ORDINANCES

- 1. The Securities and Exchange Board of India (Amendment) Ordinance, 2013
- 2. The Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary And Assembly Constituencies Ordinance, 2013
- 3. The Criminal Law (Amendment) Ordinance, 2013
- 4. The Indian Medical Council (Amendment) Ordinance, 2013
- 5. The Securities And Exchange Board of India (Amendment) Second Ordinance, 2013
- 6. The Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary And Assembly Constituencies (Second) Ordinance, 2013
- 7. The National Food Security Ordinance, 2013
- 8. The Securities Laws (Amendment) Ordinance, 2013
- 9. The Securities Laws (Amendment) Second Ordinance, 2013
- 10. The Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary And Assembly Constituencies (Third) Ordinance, 2013
- 11. The Indian Medical Council (Amendment) Second Ordinance, 2013

सं• ही॰ एल (एन)04/0007/2003-REGISTERED NO. D1-(N)04/0007/2003-13 а The Gazette of India असाधारण EXTRAORDINARY भाग 👖 ---- खण्ह 1 PART II --- Section 1 प्राधिकार से प्रकाशित

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MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 21st January, 2013/Magha 1, 1934 (Saka)

THE SECURITIES AND EXCHANGE BOARD OF INDIA (AMENDMENT) ORDINANCE, 2013

No. 1 of 2013

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

An Ordinance further to amend the Securities and Exchange Board of India Act, 1992.

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 Securities and Exchange Board of India Short title and (Amendment) Ordinance, 2013.

commencement.

(2) It shall come into force at once.

Amendment of section 15M. 2. In section 15M of the Securities and Exchange Board of India Act, 1992, for 15 of 1992 sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he —

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.".

PRANAB MUKHERJEE, President.

N.L. MEENA, Additional Secy. to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 30th January, 2013/Magha 10, 1934 (Saka)

THE READJUSTMENT OF REPRESENTATION OF SCHEDULED CASTES AND SCHEDULED TRIBES IN PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES ORDINANCE, 2013

No. 2 of 2013

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

An Ordinance to provide for the readjustment of seats in the House of the People and in the Legislative Assemblies of the States and for the readjustment of territorial constituencies therefor, insofar as such readjustment is necessitated by the inclusion in or exclusion from the lists of the Scheduled Castes and the Scheduled Tribes and for matters connected therewith or incidental thereto.

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

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

1. (1) This Ordinance may be called the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance, 2013.

(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,---

Definitions.

Short title and

commencement

(a) "Census Commissioner" means the Census Commissioner appointed under sub-section (1) of section 4 of the Census Act, 1948;

37 of 1948.

[PART I]-

(b) "Commission" means the Election Commission referred to in article 324 of the Constitution;

(c) "Delimitation Act" means the Delimitation Act, 2002;

33 of 2002

43 of 1950

(d) "Delimitation Order" means the Delimitation of Parliamentary and Assembly Constituencies Order, 2008;

(e) "Last census" means the census held in India in 2001;

(1) "Scheduled Castes Orders" means the Constitution (Scheduled Castes) Order, 1950, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, the Constitution (Dadra and Nagar Haveli) Sheduled Castes Order, 1962 and the Constitution (Puducherry) Scheduled Castes Order 1964, made by the President under article 341 of the Constitution;

(g) "Scheduled Tribes Orders" means the Constitution (Scheduled Tribes) Order, 1950, the Constitution (Scheduled Tribes) (Union Territories) Order, 1951, the Constitution (Scheduled Tribes) (Uttar Pradesh) Order, 1967 and the Constitution (Sikkim) Scheduled Tribes Order, 1978, made by the President under article 342 of the Constitution;

(h) "State" includes a Union territory having a Legislative Assembly but does not include the State of Jammu and Kashmir.

3. (1) As soon as may be after the commencement of this Ordinance, the population as at the last census, of the Scheduled Castes or, as the case may be, of the Scheduled Tribes, in each State shall be ascertained or estimated by the Census Commissioner.

(2) Where by reason of the amendments made in the Scheduled Castes Orders and the Scheduled Tribes Orders after the last census and upto 31st May, 2012, the population of the Scheduled Castes or the Scheduled Tribes as at the last census is varied in a State, the Census Commissioner shall ascertain or estimate as on the 1st day of March, 2001, the population of the Scheduled Castes or the Scheduled Tribes so varied, and also ascertain or estimate the proportion of such population of the Scheduled Castes or the Scheduled Tribes, respectively, to the total population of the State in the last census.

(3) The population figures ascertained or estimated under sub-section (2) shall be notified by the Census Commissioner in the Gazette of India.

(4) The population figures so notified shall be taken to be the relevant population figures as ascertained or estimated at the last census and shall supersede any figures previously published; and the figures so notified shall be final and shall not be called in question in any court.

4. (1) After the population figures have been notified for any State under section 3, the Commission shall make such amendments as may be necessary in the Delimitation Order, having regard to the provisions of articles \$1, 170, 330 and 332 of the Constitution, of section \$ of the Delimitation Act, and of this Ordinance, for the purpose of giving proper representation to the Scheduled Castes or, as the case may be, to the Scheduled Tribes of that State, and the First Schedule and the Second Schedule to the Representation of the People Act, 1950 shall be deemed to have been amended accordingly.

(2) In making any amendments in the Delimitation Order under sub-section (1), the Commission shall, as far as may be necessary, have regard to the provisions of clauses (c) and (d) of sub-section (1) of section 9 of the Delimitation Act.

(3) The Commission shall-

(a) publish its proposals for the amendments in the Gazette of India and the Official Gazette of the State concerned and also in such other manner as it thinks fit;

(b) specify a date on or after which such proposals will be further considered by it;

(c) consider all objections and suggestions which may have been received by it before the date so specified and for such consideration hold one or more public sittings at such place or places in each State as it thinks fit; and

Estimation of population of Scheduled Castes and Scheduled Tribes.

Readjustment of territorial constituencies by Commission. SEC. 1]

5 of 1908.

2 of 1974.

THE GAZETTE OF INDIA EXTRAORDINARY

(d) thereafter make necessary amendments in the Delimitation Order.

5. (1) In the discharge of its functions under this Ordinance, the Commission shall determine its own procedure and shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

Procedure and powers of Commission.

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the production of any document; and

(c) requisitioning any public record from any court or office.

(2) The Commission shall have the power to require any person to furnish any information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, any matter under the consideration of the Commission.

(3) The Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

Explanation— For the purposes of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Commission shall be the limits of the territory of India.

6. (I) The Commission shall cause the amendments made by it in the Delimitation Order to be published in the Gazette of India and in the Official Gazettes of the States concerned.

(2) Upon publication in the Gazette of India, every such amendment shall have the force of law and shall not be called in question in any court.

(3) As soon as may be after such publication in the Gazette of India, every such amendment shall be laid before the House of the People and the Legislative Assembly of the State concerned.

(4) Subject to the provisions of sub-section (5), the readjustment of seats and territorial constituencies in the House of the People or in the Legislative Assembly of a State necessitated by any amendments made by the Commission in the Delimitation Order and provided for in that Order as so amended shall apply in relation to every election to the House or, as the case may be, to the Assembly, held after the publication of such amendments in the Gazette of India and shall so apply in supersession of the provisions relating to representation contained in the Representation of the People Act, 1950.

(5) Nothing contained in the foregoing sub-sections shall affect the representation in the House of the People or in the Legislative Assembly of a State until the disolution of the House or of the Assembly, as the case may be, existing on the date of publication of the amendments made by the Commission in the Gazette of India.

7. (1) The Commission may, from time to time, by notification in the Gazette of India and in the Official Gazette of the State concerned,—

(a) correct any printing mistake in the Delimitation Order as amended under this Ordinance, or any error occurring therein from any inadvertent slip or ommission; and

(b) where the boundaries or the name of any district or any territorial division mentioned in the said Order are or is altered, make such amendments as appear to it to be necessary or expendient for bringing the Order up-to-date.

(2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.

8. All things done, and all steps taken, before the commencement of this Ordinance by the Census Commissioner for the ascertainment or estimation of population of the Scheduled Castes and the Scheduled Tribes, or by the Commission for the purpose of readjustment of seats and territorial constituencies shall, insofar as they are in conformity with the provisions of this Ordinance, be deemed to have been done or taken under these provisions as if such provisions were in force at the time such things were done or such steps were taken.

Publication of amendments and their dates of operation.

43 of 1950.

Certain other powers of Commission.

Validation of acts done previous to the commencement of Ordinance,

Power to remove difficulties. 9. (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance, as appear to it to be necessary or expedient for removing the difficulty.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of Parliament.

PRANAB MUKHERJEE, President.

P.K. MALHOTRA, Secy. to the Govt. of India.

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 3rd February, 2013/Magha 14, 1934 (Saka)

THE CRIMINAL LAW (AMENDMENT) ORDINANCE, 2013 No. 3 of 2013

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

An Ordinance further to amend the India Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872.

WHEREAS a Bill further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 was introduced in the House of the People and referred to the Department related Parliamentary Standing Committee on Home Affairs 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 to give effect to the provisions of the said Bill with certain modifications;

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 Criminal Law (Amendment) Ordinance, 2013. Short tule and commencement

(2) It shall come into force at once.

CHAPTER !!

AMENDMENTS TO THE INDIAN PENAL CODE

45 of 1860

2. In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 100, in the clause *Secondly*, after the words "grievous hurt", the words "including the offence of grievous hurt punishable under section 326A" shall be inserted.

3. After section 166 of the Penal Code, the following section shall be inserted, namely:---

Public servant disobeying direction under law

Amendment of section 100

Insertion of new

section 166A.

"166A. Whoever, being a public servant,---

(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or

(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or

(c) fails to record any information given to him under subsection (1) of section 154 of the Code of Criminal Procedure, 1973 and in particular in relation to cognizable offence punishable under section 354, section 354A, section 354B, section 354C, sub-section (2) of section 354D, section 376, section 376A, section 376B, section 376C, section 376D or s ection 376E,

2 of 1974.

shall be punished with imprisonment for a term which may extend to one year or with fine or with both.".

4. After section 326 of the Penal Code, the following sections shall be inserted, namely:---

⁴326A. Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life and with fine which may extend to ten lakh rupees:

Provided that any fine imposed under this section shall be given to the person on whom acid was thrown or to whom acid was administered.

Insertion of new sections 326A and 326B.

Voluntarily causing grievous hart by use of acid, etc.

326B. Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

Explanation 1.- For the purposes of section 326A and this section. "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

Explanation 2.— "Permanent, or partial damage" includes deformity, or maining, or burning, or disfiguring, or disabling any part or parts of the body of a person.

Explanation 3.— For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.'.

5. In section 354 of the Penal Code, for the words "shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both", the words "shall be punished with imprisonment of either description for a term of one year which may extend to five years and shall also be liable to fine" shall be substituted.

6. After section 354 of the Penal Code, the following sections shall be inserted, namely:----

'354A. (1) The following acts or behaviour shall constitute the offence of sexual harassment-

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) making sexually coloured remarks; or

(iv) forcibly showing pornography; or

(v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

(2) Any person who commits the offence specified in clause (i) or clause (ii) of sub-section (1) shall be punished with rigorous imprisonment which may extend to five years, or with fine, or with both.

Insertion of new sections 354A 354H, 354C and 354D Sexual

harassment and

punishment for sexual harassment

Amendment of section 354

(3) Any person who commits the offence specified in clause (*iii*) or clause (*iv*) or clause (*v*) of sub-section (1) shall be punishable with imprisonment of either description that may extend to one year, or with fine, or with both.

354B. Whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked in any public place, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and with fine.

354C. Whoever watches, or captures the image of, a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Explanation 1.— For the puppeses of this section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim's genitals, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2.— Where the victim consents to the capture of images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

354D. (1) Whoever follows a person and contacts, or attempts to contact such person to foster personal interaction repeatedly, despite a clear indication of disinterest by such person, or whoever monitors the use by a person of the internet, email or any other form of electronic communication, or watches or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person, commits the offence of stalking:

Provided that the course of conduct will not amount to stalking if the person who pursued it shows—

Assault or use of criminal force to woman with intent to disrobe.

Voycurism.

Salking,

(*ii*) that it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) that in the particular circumstances the pursuit of the course of conduct was reasonable.

(2) Whoever commits the offence of stalking shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine.'.

7. For section 370 of the Penal Code, the following sections shall be substituted, namely:~

'370. (1) Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—

First .--- using threats, or

Secondly.— using force, or any other form of coercion, or

Thirdly .--- by abduction, or

Fourthly .---- by practising fraud, or deception, or

Fifthly.— by abuse of power, or

Sixthly.— by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received,

commits the offence of trafficking.

Explanation 1.— The expression "exploitation" shall include, prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the forced removal of organs.

Explanation 2.— The consent of the victim is immaterial in a determination of the offence of trafficking.

(2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine. Substitution of new sections 370 and 370A for section 370 Trafficking of person. (3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

(4) Where the offence involves the trafficking of a minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life.

(5) Where the offence involves the trafficking of more than one minor at the same time, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years but which may extend to imprisonment for life.

(6) When a public servant including police officer is involved in the trafficking of a minor then such public servant shall be punished with imprisonment for life, which shall mean the remainder of that person's natural life.

(7) If a person is convicted of the offence of trafficking of minors, on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life.

370A. (1) Whoever, despite knowing, or having' reason to believe that a child has been trafficked, employs such child in any form of labour, shall be punished with rigorous imprisonment for a term which shall not be less than five years but which may extend to seven years, and with fine.

(2) Whoever, despite knowing or having reason to believe that an adult has been trafficked, employs such adult for labour, shall be punished with rigorous imprisonment for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.".

8. For sections 375, 376, 376A, 376B, 376C and 376D of the Penal Code, the following sections shall be substituted, namely:—

'375. A person is said to commit "sexual assault" if that person-

(a) penetrates his penis, to any extent, into the vagina, mouth urethra.or. anus of another person or makes the person to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of another

Substitution of new sections for sections 375, 376, 376A, 376B, 376C and 376D.

Employing of a

trafficked person.

Sexual assault

person or makes the person to do so with him or any other person; or

(c) manipulates any part of the body of another person so as to cause penetration into the vagina, urethra, anus or any part of body of such person or makes the person to do so with him or any other person; or

(d) applies his mouth to the penis, vagina, anus, urethra of another person or makes such person to do so with him or any other person;

(e) touches the vagina, penis, anus or breast of the person or makes the person touch the vagina, penis, anus or breast of that person or any other person,

except where such penetration or touching is carried out for proper hygienic or medical purposes under the circumstances falling under any of the following seven descriptions:—

First.— Against the other person's will.

Secondly. --- Without the other person's consent.

Thirdly. — With the other person's consent when such consent has been obtained by putting such other person or any person in whom such other person is interested, in fear of death or of hurt.

Fourthly. — When the person assaulted is a female, with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes to be lawfully married.

Fifthly.— With the consent of the other person when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by that person personally or through another of any stupefying or unwholesome substance, the other person is unable to understand the nature and consequences of that action to which such other person gives consent.

Sixthly. — With or without the other person's consent, when such other person is under eighteen years of age.

Seventhly. — When the person is unable to communicate consent.

Explanation 1.— Penetration to any extent is "penetration" for the purposes of this section.

Explanation 2.— For the purposes of this section, "vagina" shall also include labia majora.

Explanation 3.— Consent means an unequivocal voluntary agreement when the person by words, gestures or any form of non-verbal communication, communicates willingness to participate in the specific act:

Provided that, a person who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception.-- Sexual intercourse or sexual acts by a man with his own wife, the wife not being under sixteen years of age, is not sexual assault.

