (Amendment) Bill, 2014 has been passed by the House of the People and is pending in the Council of States;

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 to give effect to the provisions of the said Bill;

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 Motor Vehicles (Amendment) Ordinance, 2015.

Short title and  
commencement.

(2) It shall come into force at once.

Insertion of new section 2A.	<b>2.</b> In the Motor Vehicles Act, 1988 (hereinafter referred to as the principal Act), after section 2, the following section shall be inserted, namely:—	59 of 1988.
E-card and e-rickshaw.	“2A (1) Save as otherwise provided in the proviso to sub-section (1) of section 7 and sub-section (10) of section 9, the provisions of this Act shall apply to e-cart and e-rickshaw.  (2) For the purposes of this section, “e-cart or e-rickshaw” means a special purpose battery powered vehicle of power not exceeding 4000 watts having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf.”.	
Amendment of section 7.	<b>3.</b> In the principal Act, in section 7, in sub-section (1), the following proviso shall be inserted, namely:—  “Provided that nothing contained in this sub-section shall apply to an e-cart or e-rickshaw.”.	
Amendment of section 9.	<b>4.</b> In the principal Act, in section 9, after sub-section (9), the following sub-section shall be inserted, namely:—  “(10) Notwithstanding anything contained in this section, the driving licence to drive e-cart or e-rickshaw shall be issued in such manner and subject to such conditions as may be prescribed.”.	
Amendment of section 27.	<b>5.</b> In this principal Act, in section 27,—  (i) clause (a) shall be renumbered as clause (aa) thereof and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—  “(a) specifications relating to e-cart and e-rickshaw under sub-section (2) of section 2A;”;  (ii) after clause (f), the following clause shall be inserted, namely:—  “(ff) the manner and the conditions subject to which the driving license may be issued under sub-section (10) of section 9;”.	

PRANAB MUKHERJEE,  
*President.*

DR. SANJAY SINGH,  
*Secy. to the Government of India.*



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EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 12th January, 2015/Pausa 22, 1936 (Saka)*

THE MINES AND MINERALS (DEVELOPMENT AND  
REGULATION) AMENDMENT ORDINANCE, 2015

No. 3 OF 2015

Promulgated by the President in the Sixty-fifth Year of the Republic of India.

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

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 Mines and Minerals  
(Development and Regulation) Amendment Ordinance, 2015. Short title and  
commencement.

(2) It shall come into force at once.

Amendment of  
section 3.

2. In the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the principal Act), in section 3, - 67 of 1957.

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

‘(ea) “notified minerals” means any mineral specified in the Fourth Schedule;’;

(ii) after clause (g), the following clause shall be inserted, namely:-

‘(ga) “prospecting licence-cum-mining lease” means a two stage concession granted for the purpose of undertaking prospecting operations followed by mining operations;’;

(iii) in clause (hb), the word “and” occurring at the end shall be omitted;

(iv) after clause (hb), the following clause shall be inserted, namely:-

‘(hc) “Special Court” means a Court of Session designated as Special Court under sub-section (1) of section 30B; and’.

Amendment of  
section 4.

3. In section 4 of the principal Act, in the second proviso to sub-section (1), for the words and figures “section 617 of the Companies Act, 1956”, the words, brackets and figures “clause (45) of section 2 of the Companies Act, 2013, and any such entity that may be notified for this purpose by the Central Government” shall be substituted.

1 of 1956.

18 of 2013.

Amendment of  
section 4A.

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

“Provided that the State Government may, on an application made by the holder of such lease before it lapses and on being satisfied that it will not be possible for the holder of the lease to undertake mining operations or to continue such operations for reasons beyond his control, make an order, within a period of three months from the date of receiving of such application, subject to such conditions as may be prescribed, to the effect that

such lease shall not lapse:

Provided further that such lease shall lapse on failure to undertake mining operations or inability to continue the same before the end of a period of six months from the date of the order of the State Government:

Provided also that the State Government may, on an application made by the holder of a lease submitted within a period of six months from the date of its lapse and on being satisfied that such non-commencement or discontinuance was due to reasons beyond the control of the holder of the lease, revive the lease within a period of three months from the date of receiving the application from such prospective or retrospective date as it thinks fit but not earlier than the date of lapse of the lease:

Provided also that no lease shall be revived under the third proviso for more than twice during the entire period of the lease.”.

5. In section 5 of the principal Act, -

Amendment of  
section 5.

(A) in sub-section (1), -

(i) in clause (a), for the words, brackets and figures “sub-section (1) of section 3 of the Companies Act, 1956”, the words, brackets and figures “clause (20) of section 2 of the Companies Act, 2013” shall be substituted;

1 of 1956.

18 of 2013.

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

“Provided that in respect of any mineral specified in Part A and Part B of the First Schedule, no reconnaissance permit, prospecting licence or mining lease shall be granted except with the previous approval of the Central Government.”;

(B) in sub-section (2),-

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

“(a) there is evidence to show the existence of mineral contents in the area for which the application for a mining lease has been made in accordance with such parameters as may be prescribed for this purpose by the Central Government;”;

(ii) after clause (b), the following proviso shall be inserted, namely:-

“Provided that a mining lease may be granted upon the filing of a mining plan in accordance with a system established by the State Government for preparation, certification, and monitoring of such plan, with the approval of the Central Government.”

Amendment of  
section 6.

6. In section 6 of the principal Act, in sub-section (1), in clause (b), for the proviso, the following proviso shall be substituted, namely:-

“Provided that if the Central Government is of the opinion that in the interest of the development of any mineral or industry, it is necessary so to do, it may, for reasons to be recorded in writing, increase the aforesaid area limits in respect of prospecting licence or mining lease, in so far as it pertains to any particular mineral, or to any specified category of deposits of such mineral, or to any particular mineral located in any particular area.”

Substitution of  
section 8.

7. For section 8 of the principal Act, the following section shall be substituted, namely:-

Periods for  
which mining  
leases may be  
granted or  
renewed.

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

(2) The maximum period for which a mining lease may be granted shall not exceed thirty years:

Provided that the minimum period for which any such mining lease may be granted shall not be less than twenty years.

(3) A mining lease may be renewed for a period not exceeding twenty years with the previous approval of the Central Government.”

8. After section 8 of the principal Act, the following section shall be inserted, namely:-

Insertion of new section 8A.

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

Period of grant of a mining lease for minerals other than coal, lignite and atomic minerals.

(2) On and from the date of the commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, all mining leases shall be granted for the period of fifty years.

(3) All mining leases granted before the commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015 shall be deemed to have been granted for a period of fifty years.

(4) On the expiry of the lease period, the lease shall be put up for auction as per the procedure specified in this Act.

(5) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, where mineral is used for captive purpose, shall be extended and be deemed to have been extended upto a period ending on 31<sup>st</sup> March, 2030 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, subject to the condition that all the terms and conditions of the lease have been complied with.

(6) Notwithstanding anything contained in sub-sections (2), (3) and sub-section (4), the period of lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, where mineral is used for other than captive purpose, shall be extended and be deemed to have been extended upto a period ending on 31<sup>st</sup> March, 2020 with effect from the date of expiry of the period of renewal last made or till the completion of renewal period, if any, or a period of fifty years from the date of grant of such lease, whichever is later, subject to the

condition that all the terms and conditions of the lease have been complied with.

(7) Any holder of a lease granted, where mineral is used for captive purpose, shall have the right of first refusal at the time of auction held for such lease after the expiry of the lease period.

(8) Notwithstanding anything contained in this section, the period of mining leases, including existing mining leases, of Government companies or corporations shall be such as may be prescribed by the Central Government.

(9) The provisions of this section, notwithstanding anything contained therein, shall not apply to a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, for which renewal has been rejected, or which has been determined, or lapsed. ”.

Insertion of new sections 9B and 9C.

9. After section 9A of the principal Act, the following sections shall be inserted, namely:-

District Mineral Foundation.

“9B. (1) In any district affected by mining related operations, the State Government shall, by notification, establish a trust, as a non-profit body, to be called the District Mineral Foundation.

(2) The object of the District Mineral Foundation shall be to work for the interest and benefit of persons, and areas affected by mining related operations in such manner as may be prescribed by the State Government.

(3) The composition and functions of the District Mineral Foundation shall be such as may be prescribed by the State Government.

(4) The holder of a mining lease or a prospecting licence-cum-mining lease shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount which is equivalent to such percentage of the royalty paid in terms of the Second Schedule, not exceeding one-third of such royalty, as may be prescribed by the Central Government.

9C. (1) The Central Government shall, by notification, establish a Trust, as a non-profit body, to be called the National Mineral Exploration Trust.

(2) The object of the Trust shall be to use the funds accrued to the Trust for the purposes of regional and detailed exploration in such manner as may be prescribed by the Central Government.

(3) The composition and functions of the Trust shall be such as may be prescribed by the Central Government.

(4) The holder of a mining lease or a prospecting licence-cum-mining lease shall pay to the Trust, a sum equivalent to two per cent. of the royalty paid in terms of the Second Schedule, in such manner as may be prescribed by the Central Government.”.

10. After section 10 of the principal Act, the following sections shall be inserted, namely:-

Insertion of new sections 10A, 10B, and 10C.

“10A. (1) All applications received prior to the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, shall become ineligible.

Rights of existing concession holders and applicants.

(2) Without prejudice to sub-section (1), the following shall remain eligible on and from the commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015: —

(a) applications received under section 11A of this Act;

(b) where before the commencement of the said Ordinance a reconnaissance permit or prospecting licence has been granted in respect of any land for any mineral, the permit holder or the licensee shall have a right for obtaining a prospecting licence followed by a mining lease, or a mining lease, as the case may be, in respect of that mineral in that land, if the State Government is satisfied that the permit holder or the licensee, as the case may be, -

- (i) has undertaken reconnaissance operations or prospecting operations, as the case may be, to establish the existence of mineral contents in such land in accordance with such parameters as may be prescribed by the Central Government;
- (ii) has not committed any breach of the terms and conditions of the reconnaissance permit or the prospecting licence;
- (iii) has not become ineligible under the provisions of this Act; and
- (iv) has not failed to apply for grant of prospecting licence or mining lease, as the case may be, within a period of three months after the expiry of reconnaissance permit or prospecting licence, as the case may be, or within such further period not exceeding six months as may be extended by the State Government;

(c) where the Central Government has communicated previous approval as required under sub-section (1) of section 5 for grant of a mining lease, or if a letter of intent (by whatever name called) has been issued by the State Government to grant a mining lease, before the commencement of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, the mining lease shall be granted subject to fulfilment of the conditions of the previous approval or of the letter of intent within a period of two years from the date of commencement of the said Ordinance:

Provided that in respect of any mineral specified in the First Schedule, no prospecting licence or mining lease shall be granted under clause (b) of this sub-section except with the previous approval of the Central Government.

**10B.** (1) The provisions of this section shall not be applicable to cases covered by section 10A or section 17A or to minerals specified in Part A or Part B of the First Schedule or to land in respect of which the minerals do not vest in the Government.

(2) Where there is inadequate evidence to show the existence of mineral contents of any notified mineral in respect of any area, a State Government may, after

Grant of mining  
lease in respect  
of notified  
minerals through  
auction.

obtaining the previous approval of the Central Government, grant a prospecting licence-cum-mining lease for the said notified mineral in such area in accordance with the procedure laid down in section 11.

(3) In areas where the existence of mineral contents of any notified mineral is established in the manner prescribed by the Central Government, the State Government shall notify such areas for grant of mining leases for such notified mineral, the terms and conditions subject to which such mining leases shall be granted, and any other relevant conditions, in such manner as may be prescribed by the Central Government.

(4) For the purpose of granting a mining lease in respect of any notified mineral in such notified area, the State Government shall select, through auction by a method of competitive bidding, including e-auction, an applicant who fulfils the eligibility conditions as specified in this Act.

(5) The Central Government shall prescribe the terms and conditions, and procedure, subject to which the auction shall be conducted, including the bidding parameters for the selection, which may include a share in the production of the mineral, or any payment linked to the royalty payable, or any other relevant parameter, or any combination or modification of them.

(6) Without prejudice to the generality of sub-section (5), the Central Government shall, if it is of the opinion that it is necessary and expedient to do so, prescribe terms and conditions, procedure and bidding parameters in respect of categories of minerals, size and area of mineral deposits and a State or States, subject to which the auction shall be conducted:

Provided that the terms and conditions may include the reservation of any particular mine or mines for a particular end use and subject to such condition which allow only such eligible end users to participate in the auction.

(7) The State Government shall grant a mining lease to an applicant selected in accordance with the procedure laid down in this section in respect of such notified mineral in any notified area.

Grant of non-exclusive reconnaissance permits.

**10C.** (1) Non-exclusive reconnaissance permits may be granted in respect of any notified mineral or non-notified mineral or a group of specified minerals, other than minerals specified in Part A or Part B of the First Schedule, subject to such terms and conditions as may be prescribed by the Central Government.

(2) The holder of such non-exclusive reconnaissance permit shall not be entitled to make any claim for the grant of any prospecting licence-cum-mining lease or a mining lease.”

Substitution of section 11.

**11.** For section 11 of the principal Act, the following section shall be substituted, namely:-

Grant of prospecting licence-cum-mining lease through auction in respect of minerals other than notified minerals.

“**11.** (1) The provisions of this section shall not be applicable to cases covered by section 10A or section 17A or to minerals specified in Part A or Part B of the First Schedule or to land in respect of which minerals do not vest in the Government.

(2) In areas where there is evidence to show the existence of mineral contents as required by clause (a) of sub-section (2) of section 5, the State Government shall grant a mining lease for minerals other than notified minerals following the procedure laid down in section 10B.

(3) In areas where there is inadequate evidence to show the existence of mineral contents as required under clause (a) of sub-section (2) of section 5, the State Government shall grant a prospecting licence-cum-mining lease for minerals other than notified minerals in accordance with the procedure laid down in this section.

(4) The State Government shall notify the areas in which prospecting licence-cum-mining leases shall be granted for any minerals other than notified minerals, the terms and conditions subject to which such prospecting licence-cum-mining leases shall be granted, and any other relevant conditions, in such manner as may be prescribed by the Central Government.

(5) For the purpose of granting prospecting licence-cum-mining leases, the State Government shall select, through auction by method of competitive bidding, including e-auction, an applicant who fulfils the eligibility conditions as specified in this Act.

