CENTRAL ORDINANCE, 2014

- 1. THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) AMENDMENT ORDINANCE, 2014
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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II - Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 7]

नई दिल्ली, मंगलवार, मार्च 4, 2014/ फाल्गुन 13, 1935 (शक)

No. 7]

NEW DELHI, TUESDAY, MARCH 4, 2014/PHALGUNA 13, 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 4th March, 2014/Phalguna 13, 1935 (Saka)

THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) AMENDMENT ORDINANCE, 2014

(No. 1 of 2014)

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

An Ordinance to amend the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

WHEREAS the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2013, to give effect to the aforesaid objective, was introduced on the 12th December, 2013 in the House of the People;

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

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

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

Short title and commencement.

- 1. (1) This Ordinance may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance, 2014.
 - (2) It shall come into force at once.

Amendment of long title.

2. In the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the principal Act), in the long title, for the words "Special Courts", the words "Special Courts and the Exclusive Special Courts" shall be substituted.

33 of 1989.

Amendment of section 2.

- 3. In section 2 of the principal Act, in sub-section (1),-
- (i) after clause (b), the following clauses shall be inserted, namely:-
- '(bb) "dependent" means the spouse, children, parents, brother and sister of the victim, who are dependent wholly or mainly on such victim for his support and maintenance;
 - (bc) "economic boycott" means-
 - (i) a refusal to deal with, work for hire or do business with other person; or
 - (ii) to deny opportunities including access to services or contractual opportunities for rendering service for consideration; or
 - (iii) to refuse to do anything on the terms on which things would be commonly done in the ordinary course of business; or
 - (iv) to abstain from the professional or business relations that one would maintain with other person;
 - (bd) "Exclusive Special Court" means the Exclusive Special Court established under sub-section (1) of section 14 exclusively to try the offences under this Ordinance;
 - (be) "forest rights" shall have the meaning assigned to it in subsection (1) of section 3 of the Scheduled Tribes and Other

2 of 2007.

Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

25 of 2013.

(bf) "manual scavenger" shall have the meaning assigned to it in clause (g) of sub-section (1) of section 2 of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013;

45 of 1860.

- (bg) "public servant" means a public servant as defined under section 21 of the Indian Penal Code, as well as any other person deemed to be a public servant under any other law for the time being in force and includes any person acting in his official capacity under the Central Government or the State Government, as the case may be;";
- (ii) after clause (e), the following clauses shall be inserted, namely:-
 - '(ea) "Schedule" means the Schedule appended to this Ordinance;
 - (eb) "social boycott" means a refusal to permit a person to render to other person or receive from him any customary service or to abstain from social relations that one would maintain with other person or to isolate him from others;
 - (ec) "victim" means any individual who falls within the definition of the 'Scheduled Caste and Scheduled Tribe' under clause (c) of sub-section (1) of section 2, and who has suffered or experienced physical, mental, psychological, emotional or monetary harm or harm to his property as a result of the commission of any offence under this Ordinance and includes his relatives, legal guardian and legal heirs;
 - (ed) "witness" means any person who is acquainted with the facts and circumstances, or is in possession of any information or has knowledge necessary for the purpose of investigation, inquiry or trial of any crime involving an offence under this Ordinance, and who is or may be required to give information or make a statement or produce any document during investigation, inquiry or trial of such case and includes a victim of such offence;";
- (iii) for clause (f), the following clause shall be substituted, namely:-
 - "(f) the words and expressions used but not defined in this Ordinance and defined in the Indian Penal Code, the Indian Evidence Act, 1872 or the Code of Criminal Procedure, 1973, as

45 of 1860. 18 of 1872. 2 of 1974. the case may be, shall be deemed to have the meanings respectively assigned to them in those enactments.".

Amendment of section 3.

- 4. In section 3 of the principal Act,—
- (i) for sub-section (1), the following sub-section shall be substituted, namely:-
 - '(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,—
 - (a) puts any inedible or obnoxious substance into the mouth of a member of a Scheduled Caste or a Scheduled Tribe or forces such member to drink or eat such inedible or obnoxious substance;
 - (b) dumps excreta, sewage, carcasses or any other obnoxious substance in premises, or at the entrance of the premises, occupied by a member of a Scheduled Caste or a Scheduled Tribe;
 - (c) with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe, dumps excreta, waste matter, carcasses or any other obnoxious substance in his neighborhood;
 - (d) garlands with footwear or parades naked or seminaked a member of a Scheduled Caste or a Scheduled Tribe;
 - (e) forcibly commits on a member of a Scheduled Caste or a Scheduled Tribe any act, such as removing clothes from the person, forcible tonsuring of head, removing moustaches, painting face or body or any other similar act, which is derogatory to human dignity;
 - (f) wrongfully occupies or cultivates any land, owned by, or in the possession of or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe, or gets such land transferred;
 - (g) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights, including forest rights, over any land or premises or water or irrigation

facilities or destroys the crops or takes away the produce therefrom.

Explanation.—For the purposes of clause (f) and this clause, the expression "wrongfully" includes —

- (A) against the person's will;
- (B) without the person's consent;
- (C) with the person's consent, where such consent has been obtained by putting the person, or any other person in whom the person is interested in fear of death or of hurt; or
 - (D) fabricating records of such land;
- (h) makes a member of a Scheduled Caste or a Scheduled Tribe to do "begar" or other forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government;
- (i) compels a member of a Scheduled Caste or a Scheduled Tribe to dispose or carry human or animal carcasses, or to dig graves;
- (j) makes a member of a Scheduled Caste or a Scheduled Tribe to do manual scavenging or employs or permits the employment of such member for such purpose;
- (k) performs, or promotes dedicating a Scheduled Caste or a Scheduled Tribe woman to a deity, idol, object of worship, temple, or other religious institution as a devadasi or any other similar practice or permits aforementioned acts;
- (l) forces or intimidates or prevents a member of a Scheduled Caste or a Scheduled Tribe-
 - (A) not to vote or to vote for a particular candidate or to vote in a manner other than that provided by law;
 - (B) not to file a nomination as a candidate or to withdraw such nomination; or
 - (C) not to propose or second the nomination of a member of a Scheduled Caste or a Scheduled Tribe as a candidate in any election;
 - (m) forces or intimidates or obstructs a member of a Scheduled

Caste or a Scheduled Tribe, who is a member or a Chairperson or a holder of any other office of a panchayat under Part IX of the Constitution or a municipality under Part IX A of the Constitution, from performing their normal duties and functions;

- (n) after the poll, causes hurt or grievous hurt or assault or imposes or threatens to impose social or economic boycott upon a member of a Schedule Caste or a Scheduled Tribe or prevents from availing benefits of any public service which is due to him;
- (o) commits any offence under this Ordinance against a member of a Scheduled Caste or a Scheduled Tribe for having voted or not having voted for a particular candidate or for having voted in a manner provided by law;
- (p) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;
- (q) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;
- (r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
- (s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;
- (t) destroys, damages or defiles any object generally known to be held sacred or in high esteem by members of the Scheduled Castes or the Scheduled Tribes.