376. (1) Whoever, except in the cases provided for by sub-section (2), commits sexual assault, shall be punished with rigorous imprisonment of either description'for a term which shall not be less than seven years but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Whoever,—

(a) being a police officer, commits sexual assault -

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a person in such police officer's custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits sexual assault on a person in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the anned forces is in the area by virtue of deployment by the Central or a State Government, commits sexual assault; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits sexual assault on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits sexual assault on a person in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards, the person assaulted, commits sexual assault on such person; or

Punishment for sexual assault

(g) commits sexual assault on a woman knowing her to be pregnant; or

(h) commits sexual assault on a person when such person is under eighteen years of age; or

(i) commits sexual assault, where the person assaulted is incapable of giving consent; or

(*j*) being in a position of economic or social dominance, commits sexual assault on a person under such dominance; or

(k) commits sexual assault on a person suffering from mental or physical disability; or

(1) while committing sexual assault causes grievous bodily harm or maims or disfigures or endangers the life of a person; or

(m) commits persistent sexual assault,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

Explanation 1.- For the purposes of this sub-section,---

(a) "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children;

(b) "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;

(d) "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any Act for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government.

Explanation 2.— Where a person is subjected to sexual assault by one or more persons in a group of persons acting in furtherance of their common intention, each of the persons in the group shall be deemed to have committed sexual assault within the meaning of this sub-section.

5 of 1861

Punishment for causing death or resulting in persistent vegetative state of the victim.

Sexual assault by husband upon his wife during separation.

Sexual intercourse by a person in authority 376A. Whoever, commits an offence punishable under subsection (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean the remainder of that person's natural life, or with death.

376B. Whoever commits sexual assault on his own wife, who is living separately under a decree of separation or under any custom or usage, without her consent, shall be punished with imprisonment of either description, for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

376C. Whoever,---

(a) being in a position of authority or in a fiduciary relationship; or

(b) a public servant; or

(c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or

(d) being on the management of a hospital or being on the staff of a hospital,

and abuses such position or fiduciary relationship to induce or seduce any person either in the first mentioned person's custody or under the first mentioned person's charge or present in the premises and has sexual intercourse with that person, such sexual intercourse not amounting to the offence of sexual assault, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years but which may extend to ten years, and shall also be liable to fine.

Explanation 1.— In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (c) of section 375.

Explanation 2. — For the purposes of this section, *Explanations* 1 and 2 to section 375 shall also be applicable.

Explanation 3.— "Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates. Explanation 4.— The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in Explanation 1 to sub-section (2) of section 376.

376D. Where a person is sexually assaulted by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of sexual assault, regardless of gender and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life and shall pay compensation to the victim which shall be reasonable to meet the medical expenses and rehabilitation of the victim.

Explanation.— For the purposes of this section, imprisonment for life shall mean imprisonment for the remainder of that person's natural life.

376E. Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376C or section 376D and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life, which shall mean the remainder of that person's natural life or with death.'.

9. In section 509 of the Penal Code, for the words "shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both", the words "shall be punished with simple imprisonment for a term which may extend to three years and shall also be liable to fine" shall be substituted.

CHAPTER III

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973.

10. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 54A, the following proviso shall be inserted, namely:—

"Provided that, if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that the person is com fortable with:

Provided further, that if the person identifying the person arrested is mentally or physically disabled, the identification process may be videographed.".

is Amendment of section 54A

Punishment for topeat effenders.

Amendment of section 509

Sexual assault by gang

2 of 1974.

Amendment of section 154 11. In section 154 of the Code of Criminal Procedure, in sub-section (1), the following provisos shall be inserted, namely:---

"Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 375, section 376, section 376A, section 376B, section 376C, section 376D, section 376E and section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, as far as possible, by a woman police officer and such woman shall be provided legal assistance and also the assistance of a healthcare worker or women's organisation or both:

Provided further that-

(a) in the event that the person against whom an offence under s ection 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code is alleged to have been committed or attempted is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of a special educator or an interpreter, as the case may be;

(b) the recording of such information may be videographed.

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible."

12. In section 160 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words "under the age of fifteen years or woman", the words "under the age of eighteen years or above the age of sixty-five years or a woman or a physically or mentally disabled person" shall be substituted.

13. In section 161 of the Code of Criminal Procedure, in sub-section (3), after the proviso, the following proviso shall be inserted, namely:---

"Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 375, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, as far as possible, by a woman police officer.".

45 of 1860.

Amendment of section 160.

Amendment of section 161. 45 of 1860.

45 of 1860.

14. In section 164 of the Code of Criminal Procedure, after sub-section Amendment of section 164 (5), the following sub-section shall be inserted, namely:—

"(5A) (a) In cases punishable under section 354, section 354A, section 354B, sub-section (2) of section 354C, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:

Provided that if the person making the statement is temporarily or permanently physically or mentally disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

Provided further that if the person making the statement is temporarily or permanently physically or mentally disabled, the statement made by the person, with the assistance of an interpreter or special educator, may be videographed;

(b) a statement recorded under clause (a) of a person who is temporarily or permanently physically or mentally disabled shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial.

15. After section 198A of the Code of Criminal Procedure, the following section shall be inserted, namely:----

section 376B of the Indian Penal Code where the persons are in a

"198B. No Court shall take cognizance of an offence under Cognizance of

marital relationship, except upon *prima facie* satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the accused husband.".

16. In section 273 of the Code of Criminal Procedure, before the *Explanation*, the following proviso shall be inserted, namely:---

"Provided that where the evidence of a person below the age of eighteen years who is alleged to have been subjected to sexual assault or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such person is not confronted by the accused while at the same time ensuring the right of crossexamination of the accused.".

17. In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters "trial of rape or an offence under

Insertion of new section 198B

offence

Amendment of section 273

Amendment of section 327

1 of 1872.

45 of 1860.

45 of 1860.

section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code", the words, figures and letters "trial of sexual assault or an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code" shall be substituted.

Amendment of First Schedule 18. In the First Schedule to the Code of Criminal Procedure, under the heading "1.-OFFENCES UNDER THE INDIAN PENAL CODE",---

(a) after the entries relating to section 166, the following entries shall be inserted, namely:---

1	2	3	4	5	6
"166A	Public servant disobeying direction under law	Imprisonment for one year or fine or with both	Non- 'cognizable	Bailable	Magistrate of the first class";

(b) after the entries relating to section 326, the following entries shall be inserted, namely:---

1	2	3	4	5	6
"326A	Voluntarily causing grievous hurt by use of acid, etc.	Imprisonment for not less than ten years but which may extend to imprisonment for life and fine of 10 lakh rupees.	Cognizable	Non- bailable	Court of Session.
326B	Voluntarily throwing or attempting to throw acid.	Imprisonment for five years but which may extend to seven years and fine.	Cognizable	Non- bailable	Court of Session.".

(c) for the entries relating to section 354, the following entries shall be substituted, namely:---

1	2	3	4	5	6
"354	Assault or use of criminal force to woman with intent to outrage her modesty.	Imprisonment of 1 year which may extend to 5 years, and with fine.	Cognizable	Non- bailable	Any Magistrate.

Sec. 1]

354A	(1) Sexual harassment of the nature of unwelcome physical contact and advances or a demand or request for sexual favours.	Imprisonment which may extend to 5 years or with fine or with both.	Cognizable	Non- baiiable	Any Magistrate.
	(2) Sexual harassment of the nature of making sexually coloured remark or showing pornography or any other unwelcome physical, verbal or non-verbal conduct of sexual nature.	Imprisonment which may extend to 1 year or with fine or with both.	Non- cognizable	Bailable	Any Magistrate.
354B	Assault or use of criminal force to woman with intent to disrobe.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non- bailable	Any Magistrate.
354C	Voyeurism.	Imprisonment of not less than 1 year but which may extend to 3 years and with fine for first conviction.	Non- cognizable	Bailable	Any Magistrate.
		Imprisonment of not less than 3 year but which may extend to 7 years and with fine for second or subsequent conviction.	Cognizable	Non- bailable	Any Magistrate.
354D	Stalking.	Imprisonment of not less than 1 year but which may extend to 3 years and with fine.	Cognizable	Non- bailable	Any Magistrate,".

1	2	3	4	5	6
"370	(1)Trafficking of person.	Imprisonment of not less than 7 years but which may extend to 10 years and with fine.	Cognizable	Non- bailable	Court of Session.
-	(2) Trafficking of more than one person.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non- bailable	Court of Session.
	(3) Trafficking of a minor.	Imprisonment of not less than 10 years but which may extend to imprisonment for hife.	Cognizable	Non- bailable	Court of Session.
	(4) Trafficking of more than one minor.	Imprisonment of not less than 14 years but which may extend to imprisonment for life.	Cognizable	Non- bailable	Court of Session.
	(5) Public servant or a police officer involved in trafficking of minor.	Imprisonment for life which shall mean the remainder of that person's natural life.	Cognizable	Non- bailable	Court of Session.
	(6) Person convicted of offence of trafficking of minor on more than one occasion.	Imprisonment for life which shall mean the remainder of that person's natural life.	Cognizable	Non- bailable	Court of Session.
370A	(1) Employing of a trafficked child.	Imprisonment of not less than 5 years but which may extend to 7 years and with fine.	Cognizable	Non- bailable	Court of Session.
	(2) Employing of a trafficked adult person.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non- bailable	Court of Session.".

(d) for the entries relating to sections 370, the following entries shall be substituted, namely:----

l	2	3	4	5	6
376	(1) Sexual assault.	Rigorous imprisonment of not less than 7 years but which may extend to imprisonment for life and with fine.	Cognizable	Non- bailable	Court of Session.
	(2) Sexual assault by a police officer or a public servant or Member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and sexual assault committed by a person in a position of trust or authority towards the person	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	•Cognizable	Non- bailable	Court of Session.

THE GAZETTE OF INDIA EXTRAORDINARY

[PART II--

			· · ·		
	by a near relative of the person assaulted.				
376A	Person committing an offence of sexual assault and inflicting injury which causes death or causes the person to be in a persistent vegetative state.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life or with death.	Cognizable	Non- bailable	Court of Session.
376B	Sexual assault by the husband upon his wife during separation.	Imprisonment for not less than 2 years but which may extend to 7 years and with fine.	Cognizable (but only on the complaint of the victim)	Non- bailable	Court of Session.
376C	Sexual intercourse by a person in authority.	Rigorous imprisonment for not less than 5 years but which may extend to 10 years and with fine.	Cognizable	Non- bailable	Court of Session.
376D	Sexual assault by gang.	Rigorous imprisonment for not less than 20 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and compensation to the victim.	Cognizable	Non- bailable	Court of Session.

THE GAZETTE OF INDIA EXTRAORDINARY

376E	Repeat offenders.	Imprisonment for life which shall mean the remainder of that person's natural life or	Cognizable	Non- baiiable	Court of Session.".
		with death.			

(f) entry relating to section 509, in column 3, for the words "Simple imprisonment for one year, or fine, or both,", the words "Simple imprisonment for 3 years and with fine" shall be substituted.

CHAPTER IV

AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872

I of 1872.

45 of 1860.

45 of 1860.

19. After section 53 of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), the following section shall be inserted, namely:----

45 of 1860.
"53A. In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, s ection 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.".

20. For section 114A of the Evidence Act, the following section shall be substituted, namely:---

'114A. In a prosecution for sexual assault under clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), clause (h), clause (i), clause (j), clause (k), clause (l) or clause (m) of sub-section (2) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the other person alleged to have been sexually assaulted and such other person states in that person's evidence before the court that such person did not consent, the court shall presume that such person did not consent.

Explanation.— In this section "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (c) of section 375 of the Indian Penal Code.".

21. For section 119 of the Evidence Act, the following section shall be substituted, namely:---

"119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or

Insertion of new section 53A

Evidence of character or previous sexual experience not relevant in certain cases.

Substitution of new section for section 114A.

Presumption as to absence of consent in certain prosecution for sexual assault.

Substitution of new section for section 119. Witness unable to communicate

verbally

by signs; but such writing must be written and the signs made in open Court, evidence so given shall be deemed to be oral evidence:

Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of a special educator or interpreter in recording the statement, and such statement may be videographed.".

22. In section 146 of the Evidence Act, for the proviso, the following proviso shall be substituted, namely:---

"Provided that in a prosecution for an offence under sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent.".

PRANAB MUKHERJEE,

President.

45 of 1860

P. K. MALHOTRA, Secy. to the Govt. of India.

20

Amendment of section 146.

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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.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 21st May, 2013/Vaisakha 31, 1935 (Saka)

THE INDIAN MEDICAL COUNCIL (AMENDMENT) ORDINANCE, 2013

No. 4 of 2013

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

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

WHEREAS the Indian Medical Council (Amendment) Bill, 2013 further to amend the Indian Medical Council Act, 1956 was introduced in the Council of States on the 19th day of March, 2013 and is pending in that House;

AND WHEREAS Parliament is not in session and the President is satisfied that circumastances exist which render it necessary for him to take immediate action to give effect to the provisions of the said Bill with certain modifications;

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

1. (1) This Ordinance may be called the Indian Medical Council (Amendment) Ordinance, 2013.

(2) It shall be deemed to have come into force on the 15th day of May, 2013.

2. In the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), for the long title, the following long title shall be substituted, namely:---

"An Act to provide for the constitution of the Medical Council of India and for the determination, co-ordination, maintenance and regulation of standards of medical Short title and commencement

Amendment of long title.

102 of 1956

education, the practice of medicine, maintenance of Indian Medical Register and to make endeavour in making available doctors in all States and for matters connected therewith or incidental thereto.".

Amendment of section 3. In section 3 of the principal Act,—
 (a) in sub-section (1),—

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

"(*aa*) one member, to represent the Union territories by rotation, to be nominated by the Central Government;";

(ii) in clause (b), the following provisos shall be inserted, namely:-

"Provided that where there is a Health University in a State, that University shall elect, in such manner as may be provided by the rules made by the Central Government, one representative for every ten medical colleges affiliated to it to represent such medical colleges:

Provided further that a Health University with less than ten medical colleges affiliated to it, shall also be eligible to elect one representative to represent such medical colleges:

Provided also that such number of representatives shall be reviewed by the Central Government after every four years;";

(iii) clause (d) shall be omitted;

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

"Provided that no person shall hold office as the President or, as the case may be, the Vice-President for more than two terms.".

4. After section 3A of the principal Act, the following section shall be inserted, namely:---

"3AA. The Central Government shall, after the commencement of the Indian Medical Council (Amendment) Ordinance, 2013, reconstitute the Council, by notification in the Official Gazette, and publish the names of the members nominated or elected to the Council under sub-section (1) of section 3 within a period not exceeding one hundred and eighty days:

Provided that the Board of Governors constituted under sub-section (4) of section 3A shall continue to exercise the powers and perform the functions of the Council till the new Council is reconstituted or for such period not exceeding one hundred and eighty days, whichever is earlier."

5. In section 4 of the principal Act, in sub-section (1),-

(a) the words, brackets and letter "or clause (d)" shall be omitted;

(b) the words, brackets, letter and figures "and any rules so made may provide that pending the preparation of the Indian Medical Register in accordance with the provisions of this Act, the members referred in clause (d) of sub-section (1) of section 3 may be nominated by the Central Government instead of elected as provided therein." shall be omitted.

Amendment of section 7.

6. In section (7) of the principal Act,---

(a) in sub-section (1), for the words "five years", the words "four years" shall be substituted;

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

"(2) Subject to the provisions of the Act, a member, whether nominated or elected, shall hold office for a term of four years.";

Insertion of new section 3AA.