(6) The Central Government shall prescribe the terms and conditions, and procedure, subject to which the auction shall be conducted, including the bidding parameters for the selection, which may include a share in the production of the mineral, or any payment linked to the royalty payable, or any other relevant parameter, or any combination or modification of them.

(7) Without prejudice to the generality of sub-section (6), the Central Government shall, if it is of the opinion that it is necessary and expedient to do so, prescribe terms and conditions, procedure and bidding parameters in respect of categories of minerals, size and area of mineral deposits and a State or States, subject to which the auction shall be conducted.

(8) The State Government shall grant a prospecting licence-cum-mining lease to an applicant selected in accordance with the procedure laid down in this section.

(9) The holder of a prospecting licence-cum-mining lease shall be required to complete, within the period laid down in section 7, the prospecting operations satisfactorily as specified in the notice inviting applications.

(10) A holder of a prospecting licence-cum-mining lease, who completes the prospecting operation as laid down in sub-section (9) and establishes the existence of mineral contents in the area in conformity with such parameters as may be prescribed for this purpose by the Central Government, shall be required to apply for a mining lease for such area and shall have the right to get the mining lease and thereafter undertake mining operations in accordance with the provisions of this Act.”.

12. After section 11A of the principal Act, the following sections shall be inserted, namely:-

Insertion of new sections 11B and 11C.

“11B. The Central Government may, by notification in the Official Gazette, make rules for regulating the grant of mining leases or other mineral concessions in respect of minerals specified in Part B of the First Schedule and for purposes connected therewith, and the State Government shall grant a reconnaissance permit, prospecting licence or mining lease in respect of any such mineral in accordance with such rules.

Power of Central Government to make rules for regulating atomic minerals specified under Part B of First Schedule.

Power of  
Central  
Government to  
amend First  
Schedule and  
Fourth  
Schedule.

**11C.** The Central Government may, by notification in the Official Gazette, amend the First Schedule and the Fourth Schedule so as to add or delete any mineral as may be specified in the notification.”.

Insertion of  
new section  
12A.

**13.** After section 12 of the principal Act, the following section shall be inserted, namely:-

Transfer of  
mineral  
concessions.

**“12A. (1)** The provisions of this section shall not apply to minerals specified in Part A or Part B of the First Schedule.

(2) A holder of a mining lease or a prospecting licence-cum-mining lease granted in accordance with the procedure laid down in section 10B or section 11 may, with the previous approval of the State Government, transfer his mining lease or prospecting licence-cum-mining lease, as the case may be, in such manner as may be prescribed by the Central Government, to any person eligible to hold such mining lease or prospecting licence-cum-mining lease in accordance with the provisions of this Act and the rules made thereunder.

(3) If the State Government does not convey its previous approval for transfer of such mining lease or prospecting licence-cum-mining lease, as the case may be, within a period of ninety days from the date of receiving such notice, it shall be construed that the State Government has no objection to such transfer:

Provided that the holder of the original mining lease or prospecting licence-cum-mining lease shall intimate to the State Government the consideration payable by the successor-in-interest for the transfer, including the consideration in respect of the prospecting operations already undertaken and the reports and data generated during the operations.

(4) No such transfer of a mining lease or prospecting licence-cum-mining lease, referred to in sub-section (2), shall take place if the State Government, within the notice period and for reasons to be communicated in writing, disapproves the transfer on the ground that the transferee is not eligible as per the provisions of this Act:

Provided that no such transfer of a mining lease or of a prospecting licence-cum-mining lease, shall be made in contravention of any condition subject to which the mining lease or the prospecting licence-cum-mining lease was granted.

(5) All transfers effected under this section shall be subject to the condition that the transferee has accepted all the conditions and liabilities under any law for the time being in force which the transferor was subject to in respect of such a mining lease or prospecting licence-cum-mining lease, as the case may be.

(6) The transfer of mineral concessions shall be allowed only for concessions which are granted through auction.”.

14. In section 13 of the principal Act, in sub-section (2), –

Amendment of  
section 13.

(i) after clause (j), the following clause shall be inserted, namely:-

“(jj) parameters of existence of mineral contents under clause (a) of sub-section (2) of section 5;”;

(ii) in clause (qq), the word “and” occurring at the end shall be omitted;

(iii) after clause (qq), the following clauses shall be inserted, namely:-

“(qqa) the amount of payment to be made to the District Mineral Foundation under sub-section (4) of section 9B;

(qqb) the manner of usage of funds accrued to the National Mineral Exploration Trust under sub-section (2) of section 9C;

(qqc) the composition and functions of the National Mineral Exploration Trust under sub-section (3) of section 9C;

(qqd) the manner of payment of amount to the National Mineral Exploration Trust under sub-section (4) of section 9C;

(qqe) the terms and conditions subject to which mining leases shall be granted under sub-section (3) of section 10B;

(qqf) the terms and conditions, and procedure, subject to which the auction shall be conducted including the bidding parameters for the selection under sub-section (5) of section 10B;

(qqg) the time limits for various stages in processing applications for grant of mining lease or prospecting licence-cum-mining lease under sections 10B, 11, 11A, 11B, and section 17A, and their renewals;

(qqh) the terms and conditions for grant of non-exclusive reconnaissance permits under sub-section (1) of section 10C;

(qqi) the terms and conditions for grant of prospecting licence-cum-mining leases under sub-section (4) of section 11;

(qqj) the terms and conditions, and procedure, including the bidding parameters for the selection under sub-section (6) of section 11;

(qqk) the amount to be payable by a Government company or corporation, or a joint venture for grant of mining lease under sub-section (2C) of section 17A; and”.

Amendment of  
section 15.

15. In section 15 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:-

“(4) Without prejudice to sub-sections (1), (2) and sub-section (3), the State Government may, by notification, make rules for regulating the provisions of this Act for the following, namely:-

(a) the manner in which the District Mineral Foundation shall work under sub-section (2) of section 9B;

(b) the composition and functions of the District Mineral Foundation under sub-section (3) of section 9B; and

(c) the amount of payment to be made to the District Mineral Foundation by concession holders of minor minerals under section 15A.”.

16. After section 15 of the principal Act, the following section shall be inserted, namely:-

Insertion of new section 15A.

“15A. The State Government may prescribe the payment by all holders of concessions related to minor minerals of amounts to the District Mineral Foundation of the district in which the mining operations are carried on.”.

Power of State Government to collect funds for District Mineral Foundation in case of minor minerals.

17. In section 17A of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:-

Amendment of section 17A.

“(2A) Where in exercise of the powers conferred by sub-section (1A) or sub-section (2), the Central Government or the State Government, as the case may be, reserves any area for undertaking prospecting or mining operations, the State Government shall grant prospecting licence or mining lease, as the case may be, in respect of such area to such Government company or corporation:

Provided that in respect of any mineral specified in Part A and Part B of the First Schedule, the State Government shall grant the prospecting licence or mining lease, as the case may be, only after obtaining the previous approval of the Central Government.

(2B) Where the Government company or corporation is desirous of carrying out the prospecting operations or mining operations in a joint venture with other persons, the joint venture partner shall be selected through a competitive process, and such Government company or corporation shall hold more than seventy-four per cent. of the paid up share capital in such joint venture.

(2C) A mining lease granted to a Government company or corporation, or a joint venture, referred to in sub-sections (2A) and (2B), shall be granted on payment of such amount as may be prescribed by the Central Government.”.

Insertion of new section 20A. **18.** After section 20 of the principal Act, the following section shall be inserted, namely:-

Power of Central Government to issue directions.

**“20A.** (1) Notwithstanding anything contained in this Act, the Central Government may issue such directions to the State Governments, as may be required for the conservation of mineral resources, or on any policy matter in the national interest, and for the scientific and sustainable development and exploitation of mineral resources.

(2) In particular, and without prejudice to the generality of the foregoing powers, the Central Government may also issue directions in respect of the following matters, namely:-

- (i) improvement in procedure for grant of mineral concessions and to ensure co-ordination among agencies entrusted with according statutory clearances;
- (ii) maintenance of internet-based databases including development and operation of a mining tenement system;
- (iii) implementation and evaluation of sustainable development frameworks;
- (iv) reduction in waste generation and related waste management practices and promotion of recycling of materials;
- (v) minimising and mitigating adverse environmental impacts particularly in respect of ground water, air, ambient noise and land;
- (vi) ensuring minimal ecological disturbance, in terms of bio-diversity, flora, fauna and habitat;

(vii) promoting restoration and reclamation activities so as to make optimal use of mined out land for the benefit of the local communities; and

(viii) such other matters as may be necessary for the purposes of implementation of this Act.”.

19. In section 21 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:-

Amendment of section 21.

“(1) Whoever contravenes the provisions of sub-section (1) or sub-section (1A) of section 4 shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to five lakh rupees per hectare of the area.

(2) Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five lakh rupees, or with both, and in the case of a continuing contravention, with additional fine which may extend to fifty thousand rupees for every day during which such contravention continues after conviction for the first such contravention.”.

20. For section 30 of the principal Act, the following section shall be substituted, namely:-

Substitution of section 30.

“30. The Central Government may, of its own motion or on an application made within the prescribed time by an aggrieved party, -

Power of revision by Central Government.

(a) revise any order made by a State Government or other authority in exercise of the powers conferred on it by or under this Act with respect to any mineral other than a minor mineral; or

(b) where no such order has been made by the State Government or other authority in exercise of the powers conferred on it by or under this Act with respect to any mineral other than a minor mineral

within the time prescribed therefor, pass such order as it may think fit and appropriate in the circumstances:

Provided that in cases covered by clause (b) the Central Government shall, before passing any order under this clause, give an opportunity of being heard or to represent in the matter.”.

Insertion of new sections 30B and 30C.

21. After section 30A of the principal Act, the following sections shall be inserted, namely:-

Constitution of Special Courts.

“30B. (1) The State Government may, for the purposes of providing speedy trial of offences for contravention of the provisions of sub-section (1) or sub-section (1A) of section 4, constitute, by notification, as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.

(2) A Special Court shall consist of a Judge who shall be appointed by the State Government with the concurrence of the High Court.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is or has been a District and Sessions Judge.

(4) Any person aggrieved by the order of the Special Court may prefer an appeal to the High Court within a period of sixty days from the date of such order.”.

Special Courts to have powers of Court of Session.

30C. Save as otherwise provided in this Act, the Code of Criminal Procedure, 1973, shall apply to the proceedings before the Special Court and for the purpose of the provisions of this Act, the Special Court shall be deemed to be a Court of Session and shall have all powers of a Court of Session and the person conducting a prosecution before the Special Court shall be deemed to be a public prosecutor. 2 of 1974.

Amendment of First Schedule.

22. In the principal Act, in the First Schedule, for the figures and brackets “8(2)”, the figures, brackets, letters and word “8(1), 8A(1), 10A, 10B(1), 10C(1), 11(1), 11B, 11C, 12A(1), and 17A(2A)” shall be substituted.

23. In the principal Act, after the Third Schedule, the following Schedule shall be inserted, namely:-

Insertion of a new Schedule.

**“THE FOURTH SCHEDULE**

[See clause (ea) of section 3]

**Notified Minerals**

1. Bauxite.
2. Iron ore.
3. Limestone.
4. Manganese ore.”.

24. (1) If any difficulty arises in giving effect to the provisions of the Mines and Minerals (Development and Regulation) Amendment Ordinance, 2015, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the said Ordinance, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

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

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

PRANAB MUKHERJEE,  
*President.*

DR. SANJAY SINGH,  
*Secy. to the Government of India.*



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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NEW DELHI, FRIDAY, APRIL 3, 2015/CHAITRA 13, 1937 (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 3rd April, 2015/Chaitra 13, 1937 (Saka)*

### THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (AMENDMENT) ORDINANCE, 2015

No. 4 OF 2015

Promulgated by the President in the Sixty-sixth Year of the Republic of India.

An Ordinance further to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

WHEREAS the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the RFCTLARR Act, 2013) was promulgated by the President on the 31st day of December, 2014;

AND WHEREAS the RFCTLARR (Amendment) Bill, 2015 was introduced on the 24th February, 2015 in the House of the People to replace the said Ordinance and the said Bill was passed alongwith amendments on the 10th March, 2015 in the House of the People;

AND WHEREAS the RFCTLARR (Amendment) Bill, 2015 as passed by the House of the People could not be passed by the Council of States and is pending in that House;

AND WHEREAS the Council of States 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 Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015.
- (2) It shall be deemed to have come into force on the 31st day of December, 2014.
- Substitution of certain expression throughout the Act. **2.** In the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the principal Act), for the words “private company” wherever they occur, the words “private entity” shall be substituted. 30 of 2013.
- Amendment of section 2. **3.** In the principal Act, in sub-section (2) of section 2, after the second proviso, the following proviso shall be inserted, namely:—
- “Provided also that the acquisition of land for the projects listed in sub-section (1) of section 10A and the purposes specified therein shall be exempted from the provisions of the first proviso to this sub-section.”.
- Amendment of section 3. **4.** In the principal Act, in section 3,—
- (i) in clause (j) in sub-clause (i), for the words and figures “the Companies Act, 1956”, the words and figures “the Companies Act, 2013” shall be substituted; 1 of 1956. 18 of 2013.
- (ii) after clause (y), the following clause shall be inserted, namely:—
- “(yy) “private entity” means any entity other than a Government entity or undertaking and includes a proprietorship, partnership, company, corporation, non-profit organisation or other entity under any law for the time being in force;”.
- Insertion of new Chapter IIIA. **5.** In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—

#### “CHAPTER IIIA

##### PROVISIONS OF CHAPTER II AND CHAPTER III NOT TO APPLY TO CERTAIN PROJECTS

- Power of appropriate Government to exempt certain projects. 10A(1). The appropriate Government may, in the public interest, by notification, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely:—
- (a) such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production;
- (b) rural infrastructure including electrification;
- (c) affordable housing and housing for the poor people;
- (d) industrial corridors set up by the appropriate Government and its undertakings (in which case the land shall be acquired up to one kilometre on both sides of designated railway line or roads for such industrial corridor); and
- (e) infrastructure projects including projects under public-private partnership where the ownership of land continues to vest with the Government:
- Provided that the appropriate Government shall, before the issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project.