Explanation.—For the purposes of this clause, the expression "object" means and includes statue, photograph and portrait;

- (u) by words either written or spoken or by signs or by visible representation or otherwise promotes or attempts to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes;
- (v) by words either written or spoken or by any other means disrespects any late person held in high esteem by members of the Scheduled Castes or the Scheduled Tribes;

- (w) (i) intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient's consent;
- (ii) uses words, acts or gestures of a sexual nature towards a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe.

Explanation.—For the purposes of sub-clause (i), the expression "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 woman belonging to a Scheduled Caste or a Scheduled Tribe who does not offer physical resistance to any act of a sexual nature is not by reason only of that fact, is to be regarded as consenting to the sexual activity:

Provided further that a woman's sexual history, including with the offender shall not imply consent or mitigate the offence;

- (x) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;
- (y) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any other section thereof have a right to use or access to;
- (z) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence:

Provided that nothing contained in this clause shall apply to any action taken in discharge of a public duty;

(za) obstructs or prevents a member of a Scheduled Caste or a Scheduled Tribe in any manner with regard to –

- (A) using common property resources of an area, or burial or cremation ground equally with others or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing *ghat*, any public conveyance, any road, or passage;
- (B) mounting or riding bicycles or motor cycles or wearing footwear or new clothes in public places or taking out wedding procession, or mounting a horse or any other vehicle during wedding processions;
- (C) entering any place of worship which is open to the public or other persons professing the same religion or taking part in, or taking out, any religious, social or cultural processions including jatras;
- (D) entering any educational institution, hospital, dispensary, primary health centre, shop or place of public entertainment or any other public place; or using any utensils or articles meant for public use in any place open to the public; or
- (E) practicing any profession or the carrying on of any occupation, trade or business or employment in any job which other members of the public, or any section thereof, have a right to use or have access to;
- (zb) causes physical harm or mental agony of a member of a Scheduled Caste or a Scheduled Tribe on the allegation of practicing witchcraft or being a witch; or
- (zc) imposes or threatens a social or economic boycott of any person or a family or a group belonging to a Scheduled Caste or a Scheduled Tribe,

shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.';

(ii) in sub-section (2),—

(a) in clause (v), for the words "on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member", the words "knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member" shall be substituted;

- (b) after clause (v), the following clause shall be inserted, namely:—
 - "(va) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code for such offences and shall also be liable to fine."

45 of 1860.

5. For section 4 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 4.

"4. (1) Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Ordinance and the rules made thereunder, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

Punishment for neglect of duties.

- (2) The duties of public servant referred to in sub-section (1) shall include—
- (a) to read out to an informant the information given orally, and reduced to writing by the officer in charge of the police station, before taking the signature of the informant;
- (b) to register a complaint or a First Information Report under this Ordinance and other relevant provisions and to register it under appropriate sections of this Ordinance;
- (c) to furnish a copy of the information so recorded forthwith to the informant;
 - (d) to record the statement of the victims or witnesses;
- (e) to conduct the investigation and file charge sheet in the Special Court or the Exclusive Special Court within a period of sixty days, and to explain the delay if any, in writing;
- (f) to correctly prepare, frame and translate any document or electronic record;
- (g) to perform any other duty specified in this Ordinance or the rules made thereunder:

Provided that the charges in this regard against the public

servant shall be booked on the recommendation of an administrative enquiry.

(3) The cognizance in respect of any dereliction of duty referred to in sub-section (2) by a public servant shall be taken by the Special Court or the Exclusive Special Court and shall give direction for penal proceedings against such public servant.".

Amendment of section 8.

6. In section 8 of the principal Act,—

- (i) in clause (a), for the words "any financial assistance to a person accused of", the words "any financial assistance in relation to the offences committed by a person accused of" shall be substituted;
- (ii) after clause (b), the following clause shall be inserted, namely:
 - "(c) the accused was having personal knowledge of the victim or his family, the Court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved.".

Amendment of section 10.

- 7. In section 10 of the principal Act, in sub-section (1),—
- (a) after the words and figures "article 244 of the Constitution", the words, brackets and figures "or any area identified under the provisions of clause (vii) of sub-section (2) of section 21" shall be inserted;
- (b) for the words "two years", the words "three years" shall be substituted.

Substitution of new section for section 14.

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

Special Court and Exclusive Special Court.

"14. (1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, establish an Exclusive Special Court for one or more Districts:

Provided that in Districts where less number of cases under this Ordinance is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for such Districts, the Court of Session to be a Special Court to try the offences under this

Ordinance:

Provided further that the Courts so established or specified shall have power to directly take cognizance of offences under this Ordinance.

- (2) It shall be the duty of the State Government to establish adequate number of Courts to ensure that cases under this Ordinance are disposed of within a period of two months, as far as possible.
- (3) In every trial in the Special Court or the Exclusive Special Court, the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Special Court or the Exclusive Special Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing:

Provided that when the trial relates to an offence under this Ordinance, the trial shall, as far as possible, be completed within a period of two months from the date of filing of the charge sheet.".

9. After section 14 of the principal Act, the following section shall be inserted, namely:--

Insertion of new section 14A.

2 of 1974.

"14A. (1) Notwithstanding anything contained in the Code of Appeals. Criminal Procedure, 1973, an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

- 2 of 1974.
- (2) Notwithstanding anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973, an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.
- (3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from:

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

Provided further that no appeal shall be entertained after the

expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

Substitution of new section for section 15.

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

Special Public Prosecutor and Exclusive Public Prosecutor.

- "15. (1) For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.
- (2) For every Exclusive Special Court, the State Government shall, by notification in the Official Gazette, specify an Exclusive Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as an Exclusive Public Prosecutor for the purpose of conducting cases in that Court.".

Insertion of new Chapter IVA.

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

"CHAPTER IVA RIGHTS OF VICTIMS AND WITNESSES

Rights of victims and witnesses.

- 15A. (1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.
- (2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim's age or gender or educational disadvantage or poverty.
- (3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Ordinance.
- (4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material, witnesses or examine the persons present.

(5) A victim or his dependent shall be entitled to be heard at any proceeding under this Ordinance in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

2 of 1974.