Reconstitution of Council.

Amendment of section 4.

(c) in sub-section (6), for the words "five years", the words "four years" shall be substituted.

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

Insertion of new section QΔ

3

"9A. (1) The Council shall, subject to the provisions of the Act and rules made thereunder, take measures to determine, coordinate and maintain the standards of medical education and practice in medicine, the Indian Medical Register and make endeavour in making available doctors in all States.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to in sub-section (1), may, inter alia, provide for all or any of the following matters, namely:-

(a) lay down the standards of professional ethics in the practice of medicine;

(b) grant or withdraw permission for establishment of medical college and course of study in medical education and ensure compliance of its terms and conditions for such permission;

(c) maintain the Indian Medical Register;

(d) render advice to the Central Government or the State Government on matters relating to the medical education and practice in medicine;

(e) facilitate medical education in the institutions situated outside the country;

(f) undertake and recommend to the Central Government or the State Government such measures as may be necessary to regulate medical education in or outside the country;

(g) organise seminars, symposiums and workshops in order to promote continuous medical education and practice in medicine; and

(h) perform such other functions as may be laid down in the rules made by the Central Government.".

8. In section 13 of the principal Act,-

(a) in sub-sections (2) and (3), for the words "a citizen of India", the words "a citizen of India or an overseas citizen of India" shall respectively be substituted;

(b) in sub-section (4A), for the words "a citizen of India", the words "a citizen of India or an overseas citizen of India" shall be substituted;

(c) after sub-section (5), the following Explanation shall be inserted, namely:-

'Explanation -For the purposes of this section, the expression "overseas citizen of India" shall have the meaning assigned to it in clause (ee) of sub-section (1) of section 2 of the Citizenship Act, 1955.

9. In section 14 of the principal Act, in the proviso to sub-section (1), the words "for the time being for the purposes of teaching, research or charitable work" shall be omitted.

10. In section 21 of the principal Act,----

(a) in sub-section (1), for the words "the names", the words "the names and biometric details" shall be substituted:

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

(2A) The Council shall, in addition to the Indian Medical Register referred to in sub-section (1), maintain the Medical Register in electronic form containing the particulars included in the Indian Medical Register.

57 of 1955

SEC. 1]

Amendment of section

Amendment

Amendment of section 21

of section 14

Functions of Council.

Explanation.—For the purpose of this sub-section, the expression, "electronic form" shall have the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.'.

21 of 2000.

11. After section 30 of the pricipal Act, the following section shall be inserted, namely:---

"30A. (1) The President, Vice-President or any member of the Council may, by notice in writing under his hand addressed to the Central Government, resign from his office:

Provided that the President, Vice-President or any member of the Council shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expirey of a period of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may remove from office the President, Vice-President, or any member of the Council, who—

(a) has been adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as such President, Vice-President, or other member; or

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

(d) has been convicted of an offence involving moral turpitude; or

(e) has acquired such financial or any other interest in any medical institution falling within the purview of the Council, which is likely to affect prejudicially the exercise of his functions as the President, the Vice-President, or a member; or

(f) is unable to perform or has made persistent defaults----

(i) in the performance of the duties imposed on him under this Act or has exceeded or abused his position; or

(*ii*) either wilfully or without sufficient cause neglects to comply with the directions issued by the Central Government under sections 33A and 33B;

(g) has been guilty of proved misbehaviour or his continuance in office would be detrimental in public interest;

(3) No person shall be removed from his office on the grounds specified in clause (e) or clause (f) or clause (g) of sub-section (2), unless he has been given a reasonable opportunity of being heard in the matter.".

12. In section 32 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

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

(a) the manner of electing the representative of the medical colleges under the first proviso to clause (b) of sub-section (1) of section 3;

(b) the manner of election of the Council under sub-section (1) of section 4;

Amendment of section 32.

Insertion of new section 30A.

Resignation, removal and suspension of President, Vice-President or members of Council. (c) such other functions of the Council under clause (h) sub-section (2) of section 9A as may be laid down by the Central Government;

(d) the conditions, the manner and payment of fees for filing an appeal before the Central Government under sub-section (2) of section 24;

(e) any other matter which is required to be, or may be, provided by rules or in respect of which provision is to be made by rules.".

13. After section 33 of the principal Act, the following sections shall be inserted, namely:---

"33A. (1) Without prejudice to the foregoing provisions of this Act, the Council shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

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

33B. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Council to make any regulation or to amend or revoke any regulations already made by it, within such period as the Central Government may specify in this behalf.

(2) If the Council fails or neglects to comply with such order within the specified period, the Central Government may make the regulations or amend or revoke the regulations made by the Council, as the case may be, in such manner as the Central Government thinks fit.

33C. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or both Houses agree that the rule and regulation should not be made, the rule and regulation shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.".

> PRANAB MUKHERJEE, President.

P.K. MALHOTRA, Secy. to the Govt. of India.

CORRIGENDUM

In the Finance Act, 2013 (17 of 2013), as published in the Gazette of India, Extraordinary, Part II, Section 1, Issue No. 21, dated 10th May, 2013, at page 34, in line 32, for "refered", read "referred".

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GMGIPMRND-956GI-22.5.2013

directions. Powers of Central Government

Insertion of

new sections 33A, 33B and 33C.

Power of

Govenrment to give

Central

make or amend regulations.

be made or to

to direct regulations to



असाधारण EXTRAORDINARY भाग II — खण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं² 23] नई दिल्ली, बुधवार, मई 29, 2013/ज्येष्ठ 8, 1935 (शक) No. 23] NEW DELHI, WEDNESDAY, MAY 29, 2013/JYAISTHA 8, 1935 (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 29th May, 2013/Jyaistha 8, 1935 (Saka)

THE SECURITIES AND EXCHANGE BOARD OF INDIA (AMENDMENT) SECOND ORDINANCE, 2013

No. 5 of 2013

Promulgated by the President in the Sixty-fourth Year of the Republic of India;

An Ordinance further to amend the Securities and Exchange Board of India Act, 1992;

WHEREAS the Securities and Exchange Board of India (Amendment) Ordinance, 2013 further to amend the Securities and Exchange Board of India Act, 1992 was promulgated by the President on 21st January, 2013;

AND WHEREAS the Securities and Exchange Board of India (Amendment) Bill, 2013 to replace the said Ordinance has been passed by the Council of States and is pending in the House of the People;

AND WHEREAS the Securities and Exchange Board of India (Amendment) Ordinance, 2013 has ceased to operate on the 4th day of April, 2013;

AND WHEREAS it is considered necessary to give continued effect to the provisions of Securities and Exchange Board of India (Amendment) Ordinance, 2013 and to validate the actions taken under the said Ordinance;

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 1. (1) This Ordinance may be called the Securities and Exchange Board of India (Amendment) Second Ordinance, 2013.

(2) It shall be deemed to have come into force on the 21st day of January, 2013.

Amendment of section 15M of the Securities and Exchange Board of India Act, 1992, for sub- 15 of 1992 section (1) the following sub-section shall be substituted, namely:---

"(1) A person shall not be qualified for appointment as the Presiding Officer of the Securities Appellate Tribunal unless he--

(a) is a sitting or retired Judge of the Supreme Court or a sitting or retired Chief Justice of a High Court; or

(b) is a sitting or retired Judge of a High Court who has completed not less than seven years of service as a Judge in a High Court.

(1A) The Presiding Officer of the Securities Appellate Tribunal shall be appointed by the Central Government in consultation with the Chief Justice of India or his nominee.".

Validation and savings.

3. Notwithstanding the fact that the Securities and Exchange Board of India ord. 1 of 2013. (Amendment) Ordinance, 2013 has ceased to operate, anything done or any action taken or purported to have been done or taken or any permission or any direction given under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.

> PRANAB MUKHERJEE, President.

P.K. MALHOTRA, Secy. to the Govt. of India.

PUBLISHED BY THE SECRETARY-GENERAL, RAJYA SABHA, UNDER RULE 68 OF THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE RAJYA SABHA.

GMGIPMRND--1073GI(S4)-29-05-2013.



असाधारण EXTRAORDINARY भाग II — खण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं⁵ 24] नई दिल्ली, बुधवार, जून 5, 2013/ज्येष्ठ 15, 1935 (शक) No. 24] NEW DELHI, WEDNESDAY, JUNE 5, 2013/JYAISTHA 15, 1935 (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 5th June, 2013/Jyaistha 15, 1935 (Saka)

THE READJUSTMENT OF REPRESENTATION OF SCHEDULED CASTES AND SCHEDULED TRIBES IN PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES (SECOND) ORDINANCE, 2013

No. 6 of 2013

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

An Ordinance to provide for the readjustment of seats in the House of the People and in the Legislative Assemblies of the States and for the readjustment of territorial constituencies therefor, insofar as such readjustment is necessitated by inclusion in or exclusion from the lists of the Scheduled Castes and the Scheduled Tribes and for matters connected therewith or incidental thereto.

WHEREAS the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance, 2013, to provide for the aforesaid matters, was promulgated by the President on the 30th January, 2013;

AND WHEREAS the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Bill, 2013 was introduced in the Council of States to replace the said Ordinance;

AND WHEREAS the said Bill was referred by the Chairman of the Council of States to the Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice on the 18th March, 2013;

AND WHEREAS the said Standing Committee presented its Fifty-ninth Report to the Council of States on the 2nd May, 2013 recommending that the Bill be passed;

AND WHEREAS the said Ordinance has lapsed;

AND WHEREAS the said Bill could not be passed by the Council of the 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 validate the action taken under the said Ordinance so lapsed and to take further action to provide for the aforesaid matters;

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. C

1. (1) This Ordinance may be called the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Ordinance, 2013.

(2) It shall be deemed to have come into force on the 30th day of January, 2013.

Definitions.

2. In this Ordinance, unless the context otherwise requires,---

(a) "Census Commissioner" means the Census Commissioner appointed under sub-section (1) of section 4 of the Census Act, 1948;

37 of 1948.

(b) "Commission" means the Election Commission referred to in article 324 of the Constitution;

(c) "Delimitation Act" means the Delimitation Act, 2002;

33 of 2002.

(d) "Delimitation Order" means the Delimitation of Parliamentary and Assembly Constituencies Order, 2008;

(e) "last census" means the census held in India in 2001;

(f) "Scheduled Castes Orders" means the Constitution (Scheduled Castes) Order, 1950, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962 and the Constitution (Puducherry) Scheduled Castes Order, 1964, made by the President under article 341 of the Constitution;

(g) "Scheduled Tribes Orders" means the Constitution (Scheduled Tribes) Order, 1950, the Constitution (Scheduled Tribes) (Union Territories) Order, 1951, the Constitution (Scheduled Tribes) (Uttar Pradesh) Order, 1967 and the Constitution (Sikkim) Scheduled Tribes Order, 1978, made by the President under article 342 of the Constitution;

(h) "State" includes a Union territory having a Legislative Assembly but does not include the State of Jammu and Kashmir.

3. (1) As soon as may be after the commencement of this Ordinance, the population as at the last census, of the Scheduled Castes or, as the case may be, of the Scheduled Tribes, in each State shall be ascertained or estimated by the Census Commissioner.

(2) Where by reason of the amendments made in the Scheduled Castes Orders and the Scheduled Tribes Orders after the last census and upto 31st May, 2012, the population of the Scheduled Castes or the Scheduled Tribes as at the last census is varied in a State, the Census Commissioner shall ascertain or estimate as on the 1st day of March, 2001, the population of the Scheduled Castes or the Scheduled Tribes so varied, and also ascertain or estimate the proportion of such population of the Scheduled Castes or the Scheduled Tribes, respectively, to the total population of the State in the last census.

(3) The population figures ascertained or estimated under sub-section (2) shall be notified by the Census Commissioner in the Gazette of India.

(4) The population figures so notified shall be taken to be the relevant population figures as ascertained or estimated at the last census and shall supersede any figures

Estimation of population of Scheduled Castes and Scheduled Tribes. previously published; and the figures so notified shall be final and shall not be called in question in any court.

4. (1) After the population figures have been notified for any State under section 3, the Commission shall make such amendments as may be necessary in the Delimitation Order, having regard to the provisions of articles 81, 170, 330 and 332 of the Constitution, of section 8 of the Delimitation Act, and of this Ordinance, for the purpose of giving proper representation to the Scheduled Castes or, as the case may be, to the Scheduled Tribes of that State, and the First Schedule and the Second Schedule to the Representation of the People Act, 1950 shall be deemed to have been amended accordingly.

(2) In making any amendments in the Delimitation Order under sub-section (1), the Commission shall, as far as may be necessary, have regard to the provisions of clauses (c) and (d) of sub-section (1) of section 9 of the Delimitation Act.

(3) The Commission shall—

(a) publish its proposals for the amendments in the Gazette of India and the Official Gazette of the State concerned and also in such other manner as it thinks fit;

(b) specify a date on or after which such proposals will be further considered by it;

(c) consider all objections and suggestions which may have been received by it before the date so specified and for such consideration hold one or more public sittings at such place or places in each State as it thinks fit; and

(d) thereafter make necessary amendments in the Delimitation Order.

5. (1) In the discharge of its functions under this Ordinance, the Commission shall determine its own procedure and shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the production of any document; and

(c) requisitioning any public record from any court or office.

(2) The Commission shall have the power to require any person to furnish any information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, any matter under the consideration of the Commission.

(3) The Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

Explanation — For the purposes of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Commission shall be the limits of the territory of India.

6. (1) The Commission shall cause the amendments made by it in the Delimitation Order to be published in the Gazette of India and in the Official Gazettes of the States concerned.

(2) Upon publication in the Gazette of India, every such amendment shall have the force of law and shall not be called in question in any court.

(3) As soon as may be after such publication in the Gazette of India, every such amendment shall be laid before the House of the People and the Legislative Assembly of the State concerned.

(4) Subject to the provisions of sub-section (5), the readjustment of seats and territorial constituencies in the House of the People or in the Legislative Assembly of a State necessitated by any amendments made by the Commission in the Delimitation Order and provided for in that Order as so amended shall apply in relation to every election to the House or, as the case may be, to the Assembly, held after the publication of such amendments in the

5 of 1908.

2 of 1974.

43 of 1950.

Readjustment of territorial constituencies by Commission.

Procedure and

Commission.

Publication of

amendments

and their dates of

operation.

nowers of

Gazette of India and shall so apply in supersession of the provisions relating to representation contained in the Representation of the People Act, 1950.

43 of 1950.

(5) Nothing contained in the foregoing sub-sections shall affect the representation in the House of the People or in the Legislative Assembly of a State until the dissolution of the House or of the Assembly, as the case may be, existing on the date of publication of the amendments made by the Commission in the Gazette of India.

7. (1) The Commission may, from time to time, by notification in the Gazette of India and in the Official Gazette of the State concerned,—

(a) correct any printing mistake in the Delimitation Order as amended under this Ordinance, or any error occurring therein from any inadvertent slip or omission; and

(b) where the boundaries or the name of any district or any territorial division mentioned in the said Order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the Order up-to-date.

(2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.

8. All things done, and all steps taken, before the commencement of this Ordinance by the Census Commissioner for the ascertainment or estimation of population of the Scheduled Castes and the Scheduled Tribes, or by the Commission for the purpose of readjustment of seats and territorial constituencies shall, insofar as they are in conformity with the provisions of this Ordinance, be deemed to have been done or taken under these provisions as if such provisions were in force at the time such things were done or such steps were taken.

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

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of Parliament.