(2) The appropriate Government shall undertake a survey of its wasteland including arid land and maintain a record containing details of such land, in such manner as may be prescribed by the appropriate Government.

**6.** In the principal Act, in section 24, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:— Amendment of section 24.

“Provided further that in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a tribunal for taking possession or such period where possession has been taken but the compensation lying deposited in a court or in any designated account maintained for this purpose shall be excluded.”.

**7.** In the principal Act, in section 31, in sub-section (2), in clause (h), after the words “affected families”, the words “including compulsory employment to at least one member of such affected family of a farm labourer” shall be inserted. Amendment of section 31.

**8.** In the principal Act, in section 46, in sub-section (6), in the *Explanation*, in clause (b), the words “any person other than” shall be omitted. Amendment of section 46.

**9.** In the principal Act, after section 67, the following section shall be inserted, namely:— Insertion of new section 67A.

‘**67A.** The Authority shall, after receiving reference under section 64 and after giving notice of such reference to all parties concerned, hold the hearing in the district where the land acquisition takes place for settlement of the objections raised in the reference.’. Hearing to be held by Authority in district or districts to decide grievances.

**10.** In the principal Act, for section 87, the following section shall be substituted, namely:— Substitution of new section for section 87.

“87. Where an offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government, as the case may be, at the time of commission of such alleged offence, the court shall take cognizance of such offence provided the procedure laid down in section 197 of the Code of Criminal Procedure, 1973 is followed.”. Offences by Government officials.

**11.** In the principal Act, in section 101, for the words, “a period of five years”, the words “a period specified for setting up of any project or for five years, whichever is later,” shall be substituted. Amendment of section 101.

**12.** In the principal Act, in section 105,— Amendment of section 105.

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

“(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 2015.”;

(ii) sub-section (4) shall be omitted.

**13.** In the principal Act, in section 113, in sub-section (I),— Amendment of section 113.

(i) for the words “the provisions of this Part”, the words “the provision of this Act” shall be substituted;

(ii) in the proviso, for the words “a period of two years”, the words “a period of five years” shall be substituted.

Repeal and  
saving.

**14.** (1) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014, is hereby repealed.

Ord. 9 of 2014.

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

PRANAB MUKHERJEE,  
*President.*

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DR. SANJAY SINGH,  
*Secretary to the Govt. of India.*



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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NEW DELHI, SATURDAY, MAY 30, 2015/JYAISTHA 9, 1937 (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 30th May, 2015/Jyaistha 9, 1937 (Saka)*

### THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (AMENDMENT) SECOND ORDINANCE, 2015

No. 5 OF 2015

Promulgated by the President in the Sixty-sixth Year of the Republic of India.

An Ordinance further to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

WHEREAS the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2014 to amend the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act, 2013) was promulgated by the President on the 31st day of December, 2014;

AND WHEREAS, the RFCTLARR (Amendment) Bill, 2015 was introduced on the 24th February, 2015 in the House of the People to replace the said Ordinance and the said Bill was passed alongwith amendments on the 10th March, 2015 in the House of the People, but the same could not be passed by the Council of States and is pending in that House;

AND WHEREAS, the RFCTLARR (Amendment) Ordinance, 2015 incorporating the amendments made by the House of the People was promulgated by the President on 3rd April, 2015;

AND WHEREAS, the RFCTLARR (Amendment) Second Bill, 2015 was introduced in the House of the People on 11th May, 2015;

AND WHEREAS, the House of the People referred the RFCTLARR (Amendment) Second Bill, 2015 to the Joint Committee of the Houses;

AND WHEREAS, it is considered necessary to give continued effect to the provisions of the RFCTLARR (Amendment) Ordinance, 2015;

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 com-  
mencement.

**1.** (1) This Ordinance may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Second Ordinance, 2015.

(2) It shall be deemed to have come into force on the 31st day of December, 2014.

Substitution  
of certain  
expression  
throughout  
the Act.

**2.** In the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the principal Act), for the words "private company" wherever they occur, the words "private entity" shall be substituted.

30 of 2013.

Amendment  
of  
section 2.

**3.** In the principal Act, in sub-section (2) of section 2, after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the acquisition of land for the projects listed in sub-section (1) of section 10A and the purposes specified therein shall be exempted from the provisions of the first proviso to this sub-section."

Amendment  
of section 3.

**4.** In the principal Act, in section 3,—

(i) in clause (j), in sub-clause (i), for the words and figures "the Companies Act, 1956", the words and figures "the Companies Act, 2013" shall be substituted;

1 of 1956.  
18 of 2013.

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

'(yy) "private entity" means any entity other than a Government entity or undertaking and includes a proprietorship, partnership, company, corporation, non-profit organisations or other entity under any law for the time being in force;'

Insertion of  
new Chapter  
IIIA.

**5.** In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—

### "CHAPTER IIIA

#### PROVISIONS OF CHAPTER II AND CHAPTER III NOT TO APPLY TO CERTAIN PROJECTS

Power of  
appropriate  
Government  
to exempt  
certain  
projects.

**10A.** (1) The appropriate Government may, in the public interest, by notification, exempt any of the following projects from the application of the provisions of Chapter II and Chapter III of this Act, namely:—

(a) such projects vital to national security or defence of India and every part thereof, including preparation for defence or defence production;

(b) rural infrastructure including electrification;

(c) affordable housing and housing for the poor people;

(d) industrial corridors set up by the appropriate Government and its undertakings (in which case the land shall be acquired up to one kilometer on both sides of designated railway line or roads for such industrial corridor); and

(e) Infrastructure projects including projects under public private partnership where the ownership of land continues to vest with the Government:

Provided that the appropriate Government shall, before the issue of notification, ensure the extent of land for the proposed acquisition keeping in view the bare minimum land required for such project.

(2) The appropriate Government shall undertake a survey of its wasteland including arid land and maintain a record containing details of such land, in such manner as may be prescribed by the appropriate Government.

**6.** In the principal Act, in section 24, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

Amendment  
of section 24.

"Provided further that in computing the period referred to in this sub-section, any period or periods during which the proceedings for acquisition of the land were held up on account of any stay or injunction issued by any court or the period specified in the award of a Tribunal for taking possession or such period where possession has been taken but the compensation is lying deposited in a court or in any designated account maintained for this purpose, shall be excluded."

**7.** In the principal Act, in section 31, in sub-section (2), in clause (h), after the words "affected families", the words "including compulsory employment to at least one member of such affected family of a farm labourer" shall be inserted.

Amendment  
of section 31.

**8.** In the principal Act, in section 46, in sub-section (6), in the Explanation, in clause (b), the words "any person other than" shall be omitted.

Amendment  
of section 46.

**9.** In the principal Act, after section 67, the following section shall be inserted, namely:—

Insertion of  
new section  
67A.

"67A. The Authority shall, after receiving reference under section 64 and after giving notice of such reference to all parties concerned, hold the hearing in the district where the land acquisition takes place for settlement of the objections raised in the reference."

Hearing to be  
held by  
Authority in  
district or  
districts to  
decide  
grievances.

**10.** In the principal Act, for section 87, the following section shall be substituted, namely:—

Substitution  
of new  
section for  
section 87.

"87. Where an offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government, as the case may be, at the time of commission of such alleged offence, the court shall take cognizance of such offence provided the procedure laid down in section 197 of the Code of Criminal Procedure, 1973 is followed."

Offences by  
Government  
officials.

2 of 1974.

**11.** In the principal Act, in section 101, for the words "a period of five years", the words, "a period specified for setting up of any project or for five years, whichever is later," shall be substituted.

Amendment  
of section  
101.

**12.** In the principal Act, in section 105,—

Amendment  
of section  
105.

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

"(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and

resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 2015.";

(ii) sub-section (4) shall be omitted.

Amendment  
of section  
109.

**13.** In the principal Act, in section 109, in sub-section (2), after clause (d), the following clause shall be inserted, namely:—

" (dd) the manner of undertaking a survey of waste land including arid land and maintenance of the record containing the details of such land under sub-section (2) of section 10A;".

Amendment  
of section  
113.

**14.** In the principal Act, in section 113, in sub-section (1),—

(i) for the words "the provisions of this Part", the words "the provisions of this Act" shall be substituted;

(ii) in the proviso, for the words "a period of two years", the words "a period of five years" shall be substituted.

Repeal and  
saving.

**15.** (1) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015, is hereby repealed.

Ord. 4 of 2015.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Amendment) Ordinance, 2015, shall be deemed to have been done or taken under the principal Act, as amended by this Ordinance.

4 of 2015.

PRANAB MUKHERJEE,  
*President.*

DR. SANJAY SINGH,  
*Secretary to the Government of India.*



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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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.

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## MINISTRY OF LAW AND JUSTICE (Legislative Department)

*New Delhi, the 15th June, 2015/Jyaistha 25, 1937 (Saka)*

### THE NEGOTIABLE INSTRUMENTS (AMENDMENT) ORDINANCE, 2015

NO. 6 OF 2015

Promulgated by the President in the Sixty-sixth Year of the Republic of India.

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

WHEREAS the Negotiable Instruments (Amendment) Bill, 2015 has been passed by the House of the People and is pending in the Council of States;

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 Negotiable Instruments (Amendment) Ordinance, 2015.

(2) It shall come into force at once.

Short title  
and com-  
mencement.

Amendment  
of section 6.

2. In the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), in section 6,—

26 of 1881.

(i) in *Explanation I*, for clause (a), the following clause shall be substituted, namely:—

‘(a) “a cheque in the electronic form” means a cheque drawn in electronic form by using any computer resource and signed in a secure system with digital signature (with or without biometrics signature) and asymmetric crypto system or with electronic signature, as the case may be;’;

(ii) after *Explanation II*, the following *Explanation* shall be inserted, namely:—

‘*Explanation III*.—For the purposes of this section, the expressions “asymmetric crypto system”, “computer resource”, “digital signature”, “electronic form” and “electronic signature” shall have the same meanings respectively assigned to them in the Information Technology Act, 2000.’.

21 of 2000.

Amendment  
of section  
142.

3. In the principal Act, section 142 shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

*Explanation*.—For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.”.

Validation for  
transfer of  
pending cases.

4. In the principal Act, after section 142, the following section shall be inserted, namely:—

“142A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or directions of any court, all cases arising out of section 138 which were pending in any court, whether filed before it, or transferred to it, before the commencement of the Negotiable Instruments (Amendment) Ordinance, 2015 shall be transferred to the court having jurisdiction under sub-section (2) of section 142 as if that sub-section had been in force at all material times.

2 of 1974.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1), and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of the Negotiable Instruments (Amendment) Ordinance, 2015, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142 before which the first case was filed and is pending, as if that sub-section had been in force at all material times.”.

PRANAB MUKHERJEE,  
*President.*

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DR. MUKULITA VIJAYAWARGIYA,  
*Additional Secretary to the Government of India.*



# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

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

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 22nd September, 2015/Bhadra 31, 1937 (Saka)*

## THE NEGOTIABLE INSTRUMENTS (AMENDMENT)

### SECOND ORDINANCE, 2015

No. 7 OF 2015

Promulgated by the President in the Sixty-sixth Year of the Republic of India.

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

WHEREAS the Negotiable Instruments (Amendment) Ordinance, 2015 was promulgated by the President on the 15<sup>th</sup> day of June, 2015;

AND WHEREAS the Negotiable Instruments (Amendment) Bill, 2015 to replace the Negotiable Instruments (Amendment) Ordinance, 2015 has been passed by the House of the People and is pending in the Council of States;

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 Negotiable Instruments (Amendment) Second Ordinance, 2015.

Amendment of  
section 6.

2. In the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), in section 6,—

(i) in *Explanation I*, for clause (a), the following clause shall be substituted, namely:-

‘(a) “a cheque in the electronic form” means a cheque drawn in electronic form by using any computer resource and signed in a secure system with digital signature (with or without biometrics signature) and asymmetric crypto system or with electronic signature, as the case may be;’

(ii) after *Explanation II*, the following *Explanation* shall be inserted, namely:—

*‘Explanation III.— For the purposes of this section, the expressions “asymmetric crypto system”, “computer resource”, “digital signature”, “electronic form” and “electronic signature” shall have the same meanings respectively assigned to them in the Information Technology Act, 2000.’*

3. In the principal Act, section 142 shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

*Explanation.*—For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.”.

4. In the principal Act, after section 142, the following section shall be inserted, namely:—

Insertion of new section.

Validation for transfer of pending cases.

“142A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or directions of any court, all cases transferred to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, shall be deemed to have been transferred under this Ordinance, as if that sub-section had been in force at all material times.

2 of 1974.

6 of 2015.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1), and such complaint is pending in that court, all subsequent

complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of this Ordinance, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, before which the first case was filed and is pending, as if that sub-section had been in force at all material times.” Ord.6 of 2015.

PRANAB MUKHERJEE,  
*President.*

DR. SANJAY SINGH,  
*Secy. to the Government of India.*



# भारत का राजपत्र The Gazette of India

असाधारण

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MINISTRY OF LAW AND JUSTICE  
(Legislative Department)

*New Delhi, the 23rd October, 2015/Kartika 1, 1937 (Saka)*

THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND  
COMMERCIAL APPELLATE DIVISION OF HIGH COURTS  
ORDINANCE, 2015

No. 8 OF 2015

Promulgated by the President in the Sixty-sixth Year of the Republic of India.

An Ordinance to provide for the constitution of Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value and for matters connected therewith or incidental thereto.

WHEREAS a Bill to provide for the Constitution of Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value was introduced in the Council of States and referred to the Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice for examination and report which is pending;

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,  
extension  
and  
commence-  
ment.

1. (1) This Ordinance may be called the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force at once.

Definitions.

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

(a) “Commercial Appellate Division” means the Commercial Appellate Division in a High Court constituted under sub-section (1) of section 5;

(b) “Commercial Court” means the Commercial Court constituted under sub-section (1) of section 3;

(c) “commercial dispute” means a dispute arising out of—

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

(ii) export or import of merchandise or services;

(iii) issues relating to admiralty and maritime law;

(iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;

(v) carriage of goods;

(vi) construction and infrastructure contracts, including tenders;

(vii) agreements relating to immovable property used exclusively in trade or commerce;

(viii) franchising agreements;

(ix) distribution and licensing agreements;

(x) management and consultancy agreements;

- (xi) joint venture agreements;
- (xii) shareholders agreements;
- (xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;
- (xiv) mercantile agency and mercantile usage;
- (xv) partnership agreements;
- (xvi) technology development agreements;
- (xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;
- (xviii) agreements for sale of goods or provision of services;
- (xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;
- (xx) insurance and re-insurance;
- (xxi) contracts of agency relating to any of the above;  
and
- (xxii) such other commercial disputes as may be notified by the Central Government.