- (6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Special Court or the Exclusive Special Court trying a case under this Ordinance shall provide to a victim, his dependent, informant or witnesses—
 - (a) the complete protection to secure the ends of justice;
 - (b) the travelling and maintenance expenses during investigation, inquiry and trial; and
 - (c) the social-economic rehabilitation during investigation, inquiry and trial;
 - (d) relocation.
- (7) The State shall inform the concerned Special Court or the Exclusive Special Court about the protection provided to any victim or his dependent, informant or witnesses and such Court shall periodically review the protection being offered and pass appropriate orders.
- (8) Without prejudice to the generality of the provisions of subsection (6), the concerned Special Court or the Exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including—
- (a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;
- (b) issuing directions for non-disclosure of the identity and addresses of the witnesses;
- (c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:

Provided further that where the complaint under clause (c) is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

- (9) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them at free of cost.
- (10) All proceedings relating to offences under this Ordinance shall be video recorded.
- (11) It shall be the duty of the concerned State to specify an appropriate scheme to ensure implementation of the following rights and entitlements of victims and witnesses in accessing justice so as
- (a) to provide a copy of the recorded First Information Report at free of cost;
- (b) to provide immediate relief in cash or in kind to atrocity victims or their dependents;
- (c) to provide necessary protection to the atrocity victims or their dependents, and witnesses;
- (d) to provide relief in respect of death or injury or damage to property;
- (e) to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;
- (f) to provide the maintenance expenses to the atrocity victims and their dependents;
- (g) to provide the information about the rights of atrocity victims at the time of making complaints and registering the First

Information Report;

- (h) to provide the protection to atrocity victims or their dependents and witnesses from intimidation and harassment;
- (i) to provide the information to atrocity victims or their dependents or associated organisations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet at free of cost;
- (j) to take necessary precautions at the time of medical examination;
- (k) to provide information to atrocity victims or their dependents or associated organisations or individuals, regarding the relief amount;
- (l) to provide information to atrocity victims or their dependents or associated organisations or individuals, in advance about the dates and place of investigation and trial;
- (m) to give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organisations or individuals and to provide the legal aid for the said purpose;
- (n) to execute the rights of atrocity victims or their dependents or associated organisations or individuals at every stage of the proceedings under this Ordinance and to provide the necessary assistance for the execution of the rights.
- (12) It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organisations, social workers or advocates.".
- 12. After section 23 of the principal Act, the following Schedule Insertion of new Schedule.

"THE SCHEDULE [See section 3(2) (va)]

Section under the Indian Penal Code.	Name of offence and punishment.
120A	Definition of criminal conspiracy.
120B	Punishment of criminal conspiracy.
141	Unlawful assembly.
142	Being member of unlawful assembly.
143	Punishment for unlawful assembly.
144	Joining unlawful assembly armed with deadly weapon.
145	Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.
146	Rioting.
147	Punishment for rioting.
148	Rioting, armed with deadly weapon.
217	Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.
319	Hurt.
320	Grievous hurt.
323	Punishment for voluntarily causing hurt.
324	Voluntarily causing hurt by dangerous weapons or means.
325	Punishment for voluntarily causing grievous hurt.
326B	Voluntarily throwing or attempting to throw acid.
332	Voluntarily causing hurt to deter public servant from his duty.

341	Punishment for wrongful restraint.
354	Assault or criminal force to woman with intent to outrage her modesty.
354A	Sexual harassment and punishment for sexual harassment.
354B	Assault or use of criminal force to woman with intent to disrobe.
354C	Voyeurism.
354D	Stalking.
359	Kidnapping.
363	Punishment for kidnapping.
365	Kidnapping or abducting with intent secretly and wrongfully to confine person.
376B	Sexual intercourse by husband upon his wife during separation.
376C	Sexual intercourse by a person in authority.
447	Punishment for criminal trespass.
506	Punishment for criminal intimidation.
509	Word, gesture or act intended to insult the modesty of a woman.".

PRANAB MUKHERJEE, President.

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



असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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NEW DELHI, FRIDAY, MARCH 28, 2014/CHAITRA 7, 1936 (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 March, 2014/Chaitra 7, 1936 (Saka)

THE SECURITIES LAWS (AMENDMENT) ORDINANCE, 2014

No. 2 of 2014

Promulgated by the President in the Sixty-fifth 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 day of July, 2013;

AND WHEREAS the Securities Laws (Amendment) Bill, 2013 with certain modifications was introduced on the 12th day of August, 2013 in the House of the People to replace the said Ordinance;

AND WHEREAS the said Bill was referred by the Speaker of the House of the People to the Department-related Parliamentary Standing Committee on Finance;

AND WHEREAS the Bill could not be passed by the House of the People;

AND WHEREAS to give continued effect to the provisions of the Securities Laws (Amendment) Ordinance, 2013, the Securities Laws (Amendment) Second Ordinance, 2013 was promulgated by the President on the 16th day of September, 2013;

AND WHEREAS the said Ordinance, 2013 ceased to operate on the 16th day of January, 2014;

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:-

CHAPTER I

PRELIMINARY

Short title and commencement.

- 1. (1) This Ordinance may be called the Securities Laws (Amendment) Ordinance, 2014.
- (2) Save as otherwise provided, the provisions of this Ordinance, except clause (ii) of section 5, section 6, section 15, section 18 and section 23, shall be deemed to have come into force on the 18th day of July, 2013.
- (3) The provisions of clause (ii) of section 5, section 6, section 15, section 18 and section 23 of this Ordinance shall come into force at once.

CHAPTER II

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

Amendment of section 11.

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

- (i) in sub-section (2),—
- 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 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 Ordinance."
- 3. In section 11AA of the principal Act,-

Amendment of section 11AA.

- (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 Ordinance.";
 - (iv) in sub-section (3),-

42 of 1956. 22 of 1996.

- (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:-

Amendment of 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, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention."

Amendment of section 11C.

- 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 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) may not provide the information or produce documents which shall be useful for, or relevant to, the investigation; or
 - (c) may 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 so to do, after recording the reasons thereof in writing, authorise the Investigating Authority or any other officer of the Board (the officer so authorised 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) after sub-section (8), the following sub-section shall be inserted, namely:—
 - "(8A) The authorised officer may requisition the services of any police officer or any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (8) and it shall be the duty of every such officer to comply with such requisition.";
- (iii) 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 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.";

21 of 2000.

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

6.In section 15-I of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 15-I.

"(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 15T, whichever is earlier.".

Insertion of new section 15JB.

7.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:—

Settlement of administrative and civil proceedings.

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

Amendment of section 15T.

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

Amendment of section 26.