10. Notwithstanding the lapse of the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance, 2013, anything done or any action taken under the said Ordinance so lapsed shall always be deemed to have been done or taken under the corresponding provisions of this Ordinance as if such provisions had been in force at all material time.

PRANAB MUKHERJEE, President.

N.L. MEENA,

Additional Secy. to the Govt. of India.

CORRIGENDA

In the Indian Medical Council (Amendment) Ordinance, 2013, (4 of 2013), as published in the Gazette of India, Extraordinary, Part II, Section 1, Issue No. 22, dated the 21st May, 2013,---

(i) at page 1, in the Preamble, in paragraph 2, in line 2, for "circumstances", read "circumstances"; and

(ii) at page 4, in line 11, for "expirey", read "expiry".

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GMGIPMRND-1117GI(S4)-05-06-2013.

Certain other powers of Commission.

Validation of acts done previous to the commencement of Ordinance.

Power to remove difficulties.

Validation of action taken under the lapsed Ordinance 2 of 2013.



असाधारण EXTRAORDINARY भाग II — खण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

 सं॰ 25]
 नई दिल्ली, शुक्रवार, जुलाई 5, 2013/ आषाढ़ 14, 1935 (शक)

 No. 25]
 NEW DELHI, FRIDAY, JULY 5, 2013/ASADHA 14, 1935 (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 5th July, 2013/Asadha 14, 1935 (Saka)

THE NATIONAL FOOD SECURITY ORDINANCE, 2013

NO. 7 OF 2013

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

An Ordinance to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and for matters connected therewith or incidental thereto.

WHEREAS the National Food Security Bill, 2011 was introduced in the House of the People on the 22nd day of December, 2011 and referred to the Department-related Parliamentary Standing Committee on Food, Consumer Affairs and Public Distribution which gave its report on the 17th day of January, 2013 but the said Bill has not been passed;

AND WHEREAS in pursuance of the constitutional obligations, it is considered necessary to enact a law providing for food security to the people of the country to live a life with dignity;

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 with certain modifications;

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 National Food Security Ordinance, 2013.

(2) It extends to the whole of India.

(3) Save as otherwise provided, it shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,-

(1) "anganwadi" means a child care and development centre set up under the Integrated Child Development Services Scheme of the Central Government to render services covered under section 4, clause (a) of sub-section (1) of section 5 and section 6;

(2) "central pool" means the stock of foodgrains which is,-

(*i*) procured by the Central Government and the State Governments through minimum support price operations;

(*ii*) maintained for allocations under the Targeted Public Distribution System, other welfare schemes, including calamity relief and such other schemes;

(*iii*) kept as reserves for schemes referred to in sub-clause (*ii*);

(3) "eligible households" means households covered under the priority households and the Antyodaya Anna Yojana referred to in sub-section (1) of section 3;

(4) "fair price shop" means a shop which has been licensed to distribute essential commodities by an order issued under section 3 of the Essential Commodities Act, 1955, to the ration card holders under the Targeted Public Distribution System;

(5) "foodgrains" means rice, wheat or coarse grains or any combination thereof conforming to such quality norms as may be determined, by order, by the Central Government from time to time;

(6) "food security" means the supply of the entitled quantity of foodgrains and meal specified under Chapter II;

(7) "food security allowance" means the amount of money to be paid by the concerned State Government to the entitled persons under section 8;

(8) "local authority" includes Panchayat, municipality, district board, cantonment board, town planning authority and in the States of Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura where Panchayats do not exist, the village council or committee or any other body, by whatever name called, which is authorised under the Constitution or any law for the time being in force for selfgovernance or any other authority or body vested with the control and management of civic services, within a specified local area;

(9) "meal" means hot cooked meal or ready to eat meal or take

Short title, extent

commencement.

and

10 of 1955.

home ration, as may be prescribed by the Central Government;

(10) "minimum support price" means the assured price announced by the Central Government at which foodgrains are procured from farmers by the Central Government and the State Governments and their agencies, for the central pool;

(11) "notification" means a notification issued under this Ordinance and published in the Official Gazette;

(12) "other welfare schemes" means such Government schemes, in addition to the Targeted Public Distribution System, under which foodgrains or meals are supplied as part of the schemes;

(13) "person with disability" means a person defined as such in clause (t) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

(14) "priority households" means households identified as such under section 10;

(15) "prescribed" means prescribed by rules made under this Ordinance;

(16) "ration card" means a document issued under an order or authority of the State Government for the purchase of essential commodities from the fair price shops under the Targeted Public Distribution System;

(17) "rural area" means any area in a State except those areas covered by any urban local body or a cantonment board established or constituted under any law for the time being in force;

(18) "Schedule" means a Schedule appended to this Ordinance;

(19) "senior citizen" means a person defined as such under clause (h) of section 2 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007;

(20) "social audit" means the process in which people collectively monitor and evaluate the planning and implementation of a programme or scheme;

(21) "State Commission" means the State Food Commission constituted under section 16;

(22) "State Government", in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution;

(23) "Targeted Public Distribution System" means the system for distribution of essential commodities to the ration card holders through fair price shops;

(24) "Vigilance Committee" means a committee constituted under section 29 to supervise the implementation of all schemes under this Ordinance;

(25) the words and expressions not defined here but defined in the Essential Commodities Act, 1955, or any other relevant Act shall have the meaning respectively assigned to them in those Acts.

56 of 2007.

l of 1996.

10 of 1955

CHAPTER II

PROVISIONS FOR FOOD SECURITY

3. (1) Every person belonging to priority households, identified under sub-section (1) of section 10, shall be entitled to receive five kilograms of foodgrains per person per month at subsidised prices specified in Schedule I from the State Government under the Targeted Public Distribution System:

Provided that the households covered under Antyodaya Anna Yojana shall, to such extent as may be specified by the Central Government for each State in the said scheme, be entitled to thirtyfive kilograms of foodgrains per household per month at the prices specified in Schedule I.

Explanation.—For the purpose of this section, the "Antyodaya Anna Yojana" means, the scheme by the said name launched by the Central Government on the 25th day of December, 2000; and as modified from time to time.

(2) The entitlements of the persons belonging to the eligible households referred to in sub-section (1) at subsidised prices shall extend up to seventy-five per cent. of the rural population and up to fifty per cent. of the urban population.

(3) Subject to sub-section (1), the State Government may provide to the persons belonging to eligible households, wheat flour in lieu of the entitled quantity of foodgrains in accordance with such guidelines as may be specified by the Central Government.

4. Subject to such schemes as may be framed by the Central Government, every pregnant woman and lactating mother shall be entitled to—

(a) meal, free of charge, during pregnancy and six months after the child birth, through the local *anganwadi*, so as to meet the nutritional standards specified in Schedule II; and

(b) maternity benefit of not less than rupees six thousand, in such instalments as may be prescribed by the Central Government:

Provided that all pregnant women and lactating mothers in regular employment with the Central Government or State Governments or Public Sector Undertakings or those who are in receipt of similar benefits under any law for the time being in force shall not be entitled to benefits specified in clause (b).

5. (1) Subject to the provisions contained in clause (b), every child up to the age of fourteen years shall have the following entitlements for his nutritional needs, namely:—

(a) in the case of children in the age group of six months to six years, age appropriate meal, free of charge, through the local *anganwadi* so as to meet the nutritional standards specified in Schedule II:

Provided that for children below the age of six months,

Nutritional support to pregnant women and lactating mothers.

Nutritional support to children

Right to receive

foodgrains at subsidised prices

by persons

belonging to eligible

Distribution

System.

households under Targeted Public exclusive breast feeding shall be promoted;

(b) in the case of children, up to class VIII or within the age group of six to fourteen years, whichever is applicable, one mid-day meal, free of charge, everyday, except on school holidays, in all schools run by local bodies, Government and Government aided schools, so as to meet the nutritional standards specified in Schedule II.

(2) Every school, referred to in clause (b) of sub-section (1), and *anganwadi* shall have facilities for cooking meals, drinking water and sanitation:

Provided that in urban areas facilities of centralised kitchens for cooking meals may be used, wherever required, as per the guidelines issued by the Central Government.

6. The State Government shall, through the local *anganwadi*, identify and provide meals, free of charge, to children who suffer from malnutrition, so as to meet the nutritional standards specified in Schedule II.

7. The State Governments shall implement schemes covering entitlements under sections 4, 5 and section 6 in accordance with the guidelines, including cost sharing, between the Central Government and the State Governments in such manner as may be prescribed by the Central Government.

CHAPTER III

FOOD SECURITY ALLOWANCE

8. In case of non-supply of the entitled quantities of foodgrains or meals to entitled persons under Chapter II, such persons shall be entitled to receive such food security allowance from the concerned State Government to be paid to each person, within such time and manner as may be prescribed by the Central Government.

CHAPTER IV IDENTIFICATION OF ELIGIBLE HOUSEHOLDS

9. The percentage coverage under the Targeted Public Distribution System in rural and urban areas for each State shall, subject to sub-section (2) of section 3, be determined by the Central Government and the total number of persons to be covered in such rural and urban areas of the State shall be calculated on the basis of the population estimates as per the census of which the relevant figures have been published.

10. (1) The State Government shall, within the number of persons determined under section 9 for the rural and urban areas, identify—

(a) the households to be covered under the Antyodaya Anna Yojana to the extent specified under sub-section (1) of section 3, in accordance with the guidelines applicable to the said scheme;

(b) the remaining households as priority households to be

Prevention and management of child malnutrition.

Implementation of schemes for realisation of entitlements.

allowance in certain

Right to receive food security

cases.

Coverage of population under Targeted Public Distribution System

State Government to prepare guidelines and to identify priority households. covered under the Targeted Public Distribution System, in accordance with such guidelines as the State Government may specify:

Provided that the State Government may, as soon as possible, but within such period not exceeding one hundred and eighty days, after the commencement of the Ordinance, identify the eligible households in accordance with the guidelines framed under this subsection:

Provided further that the State Government shall continue to receive the allocation of foodgrains from the Central Government under the existing Targeted Public Distribution System, till the identification of such households is complete.

(2) The State Government shall update the list of eligible households, within the number of persons determined under section 9 for the rural and urban areas, in accordance with the guidelines framed under sub-section (1).

Publication and display of list of eligible households.

6

11. The State Government shall place the list of the identified eligible households in the public domain and display it prominently.

CHAPTER V

REFORMS IN TARGETED PUBLIC DISTRIBUTION SYSTEM

Reforms in Targeted Public Distribution System. 12. (1) The Central and State Governments shall endeavour to progressively undertake necessary reforms in the Targeted Public Distribution System in consonance with the role envisaged for them in this Ordinance.

(2) The reforms shall, inter alia, include-

(a) doorstep delivery of foodgrains to the Targeted Public Distribution System outlets;

(b) application of information and communication technology tools including end-to-end computerisation in order to ensure transparent recording of transactions at all levels, and to prevent diversion;

(c) leveraging "aadhaar" for unique identification, with biometric information of entitled beneficiaries for proper targeting of benefits under this Ordinance;

(d) full transparency of records;

(e) preference to public institutions or public bodies such as Panchayats, self help groups, co-operatives, in licensing of fair price shops and management of fair price shops by women or their collectives;

(f) diversification of commodities distributed under the Public Distribution System over a period of time;

(g) support to local public distribution models and grains banks;

(h) introducing schemes, such as, cash transfer, food coupons, or other schemes, to the targeted beneficiaries in lieu of their foodgrain entitlements specified in Chapter II, in such area and manner as may be prescribed by the Central Government.

CHAPTER VI

WOMEN EMPOWERMENT

13. (1) The eldest woman who is not less than eighteen years of age, in every eligible household, shall be head of the household for the purpose of issue of ration cards.

(2) Where a household at any time does not have a woman or a woman of eighteen years of age or above, but has a female member below the age of eighteen years, then, the eldest male member of the household shall be the head of the household for the purpose of issue of ration card and the female member, on attaining the age of eighteen years, shall become the head of the household for such ration cards in place of such male member.

CHAPTER VII

GRIEVANCE REDRESSAL MECHANISM

14. Every State Government shall put in place an internal grievance redressal mechanism which may include call centres, help lines, designation of nodal officers, or such other mechanism as may be prescribed.

15. (1) The State Government shall appoint or designate, for each district, an officer to be the District Grievance Redressal Officer for expeditious and effective redressal of grievances of the aggrieved persons in matters relating to distribution of entitled foodgrains or meals under Chapter II, and to enforce the entitlements under this Ordinance.

(2) The qualifications for appointment as District Grievance Redressal Officer and its powers shall be such as may be prescribed by the State Government.

(3) The method and terms and conditions of appointment of the District Grievance Redressal Officer shall be such as may be prescribed by the State Government.

(4) The State Government shall provide for the salary and allowances of the District Grievance Redressal Officer and other staff and such other expenditure as may be considered necessary for their proper functioning.

(5) The officer referred to in sub-section (1) shall hear complaints regarding non-distribution of entitled foodgrains or meals, and matters relating thereto, and take necessary action for their redressal in such manner and within such time as may be prescribed by the State Government.

(6) Any complainant or the officer or authority against whom any order has been passed by officer referred to in sub-section (1), who is not

Women of eighteen years of age or above to be head of household for purpose of issue of ration cards.

Internal grievance redressal mechanism

District Grievance Redressal Officer satisfied with the redressal of grievance may file an appeal against such order before the State Commission.

(7) Every appeal under sub-section (6) shall be filed in such manner and within such time as may be prescribed by the State Government.

16. (1) Every State Government may, by notification, constitute a State Food Commission for the purpose of monitoring and review of implementation of this Ordinance.

(2) The State Commission shall consist of --

(a) a Chairperson;

(b) five other Members; and

(c) a Member-Secretary, who shall be an officer of the State Government not below the rank of Joint Secretary to that Government:

Provided that there shall be at least two women, whether Chairperson, Member or Member-Secretary:

Provided further that there shall be one person belonging to the Scheduled Castes and one person belonging to the Scheduled Tribes, whether Chairperson, Member or Member-Secretary.

(3) The Chairperson and other Members shall be appointed from amongst persons-

(a) who are or have been member of the All India Services or any other civil services of the Union or State or holding a civil post under the Union or State having knowledge and experience in matters relating to food security, policy making and administration in the field of agriculture, civil supplies, nutrition, health or any allied field; or

(b) of eminence in public life with wide knowledge and experience in agriculture, law, human rights, social service, management, nutrition, health, food policy or public administration; or

(c) who have a proven record of work relating to the improvement of the food and nutrition rights of the poor.

(4) The Chairperson and every other Member shall hold office for a term not exceeding five years from the date on which he enters upon his office and shall be eligible for reappointment:

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

(5) The method of appointment and other terms and conditions subject to which the Chairperson, other Members and Member-Secretary of the State Commission may be appointed, and time, place and procedure of meetings of the State Commission (including the quorum at such meetings) and its powers, shall be such as may be prescribed by the State Government.

(6) The State Commission shall undertake the following functions, namely:---

State Food Commission (a) monitor and evaluate the implementation of this Ordinance, in relation to the State;

(b) either *suo motu* or on receipt of complaint inquire into violations of entitlements provided under Chapter II;

(c) give advice to the State Government on effective implementation of this Ordinance;

(d) give advice to the State Government, their agencies, autonomous bodies as well as non-governmental organisations involved in delivery of relevant services, for the effective implementation of food and nutrition related schemes, to enable individuals to fully access their entitlements specified in this Ordinance;

(e) hear appeals against orders of the District Grievance Redressal Officer;

(f) prepare annual reports which shall be laid before the State Legislature by the State Government.

(7) The State Government shall make available to the State Commission, such administrative and technical staff, as it may consider necessary for proper functioning of the State Commission.