*Explanation.*—A commercial dispute shall not cease to be a commercial dispute merely because—

(a) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;

(b) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions;

(d) “Commercial Division” means the Commercial Division in a High Court constituted under sub-section (1) of section 4;

(e) "District Judge" shall have the same meaning as assigned to it in clause (a) of article 236 of the Constitution of India;

(f) "document" means any matter expressed or described upon any substance by means of letters, figures or marks, or electronic means, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter;

(g) "notification" means a notification published in the Official Gazette and the expression "notify" with its cognate meanings and grammatical variations shall be construed accordingly;

(h) "Schedule" means the Schedule appended to the Ordinance; and

(i) "Specified Value", in relation to a commercial dispute, shall mean the value of the subject matter in respect of a suit as determined in accordance with section 12 which shall not be less than one crore rupees or such higher value, as may be notified by the Central Government."

(2) The words and expressions used and not defined in this Ordinance but defined in the Code of Civil Procedure, 1908 and the Evidence Act, 1872, shall have the same meanings respectively assigned to them in that Code and the Act.

5 of 1908.  
1 of 1872.

## CHAPTER II

### CONSTITUTION OF COMMERCIAL COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS

Constitution  
of  
Commercial  
Courts.

3. (1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Ordinance:

Provided that no Commercial Court shall be constituted for the territory over which the High Court has ordinary original civil jurisdiction.

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

(3) The State Government shall, with the concurrence of the

Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court, from amongst the cadre of Higher Judicial Service in the State.

4. (1) In all High Courts, having ordinary civil jurisdiction, the Chief Justice of the High Court may, by order, constitute Commercial Division having one or more Benches consisting of a single Judge for the purpose of exercising the jurisdiction and powers conferred on it under this Ordinance.

Constitution  
of  
Commercial  
Division of  
High Court.

(2) The Chief Justice of the High Court shall nominate such judges of the High Court who have experience in dealing with commercial disputes to be judges of the Commercial Division.

5. (1) After issuing notification under sub-section (1) of section 3 or order under sub-section (1) of section 4, the Chief Justice of the concerned High Court shall, by order, constitute Commercial Appellate Division having one or more Benches for the purpose of exercising the jurisdiction and powers conferred on it by the Ordinance.

Constitution  
of  
Commercial  
Appellate  
Division.

(2) The Chief Justice of the High Court shall nominate such judges of the High Court who have experience in dealing with commercial disputes to be judges of the Commercial Appellate Division.

6. The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

Jurisdiction  
of  
Commercial  
Court.

*Explanation.*—For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908.

5 of 1908.

7. All suits and applications relating to commercial disputes of a Specified Value filed in a High Court having ordinary original civil jurisdiction shall be heard and disposed of by the Commercial Division of that High Court:

Jurisdiction  
of  
Commercial  
Divisions of  
High Courts.

Provided that all suits and applications relating to commercial disputes, stipulated by an Act to lie in a court not inferior to a District Court, and filed on the original side of the High Court, shall be heard and disposed of by the Commercial Division of the High Court:

Provided further that all suits and applications transferred to the High Court by virtue of sub-section (4) of section 22 of the Designs Act, 2000 or section 104 of the Patents Act, 1970 shall be heard and disposed of by the Commercial Division of the High Court in all the areas over which the High Court exercises ordinary original civil jurisdiction.

16 of 2000.  
39 of 1970.

Bar against revision application or petition against an interlocutory order.

8. Notwithstanding anything contained in any other law for the time being in force, no civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge, subject to the provisions of section 13, shall be raised only in an appeal against the decree of the Commercial Court.

Transfer of suit if counter-claim in a commercial dispute is of Specified Value.

9. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, in the event that a counter-claim filed in a suit before a civil court relating to a commercial dispute is of Specified Value, such suit shall be transferred by the civil court to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit.

5 of 1908.

(2) In the event that such suit is not transferred in the manner contemplated in sub-section (1), the Commercial Appellate Division of the High Court exercising supervisory jurisdiction over the civil court in question may, on the application of any of the parties to the suit, withdraw such suit pending before the civil court and transfer the same for trial or disposal to the Commercial Court or Commercial Division or, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.

Jurisdiction in respect of arbitration matters.

10. Where the subject matter of an arbitration is a commercial dispute of a Specified Value and—

(1) If such arbitration is an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that have been filed in a High Court, shall be heard and disposed of by the Commercial Appellate Division where such Commercial Appellate Division has been constituted in such High Court.

26 of 1996.

(2) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that have been filed on the original side of the High Court, shall be heard and disposed of by the Commercial Appellate Division where such Commercial Appellate Division has been constituted in such High Court.

26 of 1996.

26 of 1996.

(3) If such arbitration is other than an international commercial arbitration, all applications or appeals arising out of such arbitration under the provisions of the Arbitration and Conciliation Act, 1996 that would ordinarily lie before any principal civil court of original jurisdiction in a district (not being a High Court) shall be filed in, and heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.

11. Notwithstanding anything contained in this Ordinance, a Commercial Court or a Commercial Division shall not entertain or decide any suit, application or proceedings relating to any commercial dispute in respect of which the jurisdiction of the civil court is either expressly or impliedly barred under any other law for the time being in force.

Bar of jurisdiction of Commercial Courts and Commercial Divisions.

### CHAPTER III SPECIFIED VALUE

12. (1) The Specified Value of the subject matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

Determination of Specified Value.

(a) where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;

(b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such Specified Value;

(c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value;

(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value; and

(e) where the counter-claim is raised in any suit, appeal or application, the value of the subject matter of the commercial

dispute in such counter-claim as on the date of the counter-claim shall be taken into account.

(2) The aggregate value of the claim and counter-claim, if any, as set out in the statement of claim and the counter-claim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.

(3) No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908, as the case may be, shall lie from an order of a Commercial Division or Commercial Court finding that it has jurisdiction to hear a commercial dispute under this Ordinance. 5 of 1908.

#### CHAPTER IV APPEALS

Appeals  
from  
decrees of  
Commercial  
Courts and  
Commercial  
Divisions.

13. (1) Any person aggrieved by the decision of the Commercial Court or Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of judgment or order, as the case may be:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Ordinance and section 37 of the Arbitration and Conciliation Act, 1996. 5 of 1908.  
26 of 1996.

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Ordinance.

Expeditious  
disposal of  
appeals.

14. The Commercial Appellate Division shall endeavour to dispose of appeals filed before it within a period of six months from the date of filing of such appeal.

#### CHAPTER V TRANSFER OF PENDING SUITS

Transfer of  
pending  
cases.

15. (1) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of Specified Value pending in a High Court where a Commercial Division has been constituted, shall be transferred to the Commercial Division. 26 of 1996.

(2) All suits and applications, including applications under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of Specified Value pending in any civil court in any district or area in respect of which a Commercial Court has been constituted, shall be transferred to such Commercial Court: 26 of 1996.

Provided that no suit or application where the final judgment has been reserved by the Court prior to the constitution of the Commercial Division or the Commercial Court shall be transferred either under sub-section (1) or sub-section (2).

(3) Where any suit or application, including an application under the Arbitration and Conciliation Act, 1996, relating to a commercial dispute of Specified Value shall stand transferred to the Commercial Division or Commercial Court under sub-section (1) or sub-section (2), the provisions of this Ordinance shall apply to those procedures that were not complete at the time of transfer. 26 of 1996.

(4) The Commercial Division or Commercial Court, as the case may be, may hold case management hearings in respect of such transferred suit or application in order to prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such suit or application in accordance with Order XIV-A of the Code of Civil Procedure, 1908: 5 of 1908.

Provided that the proviso to sub-rule (1) of Rule 1 of Order V of the Code of Civil Procedure, 1908 shall not apply to such transferred suit or application and the court may, in its discretion, prescribe a new time period within which the written statement must be filed. 5 of 1908.

(5) In the event that such suit or application is not transferred in the manner specified in sub-section (1), sub-section (2) or sub-section (3), the Commercial Appellate Division of the High Court may, on the application of any of the parties to the suit, withdraw such suit or application from the court before which it is pending and transfer the same for trial or disposal to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.

## CHAPTER VI

### AMENDMENTS TO THE PROVISIONS OF THE CODE OF CIVIL PROCEDURE, 1908

Amendments to  
Code of Civil  
Procedure,  
1908 in its  
application to  
commercial

16. (1) The provisions of the Code of Civil Procedure, 1908 shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule. 5 of 1908.

disputes.

(2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908, as amended by this Ordinance, in the trial of a suit in respect of a commercial dispute of a Specified Value. 5 of 1908.

(3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908, by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908, as amended by this Ordinance, the provisions of the Code of Civil Procedure as amended by this Ordinance shall prevail. 5 of 1908.

## CHAPTER VII MISCELLANEOUS

Collection and disclosure of data by Commercial Courts, Commercial Divisions and Commercial Appellate Divisions. 17. The statistical data regarding the number of suits, applications, appeals or writ petitions filed before the Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, the pendency of such cases, the status of each case, and the number of cases disposed of, shall be maintained and updated every month by each Commercial Court, Commercial Division, Commercial Appellate Division and shall be published on the website of the relevant High Court.

Power of High Court to issue directions. 18. The High Court may, by notification, issue practice directions to supplement the provisions of Chapter II or the Code of Civil Procedure, 1908 in so far as such provisions apply to the hearing of commercial disputes of a Specified Value. 5 of 1908.

Infrastructure facilities. 19. The State Government shall provide necessary infrastructure to facilitate the working of a Commercial Court or a Commercial Division of a High Court.

Training and continuous education. 20. The State Government may, in consultation with the High Court, establish necessary facilities providing for training of Judges who may be appointed to the Commercial Court, Commercial Division or the Commercial Appellate Division in a High Court.

Act to have overriding effect. 21. Save as otherwise provided, the provisions of this Ordinance shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law for the time being in force other than this Ordinance.

Power to remove difficulties. 22. (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 or expedient for removing the difficulty:

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

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

SCHEDULE  
(See section 17)

Amendment of section 26. 1. In section 26 of the Code of Civil Procedure, 1908 (hereafter referred to as the Code), in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that such an affidavit shall be in the form and manner as prescribed under Order VI Rule 15A.”.

Substitution of new section for section 35. 2. For section 35 of the Code, the following section shall be substituted, namely:—

“35.(1) In relation to any commercial dispute, the Court, notwithstanding anything contained in any other law for the time being in force or Rule, has the discretion to determine:

- (a) whether costs are payable by one party to another;
- (b) the quantum of those costs; and
- (c) when they are to be paid.

*Explanation.*— For the purpose of clause (a), the expression “costs” shall mean reasonable costs relating to—

- (i) the fees and expenses of the witnesses incurred;
- (ii) legal fees and expenses incurred;
- (iii) any other expenses incurred in connection with the proceedings.

(2) If the Court decides to make an order for payment of costs, the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party:

Provided that the Court may make an order deviating from the general rule for reasons to be recorded in writing.

*Illustration:* The Plaintiff, in his suit, seeks a money decree for breach of contract, and damages. The Court holds that the Plaintiff is entitled to the money decree. However, it returns a finding that the claim for damages is frivolous and vexatious.

In such circumstances the Court may impose costs on the Plaintiff, despite the Plaintiff being the successful party, for having raised frivolous claims for damages.

(3) In making an order for the payment of costs, the Court shall have regard to the following circumstances, including –

- (a) the conduct of the parties;
- (b) whether a party has succeeded on part of its case, even if that party has not been wholly successful;
- (c) whether the party had made a frivolous counter-claim leading to delay in the disposal of the case;
- (d) whether any reasonable offer to settle is made by a party and unreasonably refused by the other party; and
- (e) whether the party had made a frivolous claim and instituted a vexatious proceeding wasting the time of the Court.

(4) The orders which the Court may make under this provision include an order that a party must pay—

- (a) a proportion of another party's costs;
- (b) a stated amount in respect of another party's costs;
- (c) costs from or until a certain date ;
- (d) costs incurred before proceedings have begun;
- (e) costs relating to particular steps taken in the proceedings;
- (f) costs relating to a distinct part of the proceedings; and
- (g) interest on costs from or until a certain date.

3. In section 35A of the Code, sub-section (2) shall be omitted.

Amendment  
of section  
35A.

4. In the First Schedule to the Code,—

Amendment  
of First  
Schedule.

(A) in the Order V, in Rule 1, in sub-rule (1), for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons. On expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the

written statement and the Court shall not allow the written statement to be taken on record.”;

(B) in Order VI,—

(i) after Rule 3, the following Rule shall be inserted, namely:—

“3A. Forms of pleading in Commercial Courts – In a Commercial Dispute, where forms of pleadings have been prescribed under the High Court Rules or Practice Directions made for the purposes of such commercial disputes, pleadings shall be in such forms.”;

(ii) after Rule 15, the following Rule shall be inserted, namely:—

“15A. Verification of pleadings in a Commercial Dispute.-

(1) Notwithstanding anything contained in Rule 15, every pleading in a Commercial Dispute shall be verified by an affidavit in the manner and form prescribed in the Appendix to this Schedule.

(2) An affidavit under sub-rule (1) above shall be signed by the party or by one of the parties to the proceedings, or by any other person on behalf of such party or parties who is proved to the satisfaction of the Court to be acquainted with the facts of the case and who is duly authorised by such party or parties.

(3) Where a pleading is amended, the amendments must be verified in the form and manner referred to in sub-rule (1) unless the Court orders otherwise.

(4) Where a pleading is not verified in the manner provided under sub-rule (1), the party shall not be permitted to rely on such pleading as evidence or any of the matters set out therein.

(5) The Court may strike out a pleading which is not verified by a Statement of Truth, namely, the affidavit set out in the Appendix to this Schedule.”;

(C) in Order VII, after Rule 2, the following Rule shall be inserted, namely: —

“2A. Where interest is sought in the suit.-

(1) Where the plaintiff seeks interest, the plaint shall contain a statement to that effect along with the details set out under sub-rules (2) and (3).