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

Insertion of new sections 26A, 26B, 26C, 26D and 26E. 10. After section 26 of the principal Act, the following sections shall be inserted, namely:-

Establishment of Special Courts.

- "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.

2 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, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried 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.

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.

Appeal and revision.

2 of 1974.

2 of 1974.

- 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

Code to proceedings before Special Court.

Application of

Transitional provisions.

2 of 1974.

2 of 1974.

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:

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.".

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

Insertion section new

'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, 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 made thereunder were the provisions of this Act and referred to the amount due under this Ordinance 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

28A.

Recovery of

amounts.

43 of 1961.

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 Ordinance.

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.

43 of 1961.

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.

43 of 1961.

- (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 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.'.
- 12. 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;
- (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.".
- 13. After section 34 of the principal Act, the following section shall be inserted, namely:-

Insertion of new section 34A.

"34A. Any act or thing done or purporting to have been done under the principal 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."

Validation of certain acts.

CHAPTER III

AMENDMENTS TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956

Amendment of section 12A.

14. 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:—

42 of 1956.

"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."

Amendment of section 23-I.

- 15. In section 23-I of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—
 - "(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 23L, whichever is earlier.".

Insertion of new section 23JA.

16. 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:-

Settlement of administrative and civil proceedings.

- "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.

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 section 23L against any order passed by the Board or the adjudicating officer, as the case may be, under this section.".
- 17. After section 23JA of the principal Act as so inserted, the following section shall be inserted, namely:—

Insertion of new section 23JB.

Recovery of

amounts.

'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 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

43 of 1961.

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 Ordinance 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 Ordinance.

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.

43 of 1961.

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 43 of 1961. the Securities Appellate Tribunal under section 23L of this

- (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-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.'.

Amendment of section 23L.

18. In section 23L of the principal Act, in sub-section (1), after the word, figure and letter "section 4B", the words, brackets, figures and letter "or sub-section (3) of section 23-I" shall be inserted.

Amendment of section 26.

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

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

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

Establishment of Special Courts.

- "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.

2 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, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried 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.

Offences triable by Special Courts.

2 of 1974.

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.

Appeal and Revision.

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.

Application of Code to proceedings before Special Court.

2 of 1974.

(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 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:

Transitional provisions.

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.".

Insertion of new section 32.

21. After section 31 of the principal Act, the following section shall be inserted, namely:-

Validation of certain acts.

"32. 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.".

CHAPTER IV

AMENDMENTS TO THE DEPOSITORIES ACT, 1996

Amendment of section 19.

22.In section 19 of the Depositories Act, 1996 (hereafter in 22 of 1996. 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 beenincluded 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.".

Amendment of section19H.

- 23. In section 19H of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:---
 - "(3) The Board may call for and examine the record of any proceedings under this section and if it considers that the order passed by the adjudicating officer is erroneous to the extent it is not in the interests of the securities market, it may, after making or causing to be made such inquiry as it deems necessary, pass an order enhancing the quantum of penalty, if the circumstances of the case so justify:

Provided that no such order shall be passed unless the person concerned has been given an opportunity of being heard in the matter:

Provided further that nothing contained in this sub-section shall be applicable after an expiry of a period of three months from the date of the order passed by the adjudicating officer or disposal of the appeal under section 23A, whichever is earlier.".

Insertion of new section 19-IA.

24. 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:—

Settlement of Administrative and 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 section 23A against any order passed by the Board or the adjudicating officer under this section."
- 25. After section 19-IA of the principal Act as so inserted, the following shall be inserted, namely:-

Insertion of new section 19-IB.

'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: —

Recovery of amounts.

- (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 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 Ordinance 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 Ordinance.

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.

43 of 1961.

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 43 of 1961. 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.

43 of 1961.

(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.

Amendment of section 22.

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

Insertion of new sections 22C, 22D, 22E, 22F and 22G. 27. After section 22B of the principal Act, the following sections shall be inserted, namely:-

Establishment of Special 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.

2 of 1974.

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, 2014 or on or after the date of such commencement, shall be taken cognizance of and tried 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.

Offences triable by Special Courts.

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

Appeal and Revision.

2 of 1974.

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.

Application of Code to proceedings before Special Court.

(2) The person conducting prosecution referred to in sub-

2 of 1974.

Court.

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.

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:

Transitional provisions.

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.

28. In section 23A of the principal Act, sub-section (2) shall be omitted.

Insertion of new section 30A.

29. 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."

Validation and savings.

30. Notwithstanding the fact that the Securities Laws (Amendment) 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.

Ord. 9 of 2013.

PRANAB MUKHERJEE, President.

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



अमाधारण

EXTRAORDINARY

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

PUBLISHED BY AUTHORITY

सं॰ 20]

नई दिल्ली, बुधवार, मई 28, 2014/ ज्येष्ठ 7, 1936 (शक)

No. 20]

NEW DELHI, WEDNESDAY, MAY 28, 2014/JAISTHA 7, 1936 (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 May, 2014/Jaistha 7, 1936 (Saka)

THE TELECOM REGULATORY AUTHORITY OF INDIA (AMENDMENT) ORDINANCE, 2014

No. 3 of 2014

[28th May, 2014.]

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

An Ordinance further to amend the Telecom Regulatory Authority of India Act, 1997.

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:—

1. (*I*) This Ordinance may be called the Telecom Regulatory Authority of India (Amendment) Ordinance, 2014.

and commencement.

Short title

(2) It shall come into force at once.

Amendment of section 5.

2. In the Telecom Regulatory Authority of India Act, 1997, in section 5,—

24 of 1997.

- (i) for sub-section (8), the following sub-section shall be substituted, namely:—
- "(8) The Chairperson and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept—
 - (a) any employment either under the Central Government or under any State Government; or
 - (b) any appointment in any company in the business of telecommunication service.";
- (ii) the Explanation at the end shall be omitted.

PRANAB MUKHERJEE, President.

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



अमाधारण

EXTRAORDINARY

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

PUBLISHED BY AUTHORITY

सं॰ 21] नई दिल्ली, गुरुवार, मई 29, 2014/ ज्येष्ठ 8, 1936 (शक)

No. 21] NEW DELHI, THURSDAY, MAY 29, 2014/JYAISTHA 8, 1936 (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, 2014/Jyaistha 8, 1936 (Saka)

THE ANDHRA PRADESH REORGANISATION (AMENDMENT) ORDINANCE, 2014

No. 4 of 2014

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

An Ordinance to amend the Andhra Pradesh Reorganisation Act, 2014.

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:—

- **1.** (1) This Ordinance may be called the Andhra Pradesh Reorganisation (Amendment) Ordinance, 2014.
 - (2) It shall come into force at once.

Short title and commencement.