(8) The method of appointment of the staff under sub-section (7), their salaries, allowances and conditions of service shall be such, as may be prescribed by the State Government.

(9) The State Government may remove from office the Chairperson or any Member who---

(a) is, or at any time has been, adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as a member; or

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

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

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

(10) No such Chairperson or Member shall be removed under clause (d) or clause (e) of sub-section (9) unless he has been given a reasonable opportunity of being heard in the matter.

17. The State Government shall provide for salary and allowances of Chairperson, other Members, Member-Secretary, support staff, and other administrative expenses required for proper functioning of the State Commission.

18. The State Government may, if considers it necessary, by notification, designate any statutory commission or a body to exercise the powers and perform the functions of the State Commission referred to in section 16.

Salary and allowances of Chairperson, Member, Member-Secretary and other staff of State Commission

Designation of any Commission or body to function as State Commission

19. Notwithstanding anything contained in sub-section (1) of section

Joint State Food Commission 16, two or more States may have a joint State Food Commission for the purposes of this Ordinance with the approval of the Central Government.

20. (1) The State Commission shall, while inquiring into any matter referred to in clauses (b) and (e) of sub-section (6) of section 16, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, and, in particular, in respect of the following matters, namely:—

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

(b) discovery and production of any document;

(c) receiving evidence on affidavits;

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

(e) issuing commissions for the examination of witnesses or documents.

(2) The State Commission shall have the power to forward any case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

2 of 1974.

21. No act or proceeding of the State Commission shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the State Commission; or

(b) any defect in the appointment of a person as the Chairperson or a Member of the State Commission; or

(c) any irregularity in the procedure of the State Commission not affecting the merits of the case.

CHAPTER VIII

OBLIGATIONS OF CENTRAL GOVERNMENT FOR FOOD SECURITY

22. (1) The Central Government shall, for ensuring the regular supply of foodgrains to persons belonging to eligible households, allocate from the central pool the required quantity of foodgrains to the State Governments under the Targeted Public Distribution System, as per the entitlements under section 3 and at prices specified in Schedule I.

(2) The Central Government shall allocate foodgrains in accordance with the number of persons belonging to the eligible households identified in each State under section 10.

(3) The Central Government shall provide foodgrains in respect of entitlements under sections 4, 5 and section 6, to the State Governments, at prices specified for the persons belonging to eligible households in Schedule I.

Central Government to allocate required quantity of foodgrains from central pool to State Governments

Vacancies, etc.,

not to invalidate

proceedings of State

Commission

Powers relating

to inquiries.

5 of 1908.

(4) Without prejudice to sub-section (1), the Central Government shall,-

(a) procure foodgrains for the central pool through its own agencies and the State Governments and their agencies;

(b) allocate foodgrains to the States;

(c) provide for transportation of foodgrains, as per allocation, to the depots designated by the Central Government in each State;

(d) provide assistance to the State Government in meeting the expenditure incurred by it towards intra-State movement, handling of foodgrains and margins paid to fair price shop dealers, in accordance with such norms and manner as may be prescribed by the Central Government; and

(e) create and maintain required modern and scientific storage facilities at various levels.

23. In case of short supply of foodgrains from the central pool to a State, the Central Government shall provide funds to the extent of short supply to the State Government for meeting obligations under Chapter II in such manner as may be prescribed by the Central Government.

CHAPTER IX

OBLIGATIONS OF STATE GOVERNMENT FOR FOOD SECURITY

24. (1) The State Government shall be responsible for implementation and monitoring of the schemes of various Ministries and Departments of the Central Government in accordance with guidelines issued by the Central Government for each scheme, and their own schemes, for ensuring food security to the targeted beneficiaries in their State.

(2) Under the Targeted Public Distribution System, it shall be the duty of the State Government to-

(a) take delivery of foodgrains from the designated depots of the Central Government in the State, at the prices specified in Schedule I, organise intra-State allocations for delivery of the allocated foodgrains through their authorised agencies at the doorstep of each fair price shop; and

(b) ensure actual delivery or supply of the foodgrains to the entitled persons at the prices specified in Schedule I.

(3) For foodgrain requirements in respect of entitlements under *i* sections 4, 5 and section 6, it shall be the responsibility of the State Government to take delivery of foodgrains from the designated depots of the Central Government in the State, at the prices specified in Schedule I for persons belonging to eligible households and ensure actual delivery of entitled benefits, as specified in the sections aforesaid.

(4) In case of non-supply of the entitled quantities of foodgrains or meals to entitled persons under Chapter II, the State Government shall be responsible for payment of food security allowance specified in section 8.

(5) For efficient operations of the Targeted Public Distribution

Government to State Government in certain cases.

Provisions for funds

by Central

Implementation and monitoring of schemes for ensuring food security. System, every State Government shall,-

(a) create and maintain scientific storage facilities at the State, District and Block levels, being sufficient to accommodate foodgrains required under the Targeted Public Distribution System and other food based welfare schemes;

(b) suitably strengthen capacities of their Food and Civil Supplies Corporations and other designated agencies;

(c) establish institutionalised licensing arrangements for fair price shops in accordance with the relevant provisions of the Public Distribution System (Control) Order, 2001 made under the Essential Commodities Act, 1955, as amended from time to time.

10 of 1955

CHAPTER X

OBLIGATIONS OF LOCAL AUTHORITIES

25. (1) The local authorities shall be responsible for the proper implementation of this Ordinance in their respective areas.

(2) Without prejudice to sub-section (1), the State Government may assign, by notification, additional responsibilities for implementation of the Targeted Public Distribution System to the local authority.

26. In implementing different schemes of the Ministries and Departments of the Central Government and the State Governments, prepared to implement provisions of this Ordinance, the local authority shall be responsible for discharging such duties and responsibilities as may be assigned to them, by notification, by the respective State Governments.

CHAPTER XI

TRANSPARENCY AND ACCOUNTABILITY

27. All Targeted Public Distribution System related records shall be placed in the public domain and kept open for inspection to the public, in such manner as may be prescribed by the State Government.

28. (1) Every local authority, or any other authority or body, as may be authorised by the State Government, shall conduct or cause to be conducted, periodic social audits on the functioning of fair price shops, Targeted Public Distribution System and other welfare schemes, and cause to publicise its findings and take necessary action, in such manner as may be prescribed by the State Government.

(2) The Central Government may, if it considers necessary, conduct or cause to be conducted social audit through independent agencies having experience in conduct of such audits.

29. (1) For ensuring transparency and proper functioning of the Targeted Public Distribution System and accountability of the functionaries in such system, every State Government shall set up Vigilance Committees as specified in the Public Distribution System (Control) Order. 2001, made under the Essential Commodities Act, 1955, as amended from time to time, at the State, District, Block and fair price shop levels consisting of such persons, as may be prescribed by the State Government giving due representation to the local authorities, the

Disclosure of records of Targeted Public Distribution System.

Implementation

System by local authority in their

Obligations of

local authority.

of Targeted

Public Distribution

areas

Conduct of social audit.

Setting up of Vigilance Committees

10 of 1955

Scheduled Castes, the Scheduled Tribes, women and destitute persons or persons with disability.

(2) The Vigilance Committees shall perform the following functions, namely:---

(a) regularly supervise the implementation of all schemes under this Ordinance;

(b) inform the District Grievance Redressal Officer, in writing, of any violation of the provisions of this Ordinance; and

(c) inform the District Grievance Redressal Officer, in writing, of any malpractice or misappropriation of funds found by it.

CHAPTER XII

PROVISIONS FOR ADVANCING FOOD SECURITY

30. The Central Government and the State Governments shall, while implementing the provisions of this Ordinance and the schemes for meeting specified entitlements, give special focus to the needs of the vulnerable groups especially in remote areas and other areas which are difficult to access, hilly and tribal areas for ensuring their food security.

31. The Central Government, the State Governments and local authorities shall, for the purpose of advancing food and nutritional security, strive to progressively realise the objectives specified in Schedule III.

CHAPTER XIII

MISCELLANEOUS

32. (1) The provisions of this Ordinance shall not preclude the Central Government or the State Government from continuing or formulating other food based welfare schemes.

(2) Notwithstanding anything contained in this Ordinance, the State Government may, continue with or formulate food or nutrition based plans or schemes providing for benefits higher than the benefits provided under this Ordinance, from its own resources.

33. Any public servant or authority found guilty, by the State Commission at the time of deciding any complaint or appeal, of failing to provide the relief recommended by the District Grievance Redressal Officer, without reasonable cause, or wilfully ignoring such recommendation, shall be liable to penalty not exceeding five thousand rupees:

Provided that the public servant or the public authority, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed.

34. (1) For the purpose of adjudging penalty under section 33, the State Commission shall authorise any of its member to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted

Food security for people living in remote, hilly and tribal areas.

Steps to further advance food and nutritional security.

schemes.

Penalties

Other welfare

Power to adjudicate

with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to provide the relief recommended by the District Grievance Redressal Officer, without reasonable cause, or wilfully ignored such recommendation, he may impose such penalty as he thinks fit in accordance with the provisions of section 33.

35. (1) The Central Government may, by notification, direct that the powers exercisable by it (except the power to make rules), in such circumstances and subject to such conditions and limitations, be exercisable also by the State Government or an officer subordinate to the Central Government or the State Government as it may specify in the notification.

(2) The State Government may, by notification, direct that the powers exercisable by it (except the power to make rules), in such circumstances and subject to such conditions and limitations, be exercisable also by an officer subordinate to it as it may specify in the notification.

36. The provisions of this Ordinance or the schemes made thereunder 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 such law.

37. (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend Schedule I or Schedule II or Schedule III and thereupon Schedule I or Schedule II or Schedule III, as the case may be, shall be deemed to have been amended accordingly.

(2) A copy of every notification issued under sub-section (1), shall be laid before each House of Parliament as soon as may be after it is issued.

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

39.(1) The Central Government may, by notification, and subject to the condition of previous publication, make rules to carry out the provisions of this Ordinance.

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

(a) scheme including cost sharing for providing maternity benefit to pregnant women and lactating mothers under clause (b) of section 4;

(b) schemes covering entitlements under sections 4, 5 and section 6 including cost sharing under section 7;

(c) amount, time and manner of payment of food security allowance to entitled individuals under section 8;

(d) introducing schemes of cash transfer, food coupons or other schemes to the targeted beneficiaries in lieu of their foodgrains entitlements in such areas and manner under clause (h) of sub-section

Power to delegate by Central Government and State Government.

Ordinance to have overriding effect.

Power to amend Schedules.

Power of Central Government to give directions.

Power of Central Government to make rules. (2) of section 12;

(e) the norms and manner of providing assistance to the State Governments in meeting expenditure under clause (d) of sub-section (4) of section 22;

(f) manner in which funds shall be provided by the Central Government to the State Governments in case of short supply of foodgrains, under section 23;

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

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

40. (1) The State Government may, by notification, and subject to the condition of previous publication, and consistent with this Ordinance and the rules made by the Central Government, make rules to carry out the provisions of this Ordinance.

Power of State Government to make rules.

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

(a) guidelines for identification of priority households under sub-section (1) of section 10;

(b) internal grievance redressal mechanism under section 14;

(c) qualifications for appointment as District Grievance Redressal Officer and its powers under sub-section (2) of section 15;

(d) method and terms and conditions of appointment of the District Grievance Redressal Officer under sub-section (3) of section 15;

(e) manner and time limit for hearing complaints by the District Grievance Redressal Officer and the filing of appeals under sub-sections (5) and (7) of section 15;

(f) method of appointment and the terms and conditions of appointment of Chairperson, other Members and Member-Secretary of the State Commission, procedure for meetings of the Commission and its powers, under sub-section (5) of section 16;

(g) method of appointment of staff of the State Commission,

their salaries, allowances and conditions of service under sub-section (8) of section 16;

(*h*) manner in which the Targeted Public Distribution System related records shall be placed in the public domain and kept open for inspection to public under section 27;

(i) manner in which the social audit on the functioning of fair price shops, Targeted Public Distribution System and other welfare schemes shall be conducted under section 28;

(*j*) composition of Vigilance Committees under sub-section (1) of section 29;

(k) schemes or programmes of the Central Government or the State Governments for utilisation of institutional mechanism under section 43;

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

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

41. The schemes, guidelines, orders and food standard, grievance redressal mechanism, vigilance committees, existing on the date of commencement of this Ordinance, shall continue to be in force and operate till such schemes, guidelines, orders and food standard, grievance redressal mechanism, vigilance committees are specified or notified under this Ordinance or the rules made thereunder:

Provided that anything done or any action taken under the said schemes, guidelines, orders and food standard, grievance redressal mechanism, or by vigilance committees shall be deemed to have been done or taken under the corresponding provisions of this Ordinance and shall continue to be in force accordingly unless and until superseded by anything done or by any action taken under this Ordinance.

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

Provided that no order shall be made under this section after the expiry 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.

43. The services of authorities to be appointed or constituted under sections 15 and 16 may be utilised in the implementation of other schemes or programmes of the Central Government or the State Governments, as may be prescribed by the State Government.

Transitory provisions for schemes, guidelines, etc.

Power to remove difficulties.

Utilisation of institutional mechanism for other purposes.

17

44. The Central Government, or as the case may be, the State Force Majeure. Government, shall be liable for a claim by any person entitled under this Ordinance, except in the case of war, flood, drought, fire, cyclone or earthquake affecting the regular supply of foodgrains or meals to such person under this Ordinance:

Provided that the Central Government may, in consultation with the Planning Commission, declare whether or not any such situation affecting the regular supply of foodgrains or meals to such person has arisen or exist.

[PART II-

SCHEDULE I

[See sections 3(1), 22(1), (3) and 24(2), (3)]

SUBSIDISED PRICES UNDER TARGETED PUBLIC DISTRIBUTION SYSTEM

Eligible households shall be entitled to foodgrains under section 3 at the subsidised price not exceeding rupees 3 per kg for rice, rupees 2 per kg for wheat and rupee 1 per kg for coarse grains for a period of three years from the date of commencement of this Ordinance; and thereafter, at such price, as may be fixed by the Central Government, from time to time, not exceeding,—

(i) the minimum support price for wheat and coarse grains; and

(ii) the derived minimum support price for rice,

as the case may be.

SCHEDULE II

[See sections 4(a), 5(1) and 6]

NUTRITIONAL STANDARDS

Nutritional standards: The nutritional standards for children in the age group of 6 months to 3 years, age group of 3 to 6 years and pregnant and lactating women required to be met by providing 'Take Home Rations'¹ or nutritious hot cooked meal or ready to eat meal in accordance with the Integrated Child Development Services Scheme and nutritional standards for children in lower and upper primary classes under the Mid Day Meal Scheme are as follows:

Serial number	Category	Type of meal ²	Calories (Kcal)	Protein (g)
1	2	3	4	5
1.	Children (6 months to 3 years)	Take Home Ration	500	12-15
2.	Children (3 to 6 years)	Morning Snack and Hot Cooked Meal	500	12-15
3.	Children (6 months to 6 years) who are malnourished	Take Home Ration	800	20-25
4.	Lower primary classes	Hot Cooked Meal	450	12
5.	Upper primary classes	Hot Cooked Meal	700	20
6.	Pregnant women and Lactating mothers	Take Home Ration	600	18-20

Note: 1.—Energy Dense Food fortified with micronutrients as per 50 per cent. of Recommended Dietary Allowance.

Note: 2.—The provisions of the Food Safety and Standards Act, 2006 (34 of 2006) and any other law for the time being in force shall apply to Meals referred to in this Schedule.

NB: Nutritional standards are notified to provide balanced diet and nutritious foods in terms of the calorie counts, protein value and micronutrients specified.