5 of 1908. (2) Where the plaintiff seeks interest, the plaint shall state whether the plaintiff is seeking interest in relation to a commercial transaction within the meaning of section 34 of the Code of Civil Procedure, 1908 and, furthermore, if the plaintiff is doing so under the terms of a contract or under an Act, in which case the Act is to be specified in the plaint; or on some other basis and shall state the basis of that.

(3) Pleadings shall also state-

- (a) the rate at which interest is claimed;
- (b) the date from which it is claimed;
- (c) the date to which it is calculated;
- (d) the total amount of interest claimed to the date of calculation; and
- (e) the daily rate at which interest accrues after that date.”;

(D) in Order VIII,—

(i) in Rule 1, for the proviso, the following proviso shall be substituted, namely:—

“Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons. On expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.”;

(ii) after Rule 3, the following Rule shall be inserted, namely:—

“3A. Denial by the defendant in suits before the Commercial Division of the High Court or the Commercial Court.

(1) Denial shall be in the manner provided in sub-rules (2), (3), (4) and (5) of this Rule.

(2) The defendant in his written statement shall state which of the allegations in the particulars of plaint he denies, which allegations he is unable to admit or deny, but which he requires the plaintiff to prove, and which allegations he admits.

(3) Where the defendant denies an allegation of fact in a plaint, he

must state his reasons for doing so and if he intends to put forward a different version of events from that given by the plaintiff, he must state his own version.

(4) If the defendant disputes the jurisdiction of the Court he must state the reasons for doing so, and if he is able, give his own statement as to which Court ought to have jurisdiction.

(5) If the defendant disputes the plaintiff's valuation of the suit, he must state his reasons for doing so, and if he is able, give his own statement of the value of the suit.” ;

(iii) in Rule 5, in sub-rule (1), after the first proviso, the following proviso shall be inserted, namely: —

“Provided further, that every allegation of fact in the plaint, if not denied in the manner provided under Rule 3A of this Order, shall be taken to be admitted except as against a person under disability.” ;

(iv) in Rule 10, after the first proviso, the following proviso shall be inserted, namely: —

“Provided further that no Court shall make an order to extend the time provided under Rule 1 of this Order for filing of the written statement.”;

(E) for Order XI of the Code, the following Order shall be substituted, namely:—

#### “ORDER XI

DISCLOSURE, DISCOVERY AND INSPECTION OF DOCUMENTS IN SUITS BEFORE THE COMMERCIAL DIVISION OF A HIGH COURT OR A COMMERCIAL COURT

Disclosure  
and  
discovery of  
documents.

1.(1) Plaintiff shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the plaint, including:

(a) Documents referred to and relied on by the plaintiff in the plaint;

(b) Documents relating to any matter in question in the proceedings, in the power, possession, control or custody of the plaintiff, as on the date of filing the plaint, irrespective of whether the same is in support of or adverse to the plaintiff's case;

(c) nothing in this Rule shall apply to documents produced by plaintiffs and relevant only—

- (i) for the cross-examination of the defendant's witnesses, or
- (ii) in answer to any case setup by the defendant subsequent to the filing of the plaint, or
- (iii) handed over to a witness merely to refresh his memory.

(2) The list of documents filed with the plaint shall specify whether the documents in the power, possession, control or custody of the plaintiff are originals, office copies or photocopies. The list shall also set out in brief, details of parties to each document, mode of execution, issuance or receipt and line of custody of each document.

(3) The plaint shall contain a declaration on oath from the plaintiff that all documents in the power, possession, control or custody of the plaintiff, pertaining to the facts and circumstances of the proceedings initiated by him have been disclosed and copies thereof annexed with the plaint, and that the plaintiff does not have any other documents in its power, possession, control or custody.

*Explanation.*—A declaration on oath under this sub-rule shall be contained in the Statement of Truth as set out in the Appendix.

(4) In case of urgent filings, plaintiff may seek leave to rely on additional documents, as part of the above declaration on oath and subject to grant of such leave by Court, the plaintiff shall file such additional documents in Court, within thirty days of filing the suit, along with a declaration on oath that the plaintiff has produced all documents in its power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff and that the plaintiff does not have any other documents, in its power, possession, control or custody.

(5) Plaintiff shall not be allowed to rely on documents, which were in the plaintiff's power, possession, control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of Court. Such leave shall be granted only upon the plaintiff establishing reasonable cause for non-disclosure along with the plaint.

(6) The plaint shall set out details of documents, which the plaintiff believes to be in the power, possession, control or custody of the defendant and which the plaintiff wishes to rely upon and seek leave for production thereof by the said defendant.

(7) Defendant shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the written statement or with its counter-claim if any, including-

(a) documents referred to and relied on by the defendant in the written statement;

(b) documents relating to any matter in question in the proceeding in the power, possession, control or custody of the defendant, irrespective of whether the same is in support of or adverse to the defendant's defense;

(c) nothing in this Rule shall apply to documents produced by defendants and relevant only—

(i) for the cross-examination of the plaintiff's witnesses,

(ii) in answer to any case setup by the plaintiff subsequent to the filing of the plaint, or

(iii) handed over to a witness merely to refresh his memory.

(8) The list of documents filed with the written statement or counter-claim shall specify whether the documents, in the power, possession, control or custody of the defendant, are originals, office copies or photocopies. The list shall also set out in brief, details of parties to each document being produced by the defendant, mode of execution, issuance or receipt and line of custody of each document;

(9) The written statement or counter-claim shall contain a declaration on oath made by the deponent that all documents in the power, possession, control or custody of the defendant, save and except for those set out in sub-rule 7 (c)(iii) above, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff or in the counter-claim, have been disclosed and copies thereof annexed with the written statement or counter-claim and that the defendant does not have in its power, possession, control or custody, any other documents;

(10) Save and except for sub-rule 7 (c)(iii), defendant shall not be allowed to rely on documents, which were in the defendant's power, possession, control or custody and not disclosed along with the written statement or counter claim, save and except by leave of Court. Such leave shall be granted only upon the defendant establishing reasonable cause for non-disclosure along with the written statement or counter-claim;

(11) The written statement or counter-claim shall set out details of documents in the power, possession, control or custody of the plaintiff, which the defendant wishes to rely upon and which have not been disclosed with the plaint, and call upon the plaintiff to produce the same;

(12) Duty to disclose documents, which have come to the notice of a party, shall continue till disposal of the suit.

2. (1) In any suit the plaintiff or defendant by leave of the court may deliver interrogatories in writing for the examination of the opposite parties or any one or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof stating which of such interrogatories each of such persons is required to answer:

Discovery by Interrogatories.

Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose:

Provided further that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

(2) On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the court, and that court shall decide within seven days from the day of filing of the said application, in deciding upon such application, the court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the court shall consider necessary either for disposing fairly of the suit or for saving costs.

(3) In adjusting the costs of the suit inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the court, either with or without an application for inquiry, that such interrogatories have been exhibited unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.

(4) Interrogatories shall be in the form provided in Form No. 2 in Appendix C to the Code of Civil Procedure, 1908, with such variations as circumstances may require.

5 of 1908.

(5) Where any party to a suit is a corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply for an order allowing him to deliver interrogatories to any member or officer of such

corporation or body, and an order may be made accordingly.

(6) Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited *bona fide* for the purpose of the suit, or that the matters inquired into are not sufficiently material at that stage, or on the ground of privilege or any other ground may be taken in the affidavit in answer.

(7) Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary or scandalous and any application for this purpose may be made within seven days after service of the interrogatories.

(8) Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as the court may allow.

(9) An affidavit in answer to interrogatories shall be in the form provided in Form No. 3 in Appendix C to the Code of Civil Procedure, 1908, with such variations as circumstances may require. 5 of 1908.

(10) No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the court.

(11) Where any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the court for an order requiring him to answer, or to answer further, as the case may be, and an order may be made requiring him to answer, or to answer further, either affidavit or by *viva voce* examination, as the court may direct.

Inspection.

3. (1) All parties shall complete inspection of all documents disclosed within thirty days of the date of filing of the written statement or written statement to the counter-claim, whichever is later. The Court may extend this time limit upon application at its discretion, but not beyond thirty days in any event.

(2) Any party to the proceedings may seek directions from the Court, at any stage of the proceedings, for inspection or production of documents by the other party, of which inspection has been refused by such party or documents have not been produced despite issuance of a notice to produce.

(3) Order in such application shall be disposed of within thirty days of filing such application, including filing replies and rejoinders (if permitted by Court) and hearing.

(4) If the above application is allowed, inspection and copies

thereof shall be furnished to the party seeking it, within five days of such order.

(5) No party will be permitted to rely on a document, which it had failed to disclose or of which inspection has not been given, save and except with leave of Court.

(6) Court may impose exemplary costs against a defaulting party, who wilfully or negligently failed to disclose all documents pertaining to a suit or essential for a decision therein and which are in their power, possession, control or custody or where a Court holds that inspection or copies of any documents had been wrongfully or unreasonably withheld or refused.

4.(1) Each party shall submit a statement of admissions or denials of all documents disclosed and of which inspection has been completed, within fifteen days of the completion of inspection or any later date as fixed by the Court.

Admission  
and denial of  
documents.

(2) The statement of admissions and denials shall set out explicitly, whether such party was admitting or denying:

(a) Correctness of contents of a document;

(b) Existence of a document;

(c) Execution of a document;

(d) Issuance or receipt of a document;

(e) Custody of a document.

*Explanation.*—A statement of admission or denial of the existence of a document made in accordance with sub-rule 3(2)(b) of the modified order XI will include the admission or denial of the contents of a document.

(3) Each party shall set out reasons for denying a document under any of the above grounds. Bare and unsupported denials shall not be deemed to be denials of a document and proof of such documents may then be dispensed with at the discretion of the Court.

(4) Any party may however submit bare denials for third party documents of which the party denying does not have any personal knowledge of, and to which the party denying is not a party in any manner whatsoever.

(5) An Affidavit in support of the statement of admissions and denials shall be filed confirming the correctness of the contents of

the statement.

(6) In the event that the Court holds that any party has unduly refused to admit a document under any of the above criteria, — costs (including exemplary costs) for deciding on admissibility of a document may be imposed by the Court on such party.

(7) Court may pass orders with respect to admitted documents including for waiver of further proof thereon or rejection of any documents.

Production of documents. 5.(1) Any party to a proceeding may seek or the Court may order, at any time during the pendency of any suit, production by any party or person, of such documents in the possession or power of such party or person, relating to any matter in question in such suit.

(2) Notice to produce such document shall be issued in the Form provided in Form No. 7 in Appendix C to the Code of Civil Procedure, 1908.

5 of 1908.

(3) Any party or person to whom such notice to produce is issued shall be given not less than seven days and not more than fifteen days to produce such document or to answer to their inability to produce such document.

(4) The Court may draw an adverse inference against a party refusing to produce such document after issuance of a notice to produce and where sufficient reasons for such non-production are not given and order costs.

Electronic Records.

6. (1) In case of disclosures and inspection of Electronic Records (as defined in the Information Technology Act, 2000), furnishing of printouts shall be sufficient compliance of the above provisions.

21 of 2000.

(2) At the discretion of the parties or where required (when parties wish to rely on audio or video content), copies of electronic records may be furnished in electronic form either in addition to or in lieu of printouts.

(3) Where Electronic Records form part of documents disclosed, the declaration on oath to be filed by a party shall specify—

(a) parties to such Electronic Record;

(b) manner in which such electronic record was produced and by whom;

(c) dates and time of preparation or storage or issuance or receipt of each such electronic record;

(d) source of such electronic record and date and time when the electronic record was printed;

(e) in case of email ids, details of ownership, custody and access to such email ids;

(f) in case of documents stored on a computer or computer resource (including on external servers or cloud), details of ownership, custody and access to such data on the computer or computer resource;

(g) deponent's knowledge of contents and correctness of contents;

(h) whether the computer or computer resource used for preparing or receiving or storing such document or data was functioning properly or in case of malfunction that such malfunction did not affect the contents of the document stored;

(i) that the printout or copy furnished was taken from the original computer or computer resource.

(4) The parties relying on printouts or copy in electronic form, of any electronic records, will not be required to give inspection of electronic records, provided a declaration is made by such party that each such copy, which has been produced, has been made from the original Electronic Record.

(5) The Court may give directions for admissibility of Electronic Records at any stage of the proceedings.

(6) Any party may seek directions from the Court and the Court may of its motion issue directions for submission of further proof of any electronic record including metadata or logs before admission of such electronic record.

5 of 1908.

7. For avoidance of doubt, it is hereby clarified that Order XIII Rule 1, Order VII Rule 14 and Order VIII Rule 1A the Code of Civil Procedure, 1908 shall not apply to suits or applications before the Commercial Divisions of High Court or Commercial Courts.”.

Certain provisions of the Code of Civil Procedure, 1908 not to apply.

5. After Order XIII of the Code, the following Order shall be inserted, namely:—

Insertion of new Order XIII-A.

## “ORDER XIII-A

- Scope of and classes of suits to which this Order applies.
1. (1) This Order sets out the procedure by which Courts may decide a claim pertaining to any Commercial Dispute without recording oral evidence.
- (2) For the purposes of this Order, the word “claim” shall include—
- (a) part of a claim;
  - (b) any particular question on which the claim (whether in whole or in part) depends; or
  - (c) a counter-claim, as the case may be.
- (3) Notwithstanding anything to the contrary, an application for summary judgment under this Order shall not be made in a suit in respect of any Commercial Dispute that is originally filed as a summary suit under Order XXXVII.
- Stage for application for summary judgment.
2. An applicant may apply for summary judgment at any time after summons has been served on the defendant:
- Provided that, no application for summary judgment may be made by such applicant after the Court has framed the issues in respect of the suit.
3. Grounds for summary judgment.— The Court may give a summary judgment against a plaintiff or defendant on a claim if it considers that—
- (a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of successfully defending the claim, as the case may be; and
  - (b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence.
- Procedure.
4. (1) An application for summary judgment to a Court shall, in addition to any other matters the applicant may deem relevant, include the matters set forth in sub-rules (a) to (f) mentioned hereunder:
- (a) the application must contain a statement that it is an application for summary judgment made under this Order;
  - (b) the application must precisely disclose all material facts and identify the point of law, if any;
  - (c) in the event the applicant seeks to rely upon any documentary

evidence, the applicant must,—

- (i) include such documentary evidence in its application, and
  - (ii) identify the relevant content of such documentary evidence on which the applicant relies;
- (d) the application must state the reason why there are no real prospects of succeeding on the claim or defending the claim, as the case may be;
- (e) the application must state what relief the applicant is seeking and briefly state the grounds for seeking such relief.