Amendment of section 3 of Act 6 of 2014.

2. In the Andhra Pradesh Reorganisation Act, 2014, in section 3, for the words, brackets, letters and figures "Khammam (but excluding the revenue villages in the Mandals specified in GO.Ms. No. 111 Irrigation & CAD (LA IV R&R-I) Department, dated the 27th June, 2005 and the revenue villages of Bhurgampadu, Seetharamanagaram and Kondreka in Bhurgumpadu Mandal)", the words and brackets "Khammam (but excluding the Mandals of Kukunoor, Velairpadu and Bhurgampadu but not including its revenue villages of Pinapaka, Morampalli Banzar, Bhurgampad, Nagineniprolu, Krishnasagar, Tekula, Sarapaka, Iravendi, Mothepattinagar, Uppusaka, Sompalli and Nakripeta under the Palvancha Revenue Division, and the Mandals of Chintoor, Kunavaram, Vararamachandrapuram and Bhadrachalam but not including the revenue village of Bhadrachalam under the Bhadrachalam Revenue Division)" shall be substituted.

PRANAB MUKHERJEE, President.

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



असाधारण

EXTRAORDINARY

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

PUBLISHED BY AUTHORITY

सं॰ 32] नई दिल्ली, मंगलवार, अक्तूबर 21, 2014/ आश्विन 29, 1936 (शक)

No. 32] NEW DELHI, TUESDAY, OCTOBER 21, 2014/ASVINA 29, 1936 (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 21st October, 2014/Asvina 29, 1936 (Saka)

THE COAL MINES (SPECIAL PROVISIONS) ORDINANCE, 2014

No. 5 of 2014

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

An Ordinance to provide for allocation of coal mines and vesting of the right, title and interest in and over the land and mine infrastructure together with mining leases to successful bidders and allottees with a view to ensure continuity in coal mining operations and production of coal, and for promoting optimum utilisation of coal resources consistent with the requirement of the country in national interest and for matters connected therewith or incidental thereto;

Whereas the Supreme Court of India *vide* judgment dated 25th August, 2014 read with its order dated 24th September, 2014 has cancelled the allocation of coal blocks and issued directions with regard to such coal blocks and the Central Government in pursuance of the said directions has to take immediate action to implement the said order;

And Whereas it is expedient in public interest for the Central Government to take immediate action to allocate coal mines to successful bidders and allottees keeping in view the energy security of the country and to minimise any impact on core sectors such as steel, cement and power utilities, which are vital for the development of the nation;

AND WHEREAS the Central Government considers it necessary to prescribe the conditions to rationalise the coal sector for mining operations, consumption and sale having

regard to the coordinated and scientific development and utilisation of coal resources consistent with the growing requirement of the country;

AND WHEREAS Parliament is competent to legislate under entry 54 of List I of the Seventh Schedule to the Constitution for regulation of mines and mineral development to the extent to which such regulation and development under the control of Union is declared by Parliament by law to be expedient in the public interest;

AND WHEREAS a Bill further to amend the Coal Mines (Nationalisation) Act, 1973 has 26 of 1973. been introduced and pending in the Council of States;

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

Now, Therefore, in exercise of the powers conferred by clause (*I*) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

- $\mathbf{1.}$ (1) This Ordinance may be called the Coal Mines (Special Provisions) Ordinance, 2014.
 - (2) It extends to the whole of India.
 - (3) It shall come into force at once.

Declaration as to expediency of Union action.

- **2.** It is hereby declared that it is expedient in the public interest that Union should take action for the development of Schedule I coal mines and extraction of coal on continuous basis for optimum utilisation.
- Definitions.
- **3.** (1) In this Ordinance, unless the context otherwise requires,—
- (a) "additional levy" shall mean, the additional levy as determined by the Supreme Court in Writ Petition (Criminal) No. 120 of 2012 as two hundred and ninety-five rupees per metric tonne of coal extracted;
 - (b) "allotment order" means the allotment order issued under section 5;
 - (c) "appointed date" in relation to—
 - (*i*) Schedule I coal mines excluding Schedule II coal mines, shall be the 24th day of September, 2014 being the date on which the allocation of coal blocks to prior allottees stood cancelled; and
 - (*ii*)Schedule II coal mines shall be the 1st day of April, 2015 being the date on which the allocation of coal blocks to prior allottees shall stand cancelled,

in pursuance of the order of the Supreme Court dated the 24th September, 2014 passed in Writ Petition (Criminal) No. 120 of 2012;

(d) "bank" shall have the same meaning as assigned to it in clause (c) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

54 of 2002.

18 of 2013.

- (e) "coal mining operations" means any operation undertaken for the purpose of winning coal;
- (f) "company" shall have the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013;
- (g) "corporation" shall have the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013;

- (h) "financial institution" shall have the same meaning as assigned to it in clause (m) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (i) "government company" shall have the same meaning as assigned to it in clause (45) of section 2 of the Companies Act, 2013;
- (*j*) "mine infrastructure" includes mining infrastructure such as tangible assets used for coal mining operations, being civil works, workshops, immovable coal winning equipment, foundations, embankments, pavements, electrical systems, communication systems, relief centres, site administrative offices, fixed installations, coal handling arrangements, crushing and conveying systems, railway sidings, pits, shafts, inclines, underground transport systems, hauling systems, (except movable equipment unless the same is embedded in land for permanent beneficial enjoyment thereof), land demarcated for afforestation and land for rehabilitation and re-settlement of persons affected by coal mining operations under the relevant law;
- (k) "nominated authority" means the authority nominated by the Central Government under section 6;
- (*l*) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;
 - (m) "prescribed" means prescribed by rules made under this Ordinance;
- (*n*) "prior allottee" means prior allottee of Schedule I coal mines as listed therein who had been allotted coal mines between 1993 and 31st day of March, 2011, whose allotments have been cancelled pursuant to the judgment of the Supreme Court dated the 25th August, 2014 and its order dated 24th September, 2014 including those allotments which may have been de-allocated prior to and during the pendency of the Writ Petition (Criminal) No.120 of 2012;
 - (o) "Schedule" means a Schedule appended to this Ordinance;
 - (p) "Schedule I coal mines" means,—
 - (*i*) all the coal mines and coal blocks the allocation of which was cancelled by the judgment dated 25th August, 2014 and its order dated 24th September, 2014 passed in Writ Petition (Criminal) No.120 of 2012, including those allotments which may have been de-allocated prior to and during the pendency of the said Writ Petition;
 - (ii) all the coal bearing land acquired by the prior allottee and lands, in or adjacent to the coal mines used for coal mining operations acquired by the prior allottee:
 - (iii) any existing mine infrastructure as defined in clause (j).
- (q) "Schedule II coal mines" means the forty-two Schedule I coal mines listed in Schedule II which are the coal mines in relation to which the order of the Supreme Court dated 24th day of September, 2014 was made;
- (r) "Schedule III coal mines" means the thirty-two Schedule I coal mines listed in Schedule III or any other Schedule I coal mine notified under sub-section (2) of section 7;
- (s) "secured creditor" shall have the same meaning as assigned to it in clause (zd) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (t) "secured debt" shall have the same meaning as assigned to it in clause (ze) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

54 of 2002.