SCHEDULE III

(See section 31)

PROVISIONS FOR ADVANCING FOOD SECURITY

- (1) Revitalisation of Agriculture ----
 - (a) agrarian reforms through measures for securing interests of small and marginal farmers;
 - (b) increase in investments in agriculture, including research and development, extension services, micro and minor irrigation and power to increase productivity and production;
 - (c) ensuring livelihood security to farmers by way of remunerative prices, access to inputs, credit, irrigation, power, crop insurance, etc.;
 - (d) prohibiting unwarranted diversion of land and water from food production.
- (2) Procurement, Storage and Movement related interventions-
 - (a) incentivising decentralised procurement including procurement of coarse grains;
 - (b) geographical diversification of procurement operations;
 - (c) augmentation of adequate decentralised modern and scientific storage;
 - (d) giving top priority to movement of foodgrains and providing sufficient number of rakes for this purpose, including expanding the line capacity of railways to facilitate foodgrain movement from surplus to consuming regions.
- (3) Others: Access to-
 - (a) safe and adequate drinking water and sanitation;
 - (b) health care;
 - (c) nutritional, health and education support to adolescent girls;
 - (d) adequate pensions for senior citizens, persons with disability and single women.

PRANAB MUKHERJEE, President.

P.K. MALHOTRA, Secy. to the Govt. 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.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 18th July, 2013Asadha 27, 1935 (Saka)

THE SECURITIES LAWS (AMENDMENT) ORDINANCE, 2013

No. 8 of 2013

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

An Ordinance further to amend the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.

WHEREAS Parliament is not in session and the President is satisfied that the 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 Securities Laws Short title and commencement.

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

(PART II—

CHAPTER II

AMENDMENTS TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

2. In section 11 of the Securities and Exchange Board of India Act, 1992 (hereafter in this Chapter referred to as the principal Act).—

Amendment of section 11.

(i) in sub-section (2),

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

"(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;";

(b) after clause (ia), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 6^{th} day of March, 1998, namely:---

"(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;";

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

"(5) The amount disgorged, pursuant to a direction issued under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 19 of the Depositories Act, 1996, as the case may be, shall be credited to the Investor Protection and Education Fund established by the Board and such amount shall be utilised by the Board in accordance with the regulations made under this Act.".

3. In section 11AA of the principal Act,-

Amendment of

section 11AA.

2

15 of 1992.

(i) in sub-section (1) –

(a) after the word, brackets and figure "sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted;

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

"Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.";

(ii) in sub-section (2), in the opening portion, for the word "company", the word "person" shall be substituted;

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

"(2A) Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.";

(iv) in sub-section (3),—

(a) after the word, brackets and figure "sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted;

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

"(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify,".

4. In section 11B of the principal Act, the following *Explanation* shall be inserted, namely:—

"Explanation.—For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.".

5. In section 11C of the principal Act,-

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

(8) Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under subsection (3) has been issued or might be issued,—

Amendment of section 11B.

Amendment of section 11C.

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

then, the Chairman may, after being satisfied that it is necessary to do so, authorise the Investigating Authority or any other officer of the Board (the officer so authorised in all cases being hereinafter referred to as the authorised officer), to—

(i) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

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

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

Explanation – For the purposes of this sub-clause, the expression "electronic record" shall have the meaning assigned to it in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.

(v) seize any such books of account or other documents found as a result of such search;

(vi) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clauses (i), (iii) and (iv).";

(ii) for sub-section (9), the following sub-section shall be

21 of 2000.

substituted, namely,-

"(9) The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the foregoing power, such regulations may provide for the procedure to be followed by the authorised officer---

(a) for obtaining ingress into any building, place, vessel, vehicle or aircraft to be searched where free ingress thereto is not available;

(b) for ensuring safe custody of any books of account or other documents or assets seized.";

(iii) in sub-section (10), the words "and inform the Magistrate of such return" shall be omitted.

6. After section 15JA of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

"15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.".

7. In section 15T of the principal Act, sub-section (2) shall be omitted.

8. In section 26 of the principal Act, sub-section (2) shall be omitted.

9. After section 26 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new section 15JB.

Settlement of administrative and civil proceedings.

Amendment of section 15T.

Amendment of section 26.

Insertion of new sections 26A, 26B, 26C, 26D and 26E.

5

THE GAZETTE OF INDIA EXTRAORDINARY

"26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in subsection (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Transitional provisions.

2 of 1974.

2 of 1974.

2 of 1974.

2 of 1974.

Establishment of Special Courts.

Offences triable

by

Courts.

Appeal

revision.

Application of

before Special

proceedings

Code

Court.

Special

and

to

2 of 1974.

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code of Criminal Procedure, 1973 to transfer any case or class of cases taken cognizance by a Court of Session under this section.".

10. After section 28 of the principal Act, the following section shall be inserted, namely:-----

new section 28A.

'28A. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:----

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;

(d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties.

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.—For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of

43 of 1961.

Insertion of

Recovery of amounts.

majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.—Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3.—Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the purpose of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.'.

11. In section 30 of the principal Act, in sub-section (2),-

Amendment of section 30.

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

"(ca) the utilisation of the amount credited under subsection (5) of section 11;

(cb) the fulfilment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorised officer for search or seizure under sub-section (9) of section 11C;";

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

"(da) the terms determined by the Board for settlement of proceedings under sub-section (2) and the procedure for conducting of settlement proceedings under sub-section (3) of section 15JB;

43 of 1961.

43 of 1961.

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.".

CHAPTER III

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

42 of 1956.

12. In section 12A of the Securities Contracts (Regulation) Act, 1956 (hereafter in this Chapter referred to as 'the principal Act), the following *Explanation* shall be inserted, namely:-

"Explanation.—For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.".

13. After section 23J of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

"23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or the adjudicating officer, as the case may be, under this section."

14. After section 23JA of the principal Act as so inserted, the following section shall be inserted, namely:----

^{(23JB. (1)} If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up

Insertion of new section 23JA.

Amendment of

section 12A.

Settlement of administrative and civil proceedings.

of

of

section

Insertion

new

23JB.

15 of 1992.

15 of 1992.

[PART II—

under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;

(d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3.-Any reference to appeal in Chapter

43 of 1961.

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43 of 1961.

43 of 1961.

XVIID and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to noncompliance with any direction issued by the Board under section 12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-section (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing to exercise the powers of a Recovery Officer.'.

15. In section 26 of the principal Act, sub-section (2) shall be omitted.

16. After section 26 of the principal Act, the following sections shall be inserted, namely:—

"26A. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

20 of 1974.

26B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

Amendment to section 26.

Insertion of new sections 26A, 26B, 26C, 26D and 26E.

Establishment of Special Courts.

Offences triable by Special Courts. 26C. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in subsection (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

26E. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.".

CHAPTER IV

AMENDMENTS TO THE DEPOSITORIES ACT, 1996

17. In section 19 of the Depositories Act, 1996 (hereafter in this chapter referred to as the principal Act in this chapter), the following Explanation shall be inserted, namely:-

"Explanation.—For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.".

18. After section 19-I of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:-

Insertion of new section 19-1A.

Amendment of

section 19.

Transitional provisions.

Appeal and Revision.

Application of Code to proceedings before Special Court.

2 of 1974.

2 of 1974.

2 of 1974.

22 of 1996.

"19- IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19 or section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23A against any order passed by the Board or the adjudicating officer under this section.".

19. After section 19-IA of the principal Act as so inserted, the following shall be inserted, namely:—

'19-IB. (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely: —

(a) attachment and sale of the person's movable property;

(b) attachment of the person's bank accounts;

(c) attachment and sale of the person's immovable property;

(d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 231, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the

43 of 1961.

Insertion of new section 19-IB.

Recovery of amounts.

Settlement of Administrative Civil Proceedings.

15 of 1992.

15 of 1992.

said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.– Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3.- Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23A of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.

(4) For the purposes of sub-sections (1), (2) and (3), the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.

20. In section 22 of the principal Act, sub-section (2) shall be Amendment of omitted.

section 22.

43 of 1961.

43 of 1961.

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21. After section 22B of the principal Act, the following Insertion sections shall be inserted, namely:----

sections new 22C, 22D, 22E, 22F and 22G.

of

Establishment Special of Courts.

"22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Ordinance, 2013 or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

22F.(1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.

(2) The person conducting prosecution referred to in subsection (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

Transitional 22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is

Offences triable Special by. Courts.

and Appeal Revision.

Application of Code to proceedings before Special Court.

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established, be tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:

Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.".

22. In section 23A of the principal Act, sub-section (2) shall Amendment of section 23A.

PRANAB MUKHERJEE, President.

P.K. MALHOTRA, Secy. to the Govt. of India.

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2 of 1974.



EXTRAORDINARY भाग II — खण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं⁰ 32] नई दिल्ली, सोमवार, सितम्बर 16, 2013/ भाद्र 25, 1935 (शक) No. 32] NEW DELHI, MONDAY, SEPTEMBER 16, 2013/ BHADRA 25, 1935 (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 16th September, 2013/Bhadra 25, 1935 (Saka).

THE SECURITIES LAWS (AMENDMENT) SECOND ORDINANCE, 2013

No. 9 of 2013

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

An Ordinance further to amend the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996.

WHEREAS the Securities Laws (Amendment) Ordinance, 2013 further to amend the Securities and Exchange Board of India Act, 1992, the Securities Contracts (Regulation) Act, 1956 and the Depositories Act, 1996 was promulgated by the President on the 18th July, 2013;

AND WHEREAS the Securities Laws (Amendment) Bill, 2013 with certain modifications was introduced in the House of the People to replace the said Ordinance but has not yet been passed;

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 continued effect to the provisions of the said Ordinance;

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 Securities Laws (Amendment) Second Short title and commencement. Ordinance, 2013.

> (2) Save as otherwise provided in this Ordinance, it shall be deemed to have come into force on the 18th day of July, 2013.

CHAPTER II

Amendments to the Securities and Exchange Board of India Act, 1992

2. In section 11 of the Securities and Exchange Board of India Act, 1992 (hereinafter in 15 of 1992. Amendment of section 11. this Chapter referred to as the principal Act),-

(*i*) in sub-section (2),—

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

"(ia) calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;";

(b) after clause (*ia*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 6th day of March, 1998, namely:-

"(ib) calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board, in the matters relating to the prevention or detection of violations in respect of securities laws, subject to the provisions of other laws for the time being in force in this regard:

Provided that the Board, for the purpose of furnishing any information to any authority outside India, may enter into an arrangement or agreement or understanding with such authority with the prior approval of the Central Government;";

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

"(5) The amount disgorged, pursuant to a direction issued, under section 11B or section 12A of the Securities Contracts (Regulation) Act, 1956 or section 42 of 1956. 19 of the Depositories Act, 1996, as the case may be, shall be credited to the 22 of 1996. Investor Protection and Education Fund established by the Board and such amount shall be utilised by the Board in accordance with the regulations made under this Ordinance.".

Amendment of section 11AA.

3. In section 11AA of the principal Act,—

(*i*) in sub-section (1)—

(a) after the word, brackets and figure "sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted;

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

"Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under sub-section (3), involving a corpus amount of one hundred crore rupees or more shall be deemed to be a collective investment scheme.";

(ii) in sub-section (2), in the opening portion, for the word "company", the word "person" shall be substituted;

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

"(2A) Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.";

(iv) in sub-section (3),—

(a) after the word, brackets and figure "sub-section (2)", the words, brackets, figure and letter "or sub-section (2A)" shall be inserted;

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

"(ix) such other scheme or arrangement which the Central Government may, in consultation with the Board, notify,".

4. In section 11B of the principal Act, the following Explanation shall be inserted, Amendment of namely:----

section 11B.

"Explanation.—For the removal of doubts, it is hereby declared that the power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, the disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.".

5. In section 11C of the principal Act,—

Amendment of section 11C.

(i) for sub-section (8), the following sub-section shall be substitued, namely:-

(8) Where in the course of an investigation, the Investigating Authority has reason to believe that any person or enterprise, as the case may be, to whom a notice under sub-section (3) has been issued or might be issued,—

(a) has omitted or failed to provide the information or produce documents as required in the notice; or

(b) would not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or

(c) would destroy, mutilate, alter, falsify or secrete the information or documents useful for, or relevant to, the investigation,

then, the Chairman may, after being satisfied that it is necessary to do so, authorise the Investigating Authority or any other officer of the Board (the officer so authorised in all cases being hereinafter referred to as the authorised officer), to-

(*i*) enter and search, with such assistance, as may be required, the building, place, vessel, vehicle or aircraft where such information or documents are expected or believed to be kept;

(ii) break open the lock of any door, box, locker, safe almirah or other receptacle for exercising the powers conferred by sub-clause (i), wherer the keys thereof are not available;

(iii) search any person who has got out of, or is about to get into, or is in, the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account or other documents;

(iv) require any person who is found to be in possession or control of any books of account or other documents, maintained in the form of electronic record, to provide the authorised officer the necessary facility to inspect such books of account or other documents.

Explanation—For the purposes of this sub-clause, the expression "electronic record" shall have the meaning assigned to it in cluase (t) of sub-section (1) of section 2 of the information Technology Act, 2000.

21 of 2000.

(v) seize any such books of account or other documents found as a result of such search;

(*vi*) place marks of identification on any books of account or other documents or make or cause to be made extracts or copies therefrom;

(vii) record on oath the statement of any person who is found to be in possession or in control of the information or documents referred to in sub-clause (i), (iii) and (iv).';

(ii) for sub-section (9), the following sub-section shall be substituted, namely,-

"(9) The Board may make regulations in relation to any search or seizure under this section; and in particular, without prejudice to the generality of the forgoing power, such regulations may provide for the procedure to be followed by the authorised officer—

(*a*) for obtaining ingress into any building, place, vessel, vehicle or aircracft to be searched where free ingress thereto is not available;

(b) for ensuring safe custody of any books of account or other documents or assets seized.";

(*iii*) in sub-section (10), the words "and inform the Magistrate of such return" shall be omitted.

6. After section 15JA of the principal Act, the following section shall be inserted
 and shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:—

"15JB. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of section 12 or section 15-I, may file an application in writting to the Board proposing for settlement of the proceeding initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or Adjudicating officer, as the case may be, under this section.".

A m e n d m e n t of section 15T.

Amendment of section 26.

8. In section 26 of the principal Act, sub-section (2) shall be omitted.

7. In section 15T of the principal Act, sub-section (2) shall be omitted.

Insertion of new section 15JB.

Settlement of administrative and civil proceedings.

9. After section 26 of the principal Act, the following sections shall be inserted,

SEC. 11

Insertion

of

new sections namely:----26A, 26B, 26C, 26D and 26E. "26A. (1) The Central Government may, for the purpose of providing speedy Establishment of Special trial of offences under this Act, by notification, establish or designate as many Special Courts. Courts as may be necessary. (2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working. (3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be. **26B.** Notwithstanding anything contained in the Code of Criminal Procedure, Offences triable 2 of 1974. 1973, all offences under this Act committed prior to the date of commencement of the bv Special Courts. Securities Laws (Amendment) Second Ordinance, 2013 or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned. **26**C. The High Court may exercise, so far as may be applicable, all the powers Appeal and conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a revision. 2 of 1974. High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court. **26D.** (1) Save as otherwise provided in this Act, the provisions of the Code of Application of 2 of 1974. Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for Code to proceedings the purposes of the said provisions, the Special Court shall be deemed to be a Court before Special of Session and the person conducting prosecution before a Special Court shall be Court. deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973. (2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law. 26E. Any offence committed under this Act, which is triable by a Special Court Transitional shall, until a Special Court is established, be taken cognizance of and tried by a Court provisions. of Session exercising jurisdiction over the area, notwithstanding anything contained 2 of 1974. in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code of Criminal Procedure, 1973 to transfer any 2 of 1974. case or class of cases taken cognizance by a Court of Session under this Section.". 10. After section 28 of the principal Act, the following section shall be inserted, Insertion of new section namely:-28A. ²⁸A. (1) If a person fails to pay the penalty imposed by the adjudicating officer Recoverv of or fails to comply with any direction of the Board for refund of monies or fails to amounts.

or fails to comply with any direction of the Board for refund of monies or fails to comply with a direction of disgorgement order issued under section 11B or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:----

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties;

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate 43 of 1961). Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules made thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.—For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) 43 of 1961. Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3.—Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal 43 of 1961. before the Securities Appellate Tribunal under section 15T of this Act.