(2) Where a hearing for summary judgment is fixed, the respondent must be given at least thirty days' notice of:

- (a) the date fixed for the hearing; and
- (b) the claim that is proposed to be decided by the Court at such hearing.

(3) The respondent may, within thirty days of the receipt of notice of application of summary judgment or notice of hearing (whichever is earlier), file a reply addressing the matters set forth in sub-rules (a) to (f) mentioned hereunder in addition to any other matters that the respondent may deem relevant:

(a) The reply must precisely—

- (i) disclose all material facts;
- (ii) identify the point of law, if any; and
- (iii) state the reasons why the relief sought by the applicant should not be granted;

(b) in the event the respondent seeks to rely upon any documentary evidence in its reply, the respondent must—

- (i) include such documentary evidence in its reply; and
- (ii) identify the relevant content of such documentary evidence on which the respondent relies;

(c) the reply must state the reason why there are real prospects of succeeding on the claim or defending the claim, as the case may be;

(d) the reply must concisely state the issues that should be framed for trial;

(e) the reply must identify what further evidence will be brought on record at trial that could not be brought on record at the stage of summary judgment; and

(f) the reply must state why, in light of the evidence or material on record if any, the Court should not proceed to summary judgment.

Evidence for  
hearing of  
summary  
judgment.

5. (1) Notwithstanding anything in this Order, if the respondent in an application for summary judgment wishes to rely on additional documentary evidence during the hearing, the respondent must:

(a) file such documentary evidence; and

(b) serve copies of such documentary evidence on every other party to the application at least fifteen days prior to the date of the hearing.

(2) Notwithstanding anything in this Order, if the applicant for summary judgment wishes to rely on documentary evidence in reply to the defendant's documentary evidence, the applicant must:

(a) file such documentary evidence in reply; and

(b) serve a copy of such documentary evidence on the respondent at least five days prior to the date of the hearing.

(3) Notwithstanding anything to the contrary, sub-rules (1) and (2) above shall not require documentary evidence to be:

(a) filed if such documentary evidence has already been filed; or

(b) served on a party on whom it has already been served.

Orders that  
may be made  
by the Court.

6. (1) On an application made under this Order, the Court may make such orders that it may deem fit in its discretion including the following:

(a) judgment on the claim;

(b) conditional order in accordance with Rule 7 mentioned hereunder;

(c) dismissing the application;

(d) dismissing part of the claim and a judgment on part of the claim that is not dismissed;

(e) striking out the pleadings (whether in whole or in part); or

(f) further directions to proceed for case management under Order XVA.

(2) Where the Court makes any of the orders as set forth in sub-rule (1)(a) to (f) above, the Court shall record its reasons for making such order.

7. (1) Where it appears to the Court that it is possible that a claim or defence may succeed but it is improbable that it will do so, the Court may make a conditional order as set forth in Rule 6(b) above. Conditional order.

(2) Where the Court makes a conditional order, it may:

(a) make it subject to all or any of the following conditions:

(i) require a party to deposit a sum of money in the Court;

(ii) require a party to take a specified step in relation to the claim or defence, as the case may be;

(iii) require a party, as the case may be, to give such security or provide such surety for restitution of costs as the Court deems fit and proper;

(iv) impose such other conditions, including providing security for restitution of losses that any party is likely to suffer during the pendency of the suit, as the Court may deem fit in its discretion; and

(b) specify the consequences of the failure to comply with the conditional order, including passing a judgment against the party that have not complied with the conditional order.

8. The Court may make an order for payment of costs in an application for summary judgment in accordance with the provisions of sections 35 and 35A of the Code.” Power to impose costs.

6. Order XV of the Code shall be omitted.

Omission of Order XV.

7. After Order XV of the Code, the following Order shall be inserted, namely:—

Insertion of Order XV-A

“ORDER XV-A

1. The Court shall hold the first Case Management Hearing, not later than four weeks from the date of filing of affidavit of admission or denial of documents by all parties to the suit.

First Case Management Hearing.

- Orders to be passed in a Case Management Hearing.
2. In a Case Management Hearing, after hearing the parties, and once it finds that there are issues of fact and law which require to be tried, the Court may pass an order—
- (a) framing the issues between the parties in accordance with Order XIV of the Code of Civil Procedure, 1908 after examining pleadings, documents and documents produced before it, and on examination conducted by the Court under Rule 2 of Order X, if required; 5 of 1908.
- (b) listing witnesses to be examined by the parties;
- (c) fixing the date by which affidavit of evidence to be filed by parties;
- (d) fixing the dates on which evidence of the witnesses of the parties to be recorded;
- (e) fixing the date by which written arguments are to be filed before the Court by the parties;
- (f) fixing the date on which oral arguments are to be heard by the Court; and
- (g) setting time limits for parties and/or their advocates to address oral arguments.
- Time limit for the completion of a trial.
3. In fixing dates or setting time limits for the purposes of Rule 2 of this Order, the Court shall ensure that the arguments are closed not later than six months from the date of the first case management hearing.
- Recording of oral evidence on a day-to-day basis.
4. The Court shall, as far as possible, ensure that the recording of evidence shall be carried on, on a day-to-day basis until the cross-examination of all the witnesses is complete.
- Case Management Hearings during a trial.
5. The Court may, if necessary, also hold Case Management Hearings anytime during the trial to issue appropriate orders so as to ensure adherence by the parties to the dates fixed under Rule 2 and facilitate speedy disposal of the suit.
- Powers of the Court in a Case Management Hearing.
- 6.(1) In any Case Management Hearing held under this Order, the Court shall have the power to —
- (a) prior to the framing of issues, hear and decide any pending application filed by the parties under Order XIII A;
- (b) direct parties to file compilations of documents or pleadings relevant and necessary for framing issues;
- (c) extend or shorten the time for compliance with any

practice, direction or Court order if it finds sufficient reason to do so;

(d) adjourn or bring forward a hearing if it finds sufficient reason to do so;

(e) direct a party to attend the Court for the purposes of examination under Rule 2 of Order X;

(f) consolidate proceedings;

(g) strike off the name of any witness or evidence that it deems irrelevant to the issues framed;

(h) direct a separate trial of any issue;

(i) decide the order in which issues are to be tried;

(j) exclude an issue from consideration;

(k) dismiss or give judgment on a claim after a decision on a preliminary issue;

(l) direct that evidence be recorded by a Commission where necessary in accordance with Order XXVI;

(m) reject any affidavit of evidence filed by the parties for containing irrelevant, inadmissible or argumentative material;

(n) strike off any parts of the affidavit of evidence filed by the parties containing irrelevant, inadmissible or argumentative material;

(o) delegate the recording of evidence to such authority appointed by the Court for this purpose;

(p) pass any order relating to the monitoring of recording the evidence by a commission or any other authority;

(q) order any party to file and exchange a costs budget;

(r) issue directions or pass any order for the purpose of managing the case and furthering the overriding objective of ensuring the efficient disposal of the suit.

(2) When the Court passes an order in exercise of its powers under this Order, it may –

(a) make it subject to conditions, including a condition to pay a sum of money into Court; and

(b) specify the consequence of failure to comply with the order or a condition.

(3) While fixing the date for a Case Management Hearing, the Court may direct that the parties also be present for such case management hearing, if it is of the view that there is a possibility of settlement between the parties.

Adjournment  
of Case  
Management  
Hearing.

7.(1) The Court shall not adjourn the Case Management Hearing for the sole reason that the advocate appearing on behalf of a party is not present:

Provided that an adjournment of the hearing is sought in advance by moving an application, the Court may adjourn the hearing to another date upon the payment of such costs as the Court deems fit, by the party moving such application.

(2) Notwithstanding anything contained in this Rule, if the Court is satisfied that there is a justified reason for the absence of the advocate, it may adjourn the hearing to another date upon such terms and conditions it deems fit.

Consequences of non-compliance with orders.

8. Where any party fails to comply with the order of the Court passed in a Case Management Hearing, the Court shall have the power to-

(a) condone such non-compliance by payment of costs to the Court;

(b) foreclose the non-compliant party's right to file affidavits, conduct cross-examination of witnesses, file written submissions, address oral arguments or make further arguments in the trial, as the case may be, or

(c) dismiss the plaint or allow the suit where such non-compliance is wilful, repeated and the imposition of costs is not adequate to ensure compliance.”.

Amendment  
of Order  
XVIII.

8. In Order XVIII of the Code, in Rule 2, for sub-rules (3A), (3B), (3C), (3D), (3E) and (3F), the following shall be substituted, namely:—

“(3A) A party shall, within four weeks prior to commencing the oral arguments, submit concisely and under distinct headings written arguments in support of his case to the Court and such written arguments shall form part of the record.

(3B) The written arguments shall clearly indicate the provisions of the laws being cited in support of the arguments and the citations of judgments being relied upon by the party and include copies of

such judgments being relied upon by the party.

(3C) A copy of such written arguments shall be furnished simultaneously to the opposite party.

(3D) The Court may, if it deems fit, after the conclusion of arguments, permit the parties to file revised written arguments within a period of not more than one week after the date of conclusion of arguments.

(3E) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(3F) It will be open for the Court to limit the time for oral submissions having regard to the nature and complexity of the matter.”.

9. In Order XVIII of the Code, in Rule 4, after sub-rule (1), the following sub-rules shall be inserted, namely:—

Amendment  
of Order  
XVIII.

(1A) The affidavits of evidence of all witnesses whose evidence is proposed to be led by a party shall be filed simultaneously by that party at the time directed in the first case management hearing.

(1B) A party shall not lead additional evidence by the affidavit of any witness (including of a witness who has already filed an affidavit) unless sufficient cause is made out in an application for that purpose and an order, giving reasons, permitting such additional affidavit is passed by the Court.

(1C) A party shall however have the right to withdraw any of the affidavits so filed at any time prior to commencement of cross-examination of that witness, without any adverse inference being drawn based on such withdrawal:

Provided that any other party will be entitled to tender as evidence and rely upon any admission made in such withdrawn affidavit.”.

10. In Order XIX of the Code, after Rule 3, the following Rules shall be inserted, namely:—

Amendment  
to Order XIX.

“4. (1) The Court may, by directions, regulate the evidence as to issues on which it requires evidence and the manner in which such evidence may be placed before the Court.

Court may  
control  
evidence.

(2) The Court may, in its discretion and for reasons to be recorded in writing, exclude evidence that would otherwise be produced by the parties.”.

Redacting or  
rejecting  
evidence.

5. A Court may, in its discretion, for reasons to be recorded in writing—

(i) redact or order the redaction of such portions of the affidavit of examination-in-chief as do not, in its view, constitute evidence.

(ii) return or reject an affidavit of examination-in-chief as not constituting admissible evidence.

Format and  
guidelines  
of affidavit  
of evidence.

6. An affidavit must comply with the form and requirements set forth below:

(a) such affidavit should be confined to, and should follow the chronological sequence of, the dates and events that are relevant for proving any fact or any other matter dealt with;

(b) where the Court is of the view that an affidavit is a mere reproduction of the pleadings, or contains the legal grounds of any party's case, the Court may, by order, strike out the affidavit or such parts of the affidavit, as it deems fit and proper;

(c) each paragraph of an affidavit should, as far as possible, be confined to a distinct portion of the subject;

(d) an affidavit shall state-

(i) which of the statements in it are made from the deponent's own knowledge and which are matters of information or belief; and

(ii) the source for any matters of information or belief.

(e) an affidavit should-

(i) have the pages numbered consecutively as a separate document (or as one of several documents contained in a file);

(ii) be divided into numbered paragraphs;

(iii) have all numbers, including dates, expressed in figures; and

(iv) if any of the documents referred to in the body of the affidavit are annexed to the affidavit or any other pleadings, give the annexures and page numbers of such documents that are relied upon.”.

11. In Order XX of the Code, for Rule 1, the following Rule shall be substituted, namely:—

Amendment  
of Order XX.

“(1) The Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, shall, within ninety days of the conclusion of arguments, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.”.

**APPENDIX****STATEMENT OF TRUTH**

(Under First Schedule, Order VI- Rule 15A and Order X- Rule 1)

STATEMENT OF TRUTH BY [party position and name of party in full] I, the deponent above-named, do hereby solemnly affirm and declare as under:

1. I am [name of party and relevant details] in the above suit and competent to swear this affidavit.
2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.
3. I say that the statements made in [mention specific paragraph numbers] paragraphs are true to my knowledge and statements made in [mention specific paragraph numbers] paragraphs are based on information received which I believe to be correct and statements made in [mention specific paragraph numbers] are based on legal advice.
4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.
5. I say that that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.
6. I say that the above-mentioned pleading comprises of a total of [number of pages] pages, each of which has been signed by me.
7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.
8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law.

Place:

Date:

	<p style="text-align: center;">VERIFICATION</p> <p>The statements made above are true to my knowledge.</p> <p>Verified at [place] on this [date]</p> <p style="text-align: right;">DEPONENT</p>	
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PRANAB MUKHERJEE,  
*President.*

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



# भारत का राजपत्र The Gazette of India

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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.

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 23rd October, 2015/Kartika 1, 1937 (Saka)*

## THE ARBITRATION AND CONCILIATION (AMENDMENT) ORDINANCE, 2015

No. 9 of 2015

Promulgated by the President in the Sixty-sixth Year of the  
Republic of India.

An Ordinance to amend 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, 2015.

Short title and  
commencement.

(2) It shall come into force at once.

Amendment of  
section 2.

2. In the Arbitration and Conciliation Act, 1996 26 of 1996.  
(hereinafter referred to as the principal Act), in section 2,—

(I) in sub-section (1)—

(A) for clause (e), the following clause shall be  
substituted, namely:—

‘(e) “Court” means—

(i) in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any civil court of a grade inferior to such principal Civil Court, or any Court of Small Causes;

(ii) in the case of international commercial arbitration, the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, and in other cases, a High Court having jurisdiction to hear appeals from decrees of courts subordinate to that High Court;’;

(B) in clause (f), in sub-clause (iii), the words  
“a company or” shall be omitted;

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

“Provided that subject to an agreement to the contrary, the provisions of sections 9, 27, and clause (a) of sub-section (1) and sub-section (3) of section 37 shall also apply to international commercial arbitration, even if the place of arbitration is outside India, and an arbitral award made or to be made in such place is enforceable and recognised under the provisions of Part II of this Ordinance.”.