(*u*) "security interest" shall have the same meaning as assigned to it in clause (zf) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

54 of 2002.

- (ν) "specified end-use" means any of the following end-uses and the expression "specified end user" shall with its grammatical variations be construed accordingly:
 - (i) production of iron and steel;
 - (ii) generation of power including the generation of power for captive use;
 - (iii) washing of coal obtained from a mine;
 - (iv) cement;
 - (ν) such other end use as the Central Government, may by notification, specify.
 - (w) "vesting order" means the vesting order issued under section 8.
- (2) Words and expressions used herein and not defined, but defined in the Coal Bearing Areas (Acquisition and Development) Act, 1957, the Mines and Minerals (Development and Regulation) Act, 1957 and the Coal Mines (Nationalization) Act, 1973 including any rules or regulations made thereunder, shall have the meanings, respectively assigned to them in those Acts.

20 of 1957. 67 of 1957. 26 of 1973.

CHAPTER II

AUCTION AND ALLOTMENT

Eligibility to participate in auction and payment of fees.

- **4.** (1) Subject to the provisions of section 5, Schedule I coal mines shall be allocated by way of public auction in accordance with such rules, and on the payment of such fees which shall not exceed five crore rupees, as may be prescribed.
- (2) Subject to the provisions in sub-section (3) of this section and section 5, the Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal, select any of the following companies through auction by competitive bidding, on such terms and conditions as may be prescribed—
 - (a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may, or any other company incorporated in India; or
 - (b) a company or a joint venture company formed by two or more companies,

may carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be, and the State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal to such company as selected through auction by competitive bidding under this section.

- (3) Subject to the provisions of section 5, the following persons who fulfil such norms as may be prescribed, shall be eligible to bid in an auction of Schedule II coal mines and Schedule III coal mines and to engage in coal mining operations in the event they are successful bidders, namely:—
 - (a) a company engaged in specified end use including a company having a coal linkage which has made such investment as may be prescribed;

Explanation.—A "company with a coal linkage" includes any such company whose application is pending with the Central Government on the date of commencement of this Ordinance.

- (b) a joint venture company formed by two or more companies having a common specified end use and are independently eligible to bid in accordance with this Ordinance;
- (c) a Government company or corporation or a joint venture company formed by such company or corporation or with any other company having common specified end use:

Provided that nothing contained in sub-section (2) shall apply to this sub-section.

- (4) A prior allottee shall be eligible to participate in the auction process subject to payment of the additional levy within such period as may be prescribed and if the prior allottee has not paid such levy, then, the prior allottee, its promoter or any of its company of such prior allottee shall not be eligible to bid either by itself or by way of a joint venture.
- (5) Any prior allottee who is convicted for an offence relating to coal block allocation and sentenced with imprisonment for more than three years, shall not be eligible to participate in the auction.
- **5.** (*I*) Notwithstanding the provisions contained in sub-sections (1) and (3) of section 4, the Central Government may allot a Schedule I coal mine to a Government company or corporation which is not a joint venture with private company or to a company which has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects) from specified Schedule I coal mines by making an allotment order in accordance with such rules as may be prescribed and the State Government shall grant a reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal to such company or corporation:

Allotment of mines to Government companies or corporations.

Provided that the Government company or corporation may carry on coal mining in any form either for its own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be.

(2) An allotment may be made jointly to a joint venture of two or more Government companies or corporations:

Provided that a joint venture of any two or more Government companies or corporations shall be prohibited from alienating or transferring any interest in the joint venture of whatsoever nature including ownership in favour of a third party.

- (3) No allotment under sub-section (1) shall be made to a prior allottee, if that allottee has not made the payment of the additional levy within the specified period.
- **6.** (1) The Central Government shall appoint an officer not below the rank of Joint Secretary to the Government of India as the nominated authority who shall act for and on behalf of the Central Government for the purposes of this Ordinance and shall exercise such powers as may be prescribed.

Central Government to act through nominated authority.

- (2) The nominated authority may engage any expert having such qualifications and experience and on such terms and conditions as may be prescribed to make recommendations to the authority for the conduct of auction and in drawing up of the vesting order or allotment order in relation to Schedule I coal mines.
- (3) The Central Government shall act through the nominated authority for the following purposes, namely:—
 - (a) conduct the auction process and allotment with the assistance of experts;
 - (b) execution of the vesting order for transfer and vesting of Schedule I coal mines pursuant to the auction;

- (c) executing the allotment order for any Government company or corporation in pursuance of section 5;
- (d) recording and mutating incorporeal rights of whatsoever nature including, consents, permissions, permits, approvals, grants, registrations;
- (e) collection of auction proceeds, adjustment of preferential payments and transfer of amount to the respective State Governments where Schedule I coal mine is located in accordance with the provisions of this Ordinance.
- (4) The nominated authority shall complete the auction or execute the allotment orders of Schedule I coal mines within such time and in accordance with such rules as may be prescribed.
- (5) The Central Government may appoint such other officers and staff as it may think fit to assist the nominated authority.
- (6) The salaries and allowances and other terms and conditions of service of the nominated authority and such other officers and staff appointed under this section shall be such as may be prescribed.
- 7.(I) The Central Government may, before notifying the particulars of auction, classify mines identified from Schedule I coal mines as earmarked for the same class of specified end uses.
- (2) The Central Government may in public interest, by notification, modify Schedule III coal mines by adding any other Schedule I coal mine for the purposes of specified end use.
- 8. (I) The nominated authority shall notify the prior allottees of Schedule I coal mines to enable them to furnish information required for notifying the particulars of Schedule I coal mines to be auctioned in accordance with such rules as may be prescribed.
- (2) The information required to be furnished under sub-section (1) shall be furnished within a period of fifteen days from the date of the notification.
- (3) A successful bidder in an auction conducted on a competitive basis in accordance with such rules as may be prescribed, shall be entitled to the vesting of Schedule I coal mine for which it bid, pursuant to a vesting order drawn up in accordance with such rules.
- (4) The vesting order shall transfer and vest upon the successful bidder, the following, namely:—
 - (a) all the rights, title and interest of the prior allottee, in Schedule I coal mine concerned with the relevant auction;
 - (b) entitlement to a mining lease to be granted by the State Government;
 - (c) any statutory licence, permit, permission, approval or consent required to undertake coal mining operations in Schedule I coal mines if already issued to the prior allottee;
 - (d) rights appurtenant to the approved mining plan of the prior allottee;
 - (e) any right, entitlement or interest not specifically covered under clauses (a) to (e).
- (5) The nominated authority shall, in consultation with the Central Government, determine the floor price or reserve price in accordance with such rules as may be prescribed.
- (6) The successful bidder shall, prior to the issuance and execution of a vesting order, furnish a performance bank guarantee for an amount as notified in relation to

Power to classify certain Schedule I coal mines by Central Government.