(2) The Recovery Officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 11B, shall have precedence over any other claim against such person.

(4) For the porpose of sub-section (1), (2) and (3), the expression "Recovery" Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.'.

11. In section 30 of the principal Act, in sub-section (2),—

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

"(ca) the utilisation of the amount credited under sub-section (5) of section 11;

(cb) the fulfilment of other conditions relating to collective investment scheme under sub-section (2A) of section 11AA;

(cc) the procedure to be followed by the authorised officer for search or seizure under sub-section (9) of section 11C;";

Amendment to section 30.

15 of 1992.

15 of 1992.

(*ii*) after clause (*d*), the following clauses shall be inserted, namely:—

"(da) the terms determined by the Board for settlement of proceedings under sub-section (2) and the procedure for conducting of settlement proceedings under sub-section (3) of section 15JB;

(db) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.".

12. After section 34 of the principal Act, the following section shall be inserted, Insertion namely:---

"34A. Any act or thing done or purporting to have been done under the principal Validation of Act, in respect of calling for information from, or furnishing information to, other authorities, whether in India or outside India, having functions similar to those of the Board and in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.".

CHAPTER III

Amendments to the Securities Contracts (REGULATION) ACT, 1956

42 of 1956. 13. In section 12A of the Securities Contracts (Regulation) Act, 1956 (hereafter in this Amendment Chapter referred to as 'the principal' Act), the following Explanation shall be inserted, of section 12A. namely:----

> "Explanation.—For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.".

14. After section 23J of the principal Act, the following section shall be inserted and Insertion new shall be deemed to have been inserted with effect from the 20th day of April, 2007, namely:-23IA

"23JA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 12A or section 23-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act. 1992.

(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.

(4) No appeal shall lie under section 23L against any order passed by the Board or the adjudicating officer, as the case may be under this section.".

15. After section 23JA of the principal Act as so inserted, the following section shall be inserted, namely:----

Insertion of new section 23JB.

^{(23JB. (1)} If a person fails to pay the penalty imposed by the adjudicating Recovery of officer or fails to comply with a direction of disgorgement order issued under amounts.

of

of

section

Settlement of Administrative

and Civil

Proceedings.

section

new

34A.

certain acts.

section 12A or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:-

- (a) attachment and sale of the person's movable property;
- (b) attachment of the person's bank accounts;
- (c) attachment and sale of the person's immovable property;
- (d) arrest of the person and his detention in prison;

(e) appointing a receiver for the management of the person's movable and immovable properties,

and for this purpose, the provisions of sections 221 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate 43 of 1961. Proceedings) rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income-tax under the Income-tax Act, 1961.

Explanation 1.—For the purpose of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or son's minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.

Explanation 2.—Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) 43 of 1961. Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.

Explanation 3.—Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal 43 of 1961. before the Securities Appellate Tribunal under section 23L of this Act.

(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1).

(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1), pursuant to non-compliance with any direction issued by the Board under section 12A, shall have precedence over any other claim against such person.

(4) For the purposes of sub-section (1), (2) and (3), the expression "Recovery Officer" menas any officer of the Board who may be authorised, by general or special order in writing to exercise the powers of a Recovery Officer.'.

16. In section 26 of the principal Act, sub-section (2) shall be omitted.

Amendment of section 26.

8

[PART II-

17. After section 26 of the principal Act, the following sections shall be inserted,

SEC. 11

Insertion

of

new sections namely:----26A, 26B, 26C, 26D and 26E. "26A. (1) The Central Government may, for the purpose of providing speedy Establishment trial of offences under this Act, by notification, establish or designate as many of Special Courts. Special Courts as may be necessary. (2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working. (3) A person shall not be qualified for appointment as a judge of Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be. 26B. Notwithstanding anything contained in the Code of Criminal Procedure, Offences triable by 2 of 1974. 1973, all offences under this Act committed prior to the date of commencement of the Special Courts. Securities Laws (Amendment) Second Ordinance, 2013 or on or after the date of such commencement, shall be taken congnizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned. 26C. The High Court may exercise, so far as may be applicable, all the power Appeal and Revision. 2 of 1974. conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court. 26D. (1) Save as otherwise provided in this Act, the provisions of the Code of Application of Code 2 of 1974. Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for to proceedings the purposes of the said provisions, the Special Court shall be deemed to be a Court before Special of Session and the person conducting prosecution before a Special Court shall be Court. deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973. (2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law. 26E. Any offence committed under this Act, which is triable by a Special Court Transitional provisions. shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained 2 of 1974. in the Code of Criminal Procedure, 1973: Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.". 18. After section 31 of the principal Act, the following section shall be inserted, Insertion of new section namely:----32. "32. Any act or thing done or purporting to have been done under the principal Validation of

Certain acts. Act, in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times.".

[PART II—

CHAPTER IV

AMENDMENTS TO THE DEPOSITORIES ACT, 1996

Amendments to the Depositories Act, 1996						
	Amendment of section 19.	19. In section 19 of the Depositories Act, 1996 (hereafter in this chapter referred to as the principal Act in this chapter), the following Explanation shall be inserted, namely:—	22 of 1996.			
		<i>"Explanation.</i> —For the removal of doubts, it is hereby declared that power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.".				
	Insertion of new section 19-IA.	20. After section 19-I of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effrect from the 20th day of April, 2007, namely:—				
	Settlement of Administrative Civil Proceedings.	"19-IA. (1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 19 or section 19H, as the case may be, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.				
		(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.	15. of 1992.			
		(3) For the purpose of settlement under this section, the procedure as specified by the Board under the Securities and Exchange Board of India Act, 1992 shall apply.	15. of 1992.			
		(4) No appeal shall lie under secton 23A against any order passed by the Board or the adjudicating officer under this section.".				
	Insertion of new section 19-IB.					
Recovery of amounts.		'19-IB (1) If a person fails to pay the penalty imposed by the adjudicating officer or fails to comply with a direction of disgorgement order issued under section 19 or fails to pay any fees due to the Board, the Recovery Officer may draw up under his signature a statement in the specified form specifying the amount due from the person (such statement being hereafter in this Chapter referred to as certificate) and shall proceed to recover from such person the amount specified in the certificate by one or more of the following modes, namely:—				
	(a) attachment and sale of the person's movable property;					
		 (b) attachment of the person's bank accounts; (c) attachment and sale of the person's immovable property; (d) arrest of the person and his detention in prison; (e) appointing a receiver for the management of the person's movable an immovable properties, 				
		and for this purpose, the provisions of sections 221 to 227, 228A, 229, 232, the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, in so far as may be, apply with necessary modifications as if the said provisions and the rules thereunder were the provisions of this Act and referred to the amount due under this Act instead of to income tax under the Income tax Act 1061	43 of 1961.			

income-tax under the Income-tax Act, 1961.

	<i>Explanation</i> 1.— For the purposes of this sub-section, the person's movable or immovable property or monies held in bank accounts shall include any property or monies held in bank accounts which has been transferred, directly or indirectly on or after the date when the amount specified in certificate had become due, by the person to his spouse or minor child or son's wife or son's minor child, otherwise than for adequate consideration, and which is held by, or stands in the name of, any of the persons aforesaid; and so far as the movable or immovable property or monies held in bank accounts so transferred to his minor child or his son's minor child is concerned, it shall, even after the date of attainment of majority by such minor child or sons' minor child, as the case may be, continue to be included in the person's movable or immovable property or monies held in bank accounts for recovering any amount due from the person under this Act.	
43 of 1961.	<i>Explanation</i> 2.— Any reference under the provisions of the Second and Third Schedules to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962 to the assessee shall be construed as a reference to the person specified in the certificate.	
43 of 1961.	<i>Explanation</i> 3.—Any reference to appeal in Chapter XVIID and the Second Schedule to the Income-tax Act, 1961, shall be construed as a reference to appeal before the Securities Appellate Tribunal under section 23A of this Act.	
	(2) The recovery officer shall be empowered to seek the assistance of the local district administration while exercising the powers under sub-section (1) .	
	(3) Notwithstanding anything contained in any other law for the time being in force, the recovery of amounts by a Recovery Officer under sub-section (1) , pursuant to non-compliance with any direction issued by the Board under section 19, shall have precedence over any other claim against such person.	
	(4) For the purposes of sub-sections (1) , (2) and (3) , the expression "Recovery Officer" means any officer of the Board who may be authorised, by general or special order in writing, to exercise the powers of a Recovery Officer.	
	22. In section 22 of the principal Act, sub-section (2) shall be omitted.	2
	23. After section 22B of the principal Act, the following sections shall be inserted, namely:—	
	"22C. (1) The Central Government may, for the purpose of providing speedy trial of offences under this Act, by notification, establish or designate as many Special Courts as may be necessary.	E C C
	(2) A Special Court shall consist of a single judge who shall be appointed by	

(2) A Special Court shall consist of a single judge who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working.

(3) A person shall not be qualified for appointment as a judge of a Special Court unless he is, immediately before such appointment, holding the office of a Sessions Judge or an Additional Sessions Judge, as the case may be.

2 of 1974.

22D. Notwithstanding anything contained in the Code of Criminal Procedure, Offences 1973, all offences under this Act committed prior to the date of commencement of the Securities Laws (Amendment) Second Ordinance, 2013 or on or after the date of such commencement, shall be taken cognizance of and triable by the Special Court established for the area in which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned.

22E, 22F and 22G.

Amendment of section 22.

Establishment of Special Courts.

triable by

Special

Courts.

	12 THE GAZETTE OF INDIA EXTRAORDINARY [PART II—SEC. 1]	
Appeal and Revision.	22E. The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973 on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.	2 of 1974.
Application of Code to proceedings before Special Court.	22F. (1) Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973.	2 of 1974.
	(2) The person conducting prosecution referred to in sub-section (1) should have been in practice as an Advocate for not less than seven years or should have held a post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.	
Transitional provisions.	22G. Any offence committed under this Act, which is triable by a Special Court shall, until a Special Court is established, be taken cognizance of and tried by a Court of Session exercising jurisdiction over the area, notwithstanding anything contained in the Code of Criminal Procedure, 1973:	2 of 1974.
	Provided that nothing contained in this section shall affect the powers of the High Court under section 407 of the Code to transfer any case or class of cases taken cognizance by a Court of Session under this section.".	
Amendment of section 23A.	24. In section 23A of the principal Act, sub-section (2) shall be omitted.	
Insertion of new section 30A.	25. After section 30 of the principal Act, the following section shall be inserted, namely:—	
Validation of certain acts.	"30A. Any act or thing done or purporting to have been done under the principal Act, in respect of settlement of administrative and civil proceedings, shall, for all purposes, be deemed to be valid and effective as if the amendments made to the principal Act had been in force at all material times."	
Repeal and	26. (1) The Securities Laws (Amendment) Ordinance, 2013 is hereby repealed.	Ord. 8 of 2013.
saving.	(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Ordinance.	

PRANAB MUKHERJEE, President.

P.K. MALHOTRA, Secy. to the Govt. of India.

PUBLISHED BY THE SECRETARY-GENERAL, RAJYA SABHA, UNDER RULE 68 OF THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE RAJYA SABHA.

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असाधारण EXTRAORDINARY भाग II — खण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं॰ 41]नई दिल्ली, शुक्रवार, सितम्बर 27, 2013/अश्विन 5, 1935 (शक)No. 41]NEW DELHI, FRIDAY, SEPTEMBER 27, 2013/ASVINA 5, 1935 (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 27th September, 2013/Asvina 5, 1935 (Saka)

THE READJUSTMENT OF REPRESENTATION OF SCHEDULED CASTES AND SCHEDULED TRIBES IN PARLIAMENTARY AND ASSEMBLY CONSTITUENCIES (THIRD) ORDINANCE, 2013

No. 10 of 2013

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

An Ordinance to provide for readjustment of seats in the House of the People and in the Legislative Assemblies of the States, and for the readjustment of territorial constituencies therefor, insofar as such readjustment is necessitated by inclusion in, or exclusion from, the lists of the Scheduled Castes and the Scheduled Tribes and for matters connected therewith or incidental thereto.

WHEREAS the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance, 2013, to provide for the aforesaid matters, was promulgated by the President on the 30th January, 2013;

AND WHEREAS the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Bill, 2013 was introduced on the 26th February, 2013 in the Council of States to replace the said Ordinance;

AND WHEREAS the said Bill was referred by the Chairman of the Council of States to the Department-related Parliament Standing Committee on Personnel, Public Grievances, Law and Justice on the 18th March, 2013.

AND WHEREAS the said Standing Committee presented its Fifty-ninth Report to the Council of States on the 2nd May, 2013 recommending that the Bill may be passed;

AND WHEREAS the said Bill could not be passed by the Council of States and the said Ordinance ceased to operate on the 4th April, 2013;

AND WHEREAS the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Ordinance, 2013 was promulgated by the President on the 5th June, 2013;

AND WHEREAS the said Bill pending in the Council of States was withdrawn and the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Bill, 2013 was introduced on the 7th August, 2013 in the Council of States to replace the said Second Ordinance;

AND WHEREAS the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Bill, 2013 could not be passed by the Council of States;

AND WHEREAS the said Second Ordinance ceased to operate on the 15th September, 2013;

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 validate the actions taken under the said Ordinance so ceased to operate and to take further action to provide for the aforesaid matters;

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 Readjustment of Representation of Scheduled Tribes in Parliamentary and Assembly Constituencies (Third) Ordinance, 2013.

(2) It shall be deemed to have come into force on the 30th day of January, 2013.

Definitions.

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

(*a*) "Census Commissioner" means the Census Commissioner appointed under sub-section (*1*) of section 4 of the Census Act, 1948;

37 of 1948.

(b) "Commission" means the Election Commission referred to in article 324 of the Constitution;

(c) "Delimitation Act" means the Delimitation Act, 2002;

33 of 2002.

(*d*) "Delimitation Order" means the Delimitation of Parliamentary and Assembly Consituencies Order, 2008;

(e) "last census" means the census held in India in 2001;

(*f*) "Scheduled Castes Orders" means the Constitution (Scheduled Castes) Order, 1950, the Constitution (Scheduled Castes) (Union Territories) Order, 1951, the Constitution (Dadra and Nagar Haveli) Scheduled Castes Order, 1962 and the Constitution (Puducherry) Scheduled Castes Order, 1964, made by the President under article 341 of the Constitution;

(g) "Scheduled Tribes Orders" means the Constitution (Scheduled Tribes) Order, 1950, the Constitution (Scheduled Tribes) (Union Territories) Order, 1951, the Constitution (Scheduled Tribes) (Uttar Pradesh) Order, 1967 and the Constitution (Sikkim) Scheduled Tribes Order, 1978, made by the President under article 342 of the Constitution;

(*h*) "State" includes a Union territory having a Legislative Assembly, but does not include the State of Jammu and Kashmir.