Amendment of  
section 7.

3. In section 7 of the principal Act, in sub-section (4), in clause (b), after the words “or other means of telecommunication”, the words “including communication through electronic means” shall be inserted.

4. In section 8 of the principal Act,—

Amendment of section  
8.

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

“(1) A judicial authority, before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party to the arbitration agreement or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substance of the dispute, then, notwithstanding any judgment, decree or order of the Supreme Court or any Court, refer the parties to arbitration unless it finds that *prima facie* no valid arbitration agreement exists.”;

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

“Provided that where the original arbitration agreement or a certified copy thereof is not available with the party applying for reference to arbitration under sub-section (1), and the said agreement or certified copy is retained by the other party to that agreement, then, the party so applying shall file such application along with a copy of the arbitration agreement and a petition praying the Court to call upon the other party to produce the original arbitration agreement or its duly certified copy before that Court.”.

5. Section 9 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

Amendment of section  
9.

“(2) Where, before the commencement of the arbitral proceedings, a Court passes an order for any interim measure of protection under sub-section (1), the arbitral proceedings shall be commenced within a period of ninety days from the date of such order or within such further time as the Court may determine.

(3) Once the arbitral tribunal has been constituted, the Court shall not entertain an application under sub-section (1), unless the Court finds that circumstances exist which

may not render the remedy provided under section 17 efficacious.”.

Amendment of  
section 11.

6. In section 11 of the principal Act,—

(i) in sub-sections (4), (5) and (6), for the words “the Chief Justice or any person or institution designated by him” wherever they occur, the words “the Supreme Court or, as the case may be, the High Court or any person or institution designated by such Court” shall be substituted;

(ii) after sub-section (6), the following sub-sections shall be inserted, namely:—

“(6A) The Supreme Court or, as the case may be, the High Court, while considering any application under sub-section (4) or sub-section (5) or sub-section (6), shall, notwithstanding any judgment, decree or order of any court, confine to the examination of the existence of an arbitration agreement.

(6B) The designation of any person or institution by the Supreme Court or, as the case may be, the High Court, for the purposes of this section shall not be regarded as a delegation of judicial power by the Supreme Court or the High Court.”;

(iii) in sub-section (7), for the words “the Chief Justice or the person or institution designated by him is final”, the words “the Supreme Court or, as the case may be, the High Court or the person or institution designated by such Court is final and no appeal including Letters Patent Appeal shall lie against such decision” shall be substituted;

(iv) for sub-section (8), the following sub-section shall be substituted, namely:—

“(8) The Supreme Court or, as the case may be, the High Court or the person or institution designated by such Court, before appointing an arbitrator, shall seek a disclosure in writing from the prospective arbitrator in terms of sub-section (1) of section 12, and have due regard to—

(a) any qualifications required for the arbitrator by the agreement of the parties; and

(b) the contents of the disclosure and other considerations as are likely to secure the appointment of

an independent and impartial arbitrator.”;

(v) in sub-section (9), for the words “the Chief Justice of India or the person or institution designated by him”, the words “the Supreme Court or the person or institution designated by that Court” shall be substituted;

(vi) for sub-section (10), the following sub-section shall be substituted, namely:—

“(10) The Supreme Court or, as the case may be, the High Court, may make such scheme as the said Court may deem appropriate for dealing with matters entrusted by sub-section (4) or sub-section (5) or sub-section (6), to it.”;

(vii) in sub-section (11), for the words “the Chief Justices of different High Courts or their designates, the Chief Justice or his designate to whom the request has been first made”, the words “different High Courts or their designates, the High Court or its designate to whom the request has been first made” shall be substituted;

(viii) for sub-section (12), the following sub-section shall be substituted, namely:—

“(12) (a) Where the matters referred to in sub-sections (4), (5), (6), (7), (8) and sub-section (10) arise in an international commercial arbitration, the reference to the “Supreme Court or, as the case may be, the High Court” in those sub-sections shall be construed as a reference to the “Supreme Court”; and

(b) where the matters referred to in sub-sections (4), (5), (6), (7), (8) and sub-section (10) arise in any other arbitration, the reference to “the Supreme Court or, as the case may be, the High Court” in those sub-sections shall be construed as a reference to the “High Court” within whose local limits the principal Civil Court referred to in clause (e) of sub-section (1) of section 2 is situate, and where the High Court itself is the Court referred to in that clause, to that High Court.”;

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

“(13) An application made under this section for appointment of an arbitrator or arbitrators shall be disposed of by the Supreme Court or the High Court or the person or institution designated by such Court, as the case may be, as expeditiously as possible and an endeavor shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party.

(14) For the purpose of determination of the fees of the arbitral tribunal and the manner of its payment to the arbitral tribunal, the High Court may frame such rules as may be

necessary, after taking into consideration the rates specified in the Fourth Schedule.

*Explanation.*—For the removal of doubts, it is hereby clarified that this sub-section shall not apply to international commercial arbitration and in arbitrations (other than international commercial arbitration) in case where parties have agreed for determination of fees as per the rules of an arbitral institution.”.

Insertion of  
new section  
11A.

7. After section 11 of the principal Act, the following new section shall be inserted, namely :—

Power of  
Central  
Government to  
amend Fourth  
Schedule.

“11A.(1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, amend the Fourth Schedule and thereupon the Fourth Schedule shall be deemed to have been amended accordingly.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.”.

Amendment of  
section 12.

8. In section 12 of the principal Act,—

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

“(1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose in writing any circumstances,—

(a) such as the existence either direct or indirect, of any past or present relationship with or interest in any of the parties or in relation to the subject matter in dispute, whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to his independence or impartiality; and

(b) which are likely to affect his ability to devote sufficient time to the arbitration and in particular his ability to complete the entire arbitration within a period of twelve months.

*Explanation 1.*— The grounds stated in the Fifth Schedule shall guide in determining whether circumstances exist which give rise to justifiable doubts as to the independence or impartiality of an arbitrator.

*Explanation 2.*— The disclosure shall be made by such person in the form specified in the Sixth Schedule.”;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Notwithstanding any prior agreement to the contrary, any person whose relationship, with the parties or counsel or the subject matter of the dispute, falls under any of the categories specified in the Seventh Schedule shall be ineligible to be appointed as an arbitrator:

Provided that parties may, subsequent to disputes having arisen between them, waive the applicability of this sub-section by an express agreement in writing:

Provided further that this sub-section shall not apply to cases where an arbitrator has already been appointed on or before the commencement of the Arbitration and Conciliation (Amendment) Ordinance, 2015.”.

9. In section 14 of the principal Act, in sub-section (1), in the opening portion, for the words “The mandate of an arbitrator shall terminate if”, the words “The mandate of an arbitrator shall terminate and he shall be substituted by another arbitrator, if” shall be substituted.

Amendment of section 14.

10. For section 17 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 17.

“17.(1) A party may, during the arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36, apply to the arbitral tribunal—

Interim measures ordered by arbitral tribunal.

(i) for the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or

(ii) for an interim measure of protection in respect of any of the following matters, namely:—

(a) the preservation, interim custody or sale of any goods which are the subject matter of the arbitration agreement;

(b) securing the amount in dispute in the arbitration;

(c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in

the possession of any party, or authorising any samples to be taken, or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;

(d) interim injunction or the appointment of a receiver;

(e) such other interim measure of protection as may appear to the arbitral tribunal to be just and convenient,

and the arbitral tribunal shall have the same power for making orders, as the court has for the purpose of, and in relation to, any proceedings before it.

(2) Subject to any orders passed in an appeal under section 37, any order issued by the arbitral tribunal under this section shall be deemed to be an order of the Court for all purposes and shall be enforceable under the Code of Civil Procedure, 1908, in the same manner as if it were an order of the Court.”

5 of 1908.

Amendment of  
section 23.

11. In section 23 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The respondent, in support of his case, may also submit a counter claim or plead a set-off, which shall be adjudicated upon by the arbitral tribunal, if such counterclaim or set-off falls within the scope of the arbitration agreement.”

Amendment of  
section 24.

12. In section 24 of the principal Act, after the proviso to sub-section (1), the following proviso shall be inserted, namely:—

“Provided further that the arbitral tribunal shall, as far as possible, hold oral hearings for the presentation of evidence or for oral argument on day-to-day basis, and not grant any adjournments unless sufficient cause is made out, and may impose costs including exemplary costs on the party seeking adjournment without any sufficient cause.”

Amendment of  
section 25.

13. In section 25 of the principal Act, in clause (b), at the end, after the words “allegations by the claimant”, the words “and shall have the discretion to treat the right of the respondent to file such statement of defence as having been forfeited” shall be inserted.

Amendment of  
section 28.

14. In section 28 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) While deciding and making an award, the arbitral tribunal shall, in all cases, take into account the terms of the

contract and trade usages applicable to the transaction.”.

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

Insertion of new sections 29A and 29B.

“29A. (1) The award shall be made within a period of twelve months from the date the arbitral tribunal enters upon the reference.

Time limit for arbitral award.

*Explanation.*—For the purpose of this sub-section, an arbitral tribunal shall be deemed to have entered upon the reference on the date on which the arbitrator or all the arbitrators, as the case may be, have received notice, in writing, of their appointment.

(2) If the award is made within a period of six months from the date the arbitral tribunal enters upon the reference, the arbitral tribunal shall be entitled to receive such amount of additional fees as the parties may agree.

(3) The parties may, by consent, extend the period specified in sub-section (1) for making award for a further period not exceeding six months.

(4) If the award is not made within the period specified in sub-section (1) or the extended period specified under sub-section (3), the mandate of the arbitrator(s) shall terminate unless the Court has, either prior to or after the expiry of the period so specified, extended the period:

Provided that while extending the period under this sub-section, if the Court finds that the proceedings have been delayed for the reasons attributable to the arbitral tribunal, then, it may order reduction of fees of arbitrator(s) by not exceeding five per cent. for each month of such delay.

(5) The extension of period referred to in sub-section (4) may be on the application of any of the parties and may be granted only for sufficient cause and on such terms and conditions as may be imposed by the Court.

(6) While extending the period referred to in sub-section (4), it shall be open to the Court to substitute one or all of the arbitrators and if one or all of the arbitrators are substituted, the arbitral proceedings shall continue from the stage already reached and on the basis of the evidence and material already on record, and the arbitrator(s) appointed under this section shall be deemed to have received the said evidence and material.

(7) In the event of arbitrator(s) being appointed under this section, the arbitral tribunal thus reconstituted shall be deemed to be in continuation of the previously appointed arbitral tribunal.

(8) It shall be open to the Court to impose actual or exemplary costs upon any of the parties under this section.

(9) An application filed under sub-section (5) shall be disposed of by the Court as expeditiously as possible and endeavour shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party.

Fast track  
procedure.

29B. (1) Notwithstanding anything contained in this Act, the parties to an arbitration agreement, may, at any stage either before or at the time of appointment of the arbitral tribunal, agree in writing to have their dispute resolved by fast track procedure specified in sub-section (3).

(2) The parties to the arbitration agreement, while agreeing for resolution of dispute by fast track procedure, may agree that the arbitral tribunal shall consist of a sole arbitrator who shall be chosen by the parties.

(3) The arbitral tribunal shall follow the following procedure while conducting arbitration proceedings under sub-section (1):

(a) The arbitral tribunal shall decide the dispute on the basis of written pleadings, documents and submissions filed by the parties without any oral hearing;

(b) The arbitral tribunal shall have power to call for any further information or clarification from the parties in addition to the pleadings and documents filed by them;

(c) An oral hearing may be held only, if, all the parties make a request or if the arbitral tribunal considers it necessary to have oral hearing for clarifying certain issues;

(d) The arbitral tribunal may dispense with any technical formalities, if an oral hearing is held, and adopt such procedure as deemed appropriate for expeditious disposal of the case.

(4) The award under this section shall be made within a period of six months from the date the arbitral tribunal enters upon the reference.

(5) If the award is not made within the period specified in sub-section (4), the provisions of sub-sections (3) to (9) of section 29A shall apply to the proceedings.

(6) The fees payable to the arbitrator and the manner of payment of the fees shall be such as may be agreed between the arbitrator and the parties.”.

Amendment of  
section 31.

16. In section 31 of the principal Act,—

(i) in sub-section (7), for clause (b), the following shall be substituted, namely:—

‘(b) A sum directed to be paid by an arbitral award shall, unless the award otherwise directs, carry interest at the rate of two per cent. higher than the current rate of interest prevalent on the date of award, from the date of award to the date of payment.

14 of 1978.

*Explanation.*—The expression “current rate of interest” shall have the same meaning as assigned to it under clause (b) of section 2 of the Interest Act, 1978.’;

(ii) for sub-section (8), the following sub-section shall be substituted, namely:—

“(8) The costs of an arbitration shall be fixed by the arbitral tribunal in accordance with section 31A.”.

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

Insertion of new section  
31A.

“31A.(1) In relation to any arbitration proceeding or a proceeding under any of the provisions of this Act pertaining to the arbitration, the Court or arbitral tribunal, notwithstanding anything contained in the Code of Civil Procedure, 1908, shall have the discretion to determine—

Regime for costs.

5 of 1908.

(a) whether costs are payable by one party to another;

(b) the amount of such costs; and

(c) when such costs are to be paid.

*Explanation.*—For the purpose of this sub-section, “costs” means reasonable costs relating to—

(i) the fees and expenses of the arbitrators, Courts and witnesses;

(ii) legal fees and expenses;

(iii) any administration fees of the institution

supervising the arbitration; and

(iv) any other expenses incurred in connection with the arbitral or Court proceedings and the arbitral award.

(2) If the Court or arbitral tribunal decides to make an order as to payment of costs,—

(a) the general rule is that the unsuccessful party will be ordered to pay the costs of the successful party; or

(b) the Court or arbitral tribunal may make a different order for reasons to be recorded in writing.