Nominated authority to issue vesting order or allotment order. Schedule I coal mine auctioned to such bidder within such time, form and manner as may be prescribed.

- (7) After the issuance of a vesting order under this section and its filing with the Central Government and with the appropriate authority designated by the respective State Governments, the successful bidder shall be entitled to take possession of the Schedule I coal mine without let or hindrance.
- (8) Upon the execution of the vesting order, the successful bidder of the Schedule I coal mine shall be granted a prospecting licence or a mining lease, as applicable, by the concerned State Government in accordance with the Mines and Minerals (Development and Regulation) Act, 1957.

67 of 1957.

- (9) A Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may, or any other company incorporated in India, alloted a Schedule I coal mine shall be granted a prospecting licence or a mining lease, as applicable, by the concerned State Government in accordance with the Mines and Minerals (Development and Regulation) Act, 1957.
- (10) In relation to Schedule II coal mines, the successful bidder which was a prior allottee, shall continue coal mining operations after the appointed date in terms of the approved mining plan, till the mining lease in terms of sub-section (8) is granted, upon the grant of a vesting order and to that extent, the successful bidder shall be deemed to have been granted a mining lease till the execution of the mining lease in terms of the said Sub-section.
- (11) In relation to Schedule II coal mines, the Government company or corporation which was a prior allottee can continue coal mining operations after the appointed date in terms of the approved mining plan, till the mining lease in terms of sub-section (9) is granted, upon execution of the allotment order and to that extent, the allottee shall be deemed to have been granted a mining lease till the execution of the mining lease in terms of the said Sub-section.
- (12) The provisions of sub-sections (1) and (2) and sub-sections (4) to (7) (both inclusive) of this section as applicable to a vesting order, shall *mutatis mutandis* be also applicable to an allotment order.
- **9.** The proceeds arising out of land and mine infrastructure in relation to a Schedule I coal mine shall be disbursed maintaining, *inter alia*, the priority of payments in accordance with such rules as may be prescribed—

Priority of disbursal of proceeds.

- (a) payment to secured creditors for any portion of the secured debt in relation to a Schedule I coal mine which is unpaid as on the date of the vesting order;
- (b) compensation payable to the prior allottee in respect of the Schedule I coal mine.

CHAPTER III

TREATMENT OF RIGHTS AND OBLIGATIONS OF PRIOR ALLOTTEES

- 10.(I) A successful bidder or allottee in respect of Schedule II coal mines, may negotiate with prior allottee to own or utilise such movable property used in coal mining operations on such terms and conditions as may be mutually agreed to by them.
- (2) Where a successful bidder or allottee is not vested with any movable property of a Schedule I coal mine, then, he is not bound by any liabilities or obligations arising out of such ownership or contractual rights, obligations or liabilities which shall continue to remain with the prior allottee.
- (3) In the event that the successful bidder or allottee is unable to satisfactorily negotiate with the prior allottee or any third party who has a contract with the prior allottee for the movable property, it shall be the obligation of the prior allottee or the third party to remove

Utilisation of movable property used in coal mining operations.

such movable property within a period not exceeding thirty days from the date of the vesting order, or the allotment order, as the case may be, and the successful bidder or allottee shall not be liable for any damage to such property.

- (4) A successful bidder or allottee which has elected not to purchase or transfer or continue to use the movable property referred to in sub-section (1), shall prior to the execution of the vesting order or the allotment order, as the case may be, declare to the nominated authority that he intends to move and store such movable property of the prior allottee or such third party and after the date of the vesting order or the allotment order, as the case may be, the successful bidder or allottee shall be entitled to move and store such movable property, so as not to cause any impediment for coal mining operations.
- (5) If a prior allottee or such third party which has contracted with the prior allottee for its movable property, fails to remove the movable property which the successful bidder or allottee has elected not to purchase or use in accordance with sub-section (4), then, after the period of seventy-five days from the vesting order or the allotment order, as the case may be, a successful bidder or allottee shall be entitled to dispose off such movable property which may be physically located within Schedule II coal mine, the successful bidder or the allottee, shall, in such event be entitled to appropriate the sale proceeds of such movable property disposed off to pay for any cost incurred by the successful bidder or allottee, for the removal, storage, sale and disposal of such movable property, as a first charge over the sale proceeds of such movable property:

Provided that the remaining sale proceeds after appropriation of costs, shall be paid by the successful bidder or allottee to the Central Government towards any compensation that may be payable to the owner of such movable property sold, upon establishment of title to such movable property in accordance with such rules as may be prescribed:

Provided further that if a third party contractor to the prior allottee owns such movable property, then, such third party shall be entitled to prove its right to receive compensation from the sale proceeds of the movable property sold as per this sub-section, in accordance with such rules as may be prescribed.

Discharge or adoption of third party contracts with prior allottees. 11. (1) Notwithstanding anything contained in any other law for the time being in force, a successful bidder or allottee, as the case may be, in respect of Schedule I coal mines, may elect, to adopt and continue such contracts which may be existing with any of the prior allottees in relation to coal mining operations and the same shall constitute a novation for the residual term or residual performance of such contract:

Provided that in such an event, the successful bidder or allottee or the prior allottee shall notify the nominated authority to include the vesting of any contracts adopted by the successful bidder.

(2) In the event t at a successful bidder or allottee elects not to adopt or continue with existing contracts which had been entered into by the prior allottees with third parties, in that case all such contracts which have not been adopted or continued shall cease to be enforceable against the successful bidder or allottee in relation to the Schedule I coal mine and the remedy of such contracting parties shall be against the prior allottees.

Provisions in relation to secured creditors.