3. (1) As soon as may be after the commencement of this Ordinance, the population as at the last census, of the Scheduled Castes or, as the case may be, of the Scheduled Tribes, in each State shall be ascertained or estimated by the Census Commissioner.

(2) Where by reason of the amendments made in the Scheduled Castes Orders and the Scheduled Tribes Orders after the last census and upto 31st May, 2012, the population of the Scheduled Castes or the Scheduled Tribes as at the last census is varied in a State, the Census Commissioner shall ascertain or estimate as on the 1st day of March, 2001, the population of the Scheduled Castes or the Scheduled Tribes so varied, and also ascertain or estimate the proportion of such population of the Scheduled Castes or the Scheduled Tribes, respectively, to the total population of the State in the last census.

(3) The population figures ascertained or estimated under sub-section (2) shall be notified by the Census Commissioner in the Gazette of India.

(4) The population figures notified under sub-section (3) shall be taken to be the relevant population figures as ascertained or estimated at the last census and shall supersede any figures previously published; and the figures so notified shall be final and shall not be called in question in any court.

4. (*1*) After the population figures have been notified for any State under section 3, the Commission shall make such amendments as may be necessary in the Delimitation Order, having regard to the provisions of articles 81, 170, 330 and 332 of the Constitution, section 8 of the Delimitation Act, and of this Ordinance, for the purpose of giving proper representation to the Scheduled Castes or, as the case may be, to the Scheduled Tribes of that State, and the First Schedule and the Second Schedule to the Representation of the People Act, 1950 shall be deemed to have been amended accordingly.

Readjustment of territorial constituencies by Commission.

(2) In making any amendments in the Delimitation Order under sub-section (1), the Commission shall, as far as may be necessary, have regard to the provisions of clauses (c) and (d) of sub-section (1) of section 9 of the Delimitation Act.

(3) The Commission shall—

(*a*) publish its proposals for the amendments in the Gazette of India and the Official Gazettes of the States concerned and also in such other manner as it thinks fit;

(b) specify a date on or after which such proposals will be further considered by it;

(c) consider all objections and suggestions which may have been received by its before the date so specified and for such consideration hold one or more public sittings at such place or places in each State as it thinks fit; and

(d) thereafter make necessary amendments in the Delimitation Order.

5. (*1*) In the discharge of its functions under its Ordinance, the Commission shall determine its own procedure and shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

Procedure and powers of Commission.

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the production of any document; and

(c) requisitioning any public record from any court or office.

(2) The Commission shall have the power to require any person to furnish any information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, any matter under the consideration of the Commission.

(3) The Commission shall be deemed to be a civil court for the purposes of sections345 and 346 of the Code of Criminal Procedure, 1973.

Estimation of

population of

Scheduled

Castes and Scheduled

Tribes.

2 of 1974.

5 of 1908.

43 of 1950.

Explanation.—For the purposes of enforcing the attendance of witnesses, the jurisdiction of the Commission shall be the limits of the territory of India.

Publication of amendments and their dates of operation.

6. (1) The Commission shall cause the amendments made by it in the Delimitation Order to be published in the Gazette of India and in the Official Gazettes of the States concerned.

(2) On and from the date of publication in the Gazette of India, every such amendment shall have the force of law and shall not be called in question in any court.

(3) As soon as may be after such publication in the Gazette of India and in the Official Gazette of the State, every such amendment shall be laid before the House of the People and the Legislative Assembly of the State concerned.

(4) Subject to the provisions of sub-section (5), the readjustment of seats and territorial constituencies in the House of the People or in the Legislative Assembly of a State necessitated by any amendments made by the Commission in the Delimitation Order and provided for in that Order as so amended shall apply in relation to every election to the House of the People or, as the case may be, to the Assembly to any State, held after the publication of such amendments in the Gazette of India, and shall so apply notwithstanding such provisions contained in the Representation of the People Act, 1950.

43 of 1950.

(5) Nothing contained in the foregoing sub-section shall affect the representation in the House of the People or in the Legislative Assembly of a State, until the dissolution of the House of the People or of the Assembly of any State, as the case may be, existing on the date of publication of the amendments made by the Commission in the Gazette of India.

7. (1) The Commission may, from time to time, by notification in the Gazette of India Certain other of and in the Official Gazette of the State concerned,-Commission.

> (a) correct any printing mistake in the Delimitation Order as amended under this Ordinance or any error occurring therein from any inadvertent slip or omission; and

> (b) where the boundaries or the name of any district or any territorial division mentioned in the said Order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing the Delimitation Order up-to-date.

> (2) Every notification under this section shall be laid, as soon as may be after it is issued, before the House of the People and the Legislative Assembly of the State concerned.

Validation of acts done before the commencement of Ordinance.

powers

Power to remove difficulties.

8. All things done and all steps taken before the commencement of this Ordinance by the Census Commissioner for the ascertainment or estimation of population of the Scheduled Castes and the Scheduled Tribes, or by the Commission for the purpose of readjustment of seats and territorial constituencies shall, in so far as they are in conformity with the provisions of this Ordinance, be deemed to have been done or taken under these provisions as if such provisions were in force at the time such things were done or such steps were taken.

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

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of Parliament.

Validation of acts done under Ordinance 6 of 2013.

10. Notwithstanding the fact that the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies (Second) Ordinance, 2013 has ceased to operate, anything done or any action taken or purported to have been done or taken under the provisions of the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Ordinance as if such provisions had been in force at all material times.

PRANAB MUKHERJEE, President.

P.K. MALHOTRA, Secy. to the Govt. of India.

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असाधारण EXTRAORDINARY भाग II — खण्ड । PART II — Section 1 प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं⁶ 42] नई दिल्ली, शनिवार, सितम्बर 28, 2013/अस्विन 6, 1935 (शक) No. 42] NEW DELHI, SATURDAY, SEPTEMBER 28, 2013/ASVINA 6, 1935 (SAKA)

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

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 28th September, 2013/Asvina 6, 1935 (Saka)

THE INDIAN MEDICAL COUNCIL (AMENDMENT) SECOND ORDINANCE, 2013

No. 11 of 2013

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

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

WHEREAS the Indian Medical Council (Amendment) Ordinance, 2013 was promulgated by the President on the 21st day of May, 2013;

AND WHEREAS the Indian Medical Council (Améndment) Bill, 2013 with certain modifications was introduced in the Council of States to replace the said Ordinance, which has not been passed 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 to give continued effect to the provisions of the said Ordinance with certain modifications;

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 1

PRELIMINARY

1. (1) This Ordinance may be called the Indian Medical Council (Amendment) Second . Ordinance, 2013.

Short title and commencement.

(2) It shall be deemed to have come into force on the 15th day of May, 2013.

	2	THE GAZETTE OF INDIA EXTRAORDINARY	[PART II		
Amendment of long title.		the indian Medical Council Act, 1956 (hereinafter referred to as the g g title, the following long title shall be substituted, namely:—	principal Act),	102 of 1956.	
	"An Act to provide for the constitution of the Medical Council of India and for the determination, co-ordination, maintenance and regulation of standards of medical education, the practice of medicine, maintenance of Indian Medical Register and to make endeavour in making available doctors in all States and for matters connected therewith or incidental thereto.".				
Amendment of section 2.		section 2 of the principal Act, in clause (1), after the words "a meaning shall be inserted, namely:	dical faculty",		
	"but	does not include Deemed University for the purpose of section 3	of the Act".		
Amendment	4. In	section 3 of the principal Act,			
of section 3.		(a) in sub-section (1),—			
		(i) after clause (a) , the following clause shall be inserted, n	amely:		
		(<i>aa</i>) one member, to represent the Union territories be nominated by the Central Government;";	by rotation, to		
		(ii) for clause (b), the following clause shall be substituted	, namely:		
		"(b) one member from each University, to be elected the members of the medical faculty of the University by m Senate of the University or in case the University has no members of the Court or in case the University has no equivalent to the Senate or the Court:	nembers of the no Senate, by		
	·	Provided that where there is Health University in a St of the Health University or in case the Health University is by members of the Court or in case the University has no equivalent to the Senate or the Court of that University, s representative for every ten medical colleges affiliated to it, the medical faculty of those medical colleges, to represent colleges:	has no Senate, Court, a body shall elect one from amongst		
		Provided further that a Health University with less the colleges affiliated to it, shall also be eligible to elect one represent such medical colleges:	an ten medical presentative to		
		Provided also that such number of reprsentatives sha by the Central Government after every four years;";	ll be reviewed		
		(<i>iii</i>) clause (d) shall be omitted;			
		(b) in sub-section (2), the following proviso shall be inserted, na	mely:		
		"Provided that no person shall hold office as the President or, as be, the Vice-President for more than two terms.".	s the case may		

Reconstitution of Council.

í

"3AA. The Central Government shall, after the commencement of the Indian Medical Council (Amendment) Second Ordinance, 2013, reconstitute the Council, by notification in the Official Gazette, and publish the names of the members nominated or elected to the Council under sub-section (1) of section 3 within a period not exceeding one hundred and eighty days:

5. After section 3A of the principal Act, the following section shall be inserted,

Provided that the Board of Governors constituted under sub-section (4) of section 3A shall continue to exercise the powers and perform the functions of the Council till the new Council is reconstituted or for such period not exceeding one hundred and eighty days, whichever is earlier.".

6. In section 4 of the principal Act, in sub-section (1),---

(a) the words, brackets and letter "or clause (d)" shall be omitted;

(b) the words, brackets, letter and figures "and any rules so made provide that pending the preparation of the Indian Medical Register in accordance with the provisions of this Act, the members referred to in clause (d) of sub-section (1) of section 3 may be nominated by the Central Government instead of being elected as provided therein," shall be omitted.

7. In section 7 of the principal Act,-

(a) in sub-section (1), for the words "five years", the words "four years" shall be substituted:

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

"(2) Subject to the provisions of the Act, a member, whether nominated or elected, shall hold office for a term of four years.";

(c) in sub-section (6), for the words "five years", the words "four years" shall be substituted.

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

"9A. (1) The Council shall, subject to the provisions of the Act and rules made thereunder, take measures to determine, coordinate and maintain the standards of medical education and practice in medicine, the Indian Medical Register and make endeavour in making available doctors in all States.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to in sub-section (1), may, inter alia, provide for all or any of the following matters, namely:---

(a) lay down the standards of professional ethics in the practice of medicine;

(b) grant or withdraw permission for establishment of medical college and course of study in medical education and ensure compliance of its terms and conditions for such permission:

(c) maintain the Indian Medical Register;

(d) render advice to the Central Government or the State Government on matters relating to the medical education and practice in medicine;

(e) facilitate medical education in the institutions situated outside the country;

(f) undertake and recommend to the Central Government or the State Government such measures as may be necessary to regulate medical education in or outside the country;

(g) organise seminars, symposiums and workshops in order to promote continuous medical education and practice in medicine; and

(h) perform such other functions as may be laid down in the rules made by the Central Government.".

9. In section 13 of the principal Act,---

of section 13. (a) in sub-section (2) and (3), for the words "a citizen of India", the words "a citizen of India or an overseas citizen of India" shall respectively be substituted:

(b) in sub-section (4A), for the words "a citizen of India", the words "a citizen of India or an overseas citizen of India" shall be substituted;

Insertion of new section 9A

Functions of Council

Amendment

of section 4.

Amendment of section 7

Amendment

3

(c) sub-section (4B) and the proviso relating thereto shall be omitted;

(d) in sub-section (4C), for the words, brackets, figures and letters "sub-sections (4A) and (4B)", the word, brackets, figure and letter "sub-section (4A)" shall be substituted;

(e) after sub-section (5), the following Explanation shall be inserted, namely:---

'Explanation.—For the purposes of this section, the expression "overseas citizen of India" shall have the meaning assigned to it in clause (ee) of sub-section (1) of section 2 of the Citizenship Act, 1955.'.

57 of 1955

Amendment 10. In section 14 of the principal Act, in the proviso to sub-section (1), the words "for the time being for the purposes of teaching, research or charitable work" shall be omitted.

Amendment of section 21. 11. In section 21 of the principal Act,-

(a) in sub-section (1), for the words "the names", the words "the names and biometric details" shall be substituted;

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

(2A) The Council shall, in addition to the Indian Medical Register referred to in sub-section (1), maintain the Medical Register in electronic form containing the particulars included in the Indian Medical Register.

Explanation.—For the purpose of this sub-section, the expression, "electronic form" shall have the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.'.

21 of 2000.

Insertion of new 12. After section 30 of the principal Act, the following section shall be inserted, section 30A. namely:—

Resignation, removal and suspension of President, Vice President or members of Council. "30A. (1) The President, Vice-President or any member of the Council may, by notice in writing under his hand addressed to the Central Government, resign from his office:

Provided that the President, Vice-President or any member of the Council shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of a period of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may remove from office the President, Vice-President, or any member of the Council, who—

(a) has been adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as such President, Vice-President, or other member; or

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

(d) has been convicted of an offence involving moral turpitude; or

(e) has acquired such financial or any other interest in any medical institution falling within the purview of the Council, which is likely to affect prejudicially the exercise of his functions as the President, Vice President, or a member; or

(f) is unable to perform or has made persistent defaults-

(i) in the performance of the duties imposed on him under this Act or has exceeded or abused his position; or

(*ii*) either wilfully or without sufficient cause neglects to comply with the directions issued by the Central Government under sections 33A and 33B; or

(g) has been guilty of proved misbehaviour or his continuance in office would be detrimental in public interest.

(3) No person shall be removed from his office on the grounds specified in clause (e) or clause (f) or clause (g) of sub-section (2), unless he has been given a reasonable opportunity of being heard in the matter.".

13. In section 32 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 32.

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

(a) the manner of election of the Council under sub-section (1) of section 4;

(b) such other functions of the Council under clause (h) of sub-section (2) of section 9A as may be laid down by the Central Government;

(c) the conditions and payment of fees for filing of an appeal before the Central Government under sub-section (2) of section 24;

(d) any other matter which is required to be, or may be, provided by rules or in respect of which provision is to be made by rules.".

14. In section 33 of the principal Act, for clause (ma), the following clause shall be substituted, namely:—

"(ma) the modalities for conducting screening test under sub-section (4A) of section 13;".

15. After section 33 of the principal Act, the following sections shall be inserted, namely:

"33A. Without prejudice to the foregoing provisions of this Act, the Council shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time, and the question whether the direction given is one of policy or not shall be decided by the Central Government.

33B. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Council to make any regulations or to amend or revoke any regulations already made by it, within such period as the Central Government may specify in this behalf.

(2) If the Council fails or neglects to comply with such order within the specified period, the Central Government may make the regulations or amend or revoke the regulations made by the Council, as the case may be, in such manner as the Central Government thinks fit.

33C. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more

Amendment of section 33.

Insertion of new sections 33A, 33B and 33C

Power of Central Government to give directions.

Powers of Central Government to direct regulations to be made or to make or amend regulations.

Laying of rules and regulations successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or both Houses agree that the rule and regulation should not be made, the rule and regulation shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity or anything previously done under that rule or regulation.".

Validation and savings

savings

16. Notwithstanding the fact that the Indian Medical Council (Amendment) Ordinance, 2013 has ceased to operate, anything done or any action taken or purported to have been done or taken or any permission or direction given under the said Ordinance shall be deemed to have been done, taken or given under the corresponding provisions of this Ordinance.

Ord. 4 of 2013.

PRANAB MUKHERJEE President.

[PART []---SEC. 1]

P.K. MALHOTRA, Secy. to the Govt. of India.

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