(3) In determining the costs, the Court or arbitral tribunal shall have regard to all the circumstances, including—

(a) the conduct of all the parties;

(b) whether a party has succeeded partly in the case;

(c) whether the party had made a frivolous counter claim leading to delay in the disposal of the arbitral proceedings; and

(d) whether any reasonable offer to settle the dispute is made by a party and refused by the other party.

(4) The Court or arbitral tribunal may make any order under this section including the order that a party shall pay—

(a) a proportion of another party's costs;

(b) a stated amount in respect of another party's costs;

(c) costs from or until a certain date only;

(d) costs incurred before proceedings have begun;

(e) costs relating to particular steps taken in the proceedings;

(f) costs relating only to a distinct part of the proceedings; and

(g) interest on costs from or until a certain date.

(5) An agreement which has the effect that a party is to pay the whole or part of the costs of the arbitration in any event shall be only valid if such agreement is made after the dispute in question has arisen.”.

Amendment of  
section 34.

18. In section 34 of the principal Act,—

(1) in sub-section (2), in clause (b), for the *Explanation*, the following *Explanations* shall be substituted, namely:—

“*Explanation 1.*—For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of

India, only if,—

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

*Explanation 2.*—For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.”;

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

“(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by re-appreciation of evidence.”;

(III) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.

(6) An application under this section shall be disposed of expeditiously, and in any event, within a period of one year from the date on which the notice referred to in sub-section (5) is served upon the other party.”.

19. For section 36 of the principal Act, the following section shall be substituted, namely:—

Substitution of new  
section for section 36.

Enforcement.

“36.(1) Where the time for making an application to set aside the arbitral award under section 34 has expired, then, subject to the provisions of sub-section (2), such award shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908, in the same manner as if it were a decree of the court. 5 of 1908.

(2) Where an application to set aside the arbitral award has been filed in the Court under section 34, the filing of such an application shall not by itself render that award unenforceable, unless the Court grants an order of stay of the operation of the said arbitral award in accordance with the provisions of sub-section (3), on a separate application made for that purpose.

(3) Upon filing of an application under sub-section (2) for stay of the operation of the arbitral award, the Court may, subject to such conditions as it may deem fit, grant stay of the operation of such award for reasons to be recorded in writing:

Provided that the Court shall, while considering the application for grant of stay in the case of an arbitral award for payment of money, have due regard to the provisions for grant of stay of a money decree under the provisions of the Code of Civil Procedure, 1908.” 5 of 1908.

Amendment of section 37.

20. In section 37 of the principal Act, in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

- “(a) refusing to refer the parties to arbitration under section 8;
- (b) granting or refusing to grant any measure under section 9;
- (c) setting aside or refusing to set aside an arbitral award under section 34.”.

Amendment of section 47.

21. In section 47 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

‘*Explanation*.—In this section and in the sections following in this Chapter, “Court” means the High Court having original jurisdiction to decide the questions forming the subject-matter of the arbitral award if the same had been the subject matter of a suit on its original civil jurisdiction and in other cases, in the High Court having jurisdiction to

hear appeals from decrees of courts subordinate to such High Court.’.

22. In section 48 of the principal Act, for the *Explanation* to sub-section (2), the following *Explanations* shall be substituted, namely:—

Amendment of section 48.

“*Explanation 1.*—For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,—

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

*Explanation 2.*—For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.”.

23. In section 56 of the principal Act, the *Explanation* shall be renumbered as *Explanation 1* thereof, and after the *Explanation 1* as so renumbered, the following *Explanation* shall be inserted, namely:—

Amendment of section 56.

“*Explanation 2.*—In this section and in the sections following in this Chapter, “Court” means the High Court having original jurisdiction to decide the questions forming the subject-matter of the arbitral award if the same had been the subject matter of a suit on its original civil jurisdiction and in other cases, in the High Court having jurisdiction to hear appeals from decrees of courts subordinate to such High Court.’.

24. In section 57 of the principal Act, in sub-section (1), for the *Explanation*, the following *Explanations* shall be substituted, namely:—

Amendment of section 57.

“*Explanation 1.*— For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,—

(i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or

section 81; or

(ii) it is in contravention with the fundamental policy of Indian law; or

(iii) it is in conflict with the most basic notions of morality or justice.

*Explanation 2.*— For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.”.

Insertion of  
new Fourth  
Schedule, Fifth  
Schedule, Sixth  
Schedule and  
Seventh  
Schedule.

25. After the Third Schedule to the principal Act, the following new Schedules shall be inserted, namely:—

#### ‘THE FOURTH SCHEDULE

[See section 11 (14)]

Sum in dispute		Model fee
Upto	Rs.	Rs. 45,000/-
5,00,000/-		
Above	Rs. 5,00,000/-	Rs. 45,000/- plus 3.5 per cent.
and upto	Rs. 20,00,000/-	of the claim amount over and
		above Rs. 5,00,000/-
Above	Rs.	Rs. 97,500/- plus 3 per cent.
20,00,000/-	and	of the claim amount over and
upto	Rs.	above Rs. 20,00,000/-
1,00,00,000/-		
Above	Rs.	Rs. 3,37,500/- plus 1 per cent.
1,00,00,000/-	and	of the claim amount over and
upto	Rs.	above Rs. 1,00,00,000/-
10,00,00,000/-		
Above	Rs.	Rs. 12,37,500/- plus 0.75 per cent
10,00,00,000/-	and	of the claim amount over
upto	Rs.	and above Rs. 1,00,00,000/-
20,00,00,000/-		
Above	Rs.	Rs. 19,87,500/- plus 0.5 per cent
20,00,00,000/-		of the claim amount over
		and above Rs. 20,00,00,000/-
		with a ceiling of Rs. 30,00,000/-

**Note:**— In the event, the arbitral tribunal is a sole arbitrator, he shall be entitled to an additional amount of twenty-five per cent. on the fee payable as per the table set out above.

### **THE FIFTH SCHEDULE**

*[See section 12 (1)(b)]*

The following grounds give rise to justifiable doubts as to the independence or impartiality of arbitrators :

#### **Arbitrator's relationship with the parties or counsel**

1. The arbitrator is an employee, consultant, advisor or has any other past or present business relationship with a party.
2. The arbitrator currently represents or advises one of the parties or an affiliate of one of the parties.
3. The arbitrator currently represents the lawyer or law firm acting as counsel for one of the parties.
4. The arbitrator is a lawyer in the same law firm which is representing one of the parties.
5. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties if the affiliate is directly involved in the matters in dispute in the arbitration.
6. The arbitrator's law firm had a previous but terminated involvement in the case without the arbitrator being involved himself or herself.
7. The arbitrator's law firm currently has a significant commercial relationship with one of the parties or an affiliate of one of the parties.
8. The arbitrator regularly advises the appointing party or an affiliate of the appointing party even though neither the arbitrator nor his or her firm derives a significant financial income therefrom.

9. The arbitrator has a close family relationship with one of the parties and in the case of companies with the persons in the management and controlling the company.

10. A close family member of the arbitrator has a significant financial interest in one of the parties or an affiliate of one of the parties.

11. The arbitrator is a legal representative of an entity that is a party in the arbitration.

12. The arbitrator is a manager, director or part of the management, or has a similar controlling influence in one of the parties.

13. The arbitrator has a significant financial interest in one of the parties or the outcome of the case.

14. The arbitrator regularly advises the appointing party or an affiliate of the appointing party, and the arbitrator or his or her firm derives a significant financial income therefrom.

#### **Relationship of the arbitrator to the dispute**

15. The arbitrator has given legal advice or provided an expert opinion on the dispute to a party or an affiliate of one of the parties.

16. The arbitrator has previous involvement in the case.

#### **Arbitrator's direct or indirect interest in the dispute**

17. The arbitrator holds shares, either directly or indirectly, in one of the parties or an affiliate of one of the parties that is privately held.

18. A close family member of the arbitrator has a significant financial interest in the outcome of the dispute.

19. The arbitrator or a close family member of the arbitrator has a close relationship with a third party who may be liable to recourse on the part of the unsuccessful party in the dispute.

**Previous services for one of the parties or other involvement in the case**

20. The arbitrator has within the past three years served as counsel for one of the parties or an affiliate of one of the parties or has previously advised or been consulted by the party or an affiliate of the party making the appointment in an unrelated matter, but the arbitrator and the party or the affiliate of the party have no ongoing relationship.

21. The arbitrator has within the past three years served as counsel against one of the parties or an affiliate of one of the parties in an unrelated matter.

22. The arbitrator has within the past three years been appointed as arbitrator on two or more occasions by one of the parties or an affiliate of one of the parties.

23. The arbitrator's law firm has within the past three years acted for one of the parties or an affiliate of one of the parties in an unrelated matter without the involvement of the arbitrator.

24. The arbitrator currently serves, or has served within the past three years, as arbitrator in an-other arbitration on a related issue involving one of the parties or an affiliate of one of the parties.

**Relationship between an arbitrator and another arbitrator or counsel.**

25. The arbitrator and another arbitrator are lawyers in the same law firm.

26. The arbitrator was within the past three years a partner of, or otherwise affiliated with, another arbitrator or any of

the counsel in the same arbitration.

27. A lawyer in the arbitrator's law firm is an arbitrator in another dispute involving the same party or parties or an affiliate of one of the parties.

28. A close family member of the arbitrator is a partner or employee of the law firm representing one of the parties, but is not assisting with the dispute.

29. The arbitrator has within the past three years received more than three appointments by the same counsel or the same law firm.

**Relationship between arbitrator and party and others involved in the arbitration**

30. The arbitrator's law firm is currently acting adverse to one of the parties or an affiliate of one of the parties.

31. The arbitrator had been associated within the past three years with a party or an affiliate of one of the parties in a professional capacity, such as a former employee or partner.

**Other circumstances**

32. The arbitrator holds shares, either directly or indirectly, which by reason of number or de-nomination constitute a material holding in one of the parties or an affiliate of one of the parties that is publicly listed.

33. The arbitrator holds a position in an arbitration institution with appointing authority over the dispute.

34. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties, where the affiliate is not directly involved in the matters in dispute in the arbitration.

*Explanation 1.*— The term "close family member" refers to a

spouse, sibling, child, parent or life partner.

*Explanation 2.*—The term “affiliate” encompasses all companies in one group of companies including the parent company.

*Explanation 3.*— For the removal of doubts, it is clarified that it may be the practice in certain specific kinds of arbitration, such as maritime or commodities arbitration, to draw arbitrators from a small, specialised pool. If in such fields it is the custom and practice for parties frequently to appoint the same arbitrator in different cases, this is a relevant fact to be taken into account while applying the rules set out above.

### THE SIXTH SCHEDULE

[See section 12 (1)(b)]

NAME:

CONTACT DETAILS:

PRIOR EXPERIENCE (INCLUDING EXPERIENCE WITH ARBITRATIONS):

NUMBER OF ON-GOING ARBITRATIONS:

CIRCUMSTANCES DISCLOSING ANY PAST OR PRESENT RELATIONSHIP WITH OR INTEREST IN ANY OF THE PARTIES OR IN RELATION TO THE SUBJECT MATTER IN DISPUTE, WHETHER FINANCIAL, BUSINESS, PROFESSIONAL OR OTHER KIND, WHICH IS LIKELY TO GIVE RISE TO JUSTIFIABLE DOUBTS AS TO YOUR INDEPENDENCE OR IMPARTIALITY (LIST OUT):

CIRCUMSTANCES WHICH ARE LIKELY TO AFFECT YOUR ABILITY TO DEVOTE SUFFICIENT TIME TO THE ARBITRATION AND IN PARTICULAR YOUR ABILITY TO FINISH THE ENTIRE ARBITRATION WITHIN TWENTY-FOUR MONTHS AND RENDER AN AWARD WITHIN THREE MONTHS (LIST OUT): .?

**THE SEVENTH SCHEDULE**

*[See section 12(5)]*

**Arbitrator's relationship with the parties or counsel**

1. The arbitrator is an employee, consultant, advisor or has any other past or present business relationship with a party.
2. The arbitrator currently represents or advises one of the parties or an affiliate of one of the parties.
3. The arbitrator currently represents the lawyer or law firm acting as counsel for one of the parties.
4. The arbitrator is a lawyer in the same law firm which is representing one of the parties.
5. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties if the affiliate is directly involved in the matters in dispute in the arbitration.
6. The arbitrator's law firm had a previous but terminated involvement in the case without the arbitrator being involved himself or herself.
7. The arbitrator's law firm currently has a significant commercial relationship with one of the parties or an affiliate of one of the parties.
8. The arbitrator regularly advises the appointing party or an affiliate of the appointing party even though neither the arbitrator nor his or her firm derives a significant financial income therefrom.
9. The arbitrator has a close family relationship with one of the parties and in the case of companies with the persons in the management and controlling the company.
10. A close family member of the arbitrator has a significant financial interest in one of the parties or an affiliate of one of

the parties.

11. The arbitrator is a legal representative of an entity that is a party in the arbitration.

12. The arbitrator is a manager, director or part of the management, or has a similar controlling influence in one of the parties.

13. The arbitrator has a significant financial interest in one of the parties or the outcome of the case.

14. The arbitrator regularly advises the appointing party or an affiliate of the appointing party, and the arbitrator or his or her firm derives a significant financial income therefrom.

#### **Relationship of the arbitrator to the dispute**

15. The arbitrator has given legal advice or provided an expert opinion on the dispute to a party or an affiliate of one of the parties.

16. The arbitrator has previous involvement in the case.

#### **Arbitrator's direct or indirect interest in the dispute**

17. The arbitrator holds shares, either directly or indirectly, in one of the parties or an affiliate of one of the parties that is privately held.

18. A close family member of the arbitrator has a significant financial interest in the outcome of the dispute.

19. The arbitrator or a close family member of the arbitrator has a close relationship with a third party who may be liable to recourse on the part of the unsuccessful party in the dispute.

*Explanation 1.*— The term, "close family member" refers to a spouse, sibling, child, parent or life partner.

*Explanation 2.*— The term “affiliate” encompasses all companies in one group of companies including the parent company.

*Explanation 3.*— For the removal of doubts, it is clarified that it may be the practice in certain specific kinds of arbitration, such as maritime or commodities arbitration, to draw arbitrators from a small, specialised pool. If in such fields it is the custom and practice for parties frequently to appoint the same arbitrator in different cases, this is a relevant fact to be taken into account while applying the rules set out above.’.

PRANAB MUKHERJEE,  
*President.*

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