- 12. (I) The secured creditors of the prior allottees which had any security interest in any part of the land or mine infrastructure of a Schedule I coal mine shall be entitled to—
 - (a) continue with such facility agreements and security interest with the prior allottee if such prior allottee is a successful bidder or allottee; and

- (b) in the event that the prior allottee is not a successful bidder or allottee, then the security interest of such secured creditor shall only be satisfied out of the compensation payable to such prior allottee, to the extent determined in accordance with such rules as may be prescribed and the outstanding debt shall be recoverable from the prior allottee.
- (2) The Central Government shall, taking into consideration the provisions contained in section 9, prescribe the manner in which the secured creditor shall be paid out of the compensation in respect of any prior allottee.
- 13. Any and all alienations of land and mine infrastructure and creation of any encumbrances of whatsoever nature thereon which relate to Schedule I coal mines, made by any prior allottee after the 25th day of August, 2014 shall be void, save and except any registered security interest and charge over the land and mine infrastructure as registered by a bank or a financial institution or any other secured lender.

Void alienations and permitted security interests.

14. (1) Notwithstanding anything contained in any other law for the time being in force, no proceedings, orders of attachment, distress, receivership, execution or the like, suits for the recovery of money, enforcement of an security or guarantee (except as otherwise provided for under this Ordinance), prior to the date of commencement of this Ordinance shall lie, or be proceeded further with and no remedies shall be available against the successful bidder, or allottee, as the case may be or against the land and mine infrastructure in respect of Schedule I coal mines.

Liabilities of prior allottees.

- (2) The proceedings as referred to in sub-section (1), shall continue as a personal remedy against the prior allottee but shall not be maintainable or continued against the land or mine infrastructure of Schedule I coal mine or the successful bidder or allottee, pursuant to this Ordinance.
- (3) Every liability of any prior allottee in relation to a Schedule I coal mine in respect of any period prior to the vesting order or allotment order, shall be the liability of such prior allottee and shall be enforceable against it and not against the successful bidder or allottee or the Central Government.
 - (4) All unsecured loans shall continue to remain the liability of the prior allottee.
- (5) The additional levy imposed against the prior allottees of Schedule II coal mines shall continue to remain the liability of such prior allottees and such additional levy shall be collected by the Central Government in such manner as may be prescribed.
 - (6) For the removal of doubts, it is hereby declared that—
 - (a) no claim for wages, bonus, royalty, rate, rent, taxes, provident fund, pension, gratuity or any other dues in relation to a Schedule I coal mine in respect of any period prior to the date of vesting order or allotment order, as the case may be, shall be enforceable against the Central Government or the successful bidder or the allottee, as the case may be;
 - (b) no award, decree, attachment or order of any court, tribunal or other authority in relation to any Schedule I coal mine passed prior to the date of commencement of this Ordinance, in relation to the land and mine infrastructure of Schedule I coal mines, shall be enforceable against the Central Government or the successful bidder or the allottee, as the case may be;
 - (c) no liability for the contravention of any provision of law for the time being in force, relating to any act or omission prior to the date of vesting order or allotment order, as the case may be, shall be enforceable against the successful bidder or allottee or the Central Government.
- **15.** (1) For the purposes of disbursing the amounts payable to the prior allottees of Schedule I coal mines, the Central Government shall appoint an officer not below the rank of Joint Secretary to the Government of India, to be the Commissioner of Payments.

Commissioner of Payments to be appointed and his powers.

- (2) The Central Government may appoint such other officers and staff as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such officers to also exercise all or any of the powers exercisable by him under this Ordinance.
- (3) Any officer authorised by the Commissioner to exercise any powers may exercise those powers in the same manner and with the same effect as if they have been conferred on him directly by this Ordinance and not by way of authorisation.
- (4) The salaries and allowances and other terms and conditions of service of the Commissioner and other officers and staff appointed under this section shall be such as may be prescribed.
- (5) The Central Government shall, within a period of thirty days from such date as may be notified pay to the Commissioner for payment to the prior allottee, an amount equal to the compensation determined by the nominated authority.
- (6) Separate records shall be maintained by the Commissioner in respect of each Schedule I coal mine in relation to which payments have been made to him under this Ordinance.

Valuation of compensation for payment to prior allottee.

- 16. (I) The quantum of compensation for the land in relation to Schedule I coal mines shall be as per the registered sale deeds lodged with the nominated authority in accordance with such rules as may be prescribed, together with twelve per cent. simple interest from the date of such purchase or acquisition, till the date of the execution of the vesting order or the allotment order, as the case may be:
- (2) The quantum of compensation for the mine infrastructure in relation to Schedule I coal mines shall be determined as per the written down value reflected in the statutorily audited balance sheet of the previous financial year in accordance with such rules and in such manner as may be prescribed.
- (3) If the successful bidder or allottee is a prior allottee of any of the Schedule I coal mines, then, the compensation payable to such successful bidder or allottee shall be set off or adjusted against the auction sum or the allotment sum payable by such successful bidder or allottee, as the case may be, for any of the Schedule I coal mines.
- (4) The prior allottee shall not be entitled to compensation till the additional levy has been paid.

CHAPTER IV

POWERS OF THE CENTRAL GOVERNMENT AFTER THE APPOINTED DATE

Responsibility of Central Government after the appointed date.

- 17. (1) On and from the appointed date, the Central Government or a company owned by the Central Government shall be deemed to have become the lessee or licensee of the State Government in relation to each of the Schedule II coal mines, in respect of which a mining lease or prospecting licence has been granted prior to the date of commencement of this Ordinance, as if a mining lease or prospecting licence in relation to such coal mine had been granted to the Central Government or a company owned by the Central Government and the period of such lease or licence shall be the maximum period for which such lease or licence could have been granted by the State Government under the Mineral Concession Rules, 1960, and thereupon all the rights under such mining lease, including surface, underground and other rights shall be deemed to have been transferred to, and vested in, the Central Government or a company owned by the Central Government.
- (2) On the expiry of the term of any lease or licence, referred to in sub-section (1), such lease or licence shall be renewed, by the State Government, in consultation with the Central Government for the maximum period for which such lease or licence can be renewed under the Mineral Concession Rules, 1960.

67 of 1957.

- (3) As it is considered expedient and necessary in the public interest and in view of the difficult situation which has arisen, the powers of the State Government, under the Mines and Minerals (Development and Regulation) Act, 1957, to prematurely terminate a prospecting licence or mining lease, shall stand suspended, in relation to Schedule I coal mines, for a period of one year from the date of commencement of this Ordinance or such other period as may be notified by the Central Government.
- $18.\ (I)$ On and from the appointed date, if the auction or allotment of Schedule I coal mines is not complete, the Central Government shall appoint any person as a designated custodian for such coal mines as may be notified by the Central Government to manage and operate such notified coal mines.

Central Government to appoint designated custodian.

- (2) The designated custodian shall act for and on behalf of the Central Government in respect of the notified coal mines under sub-section (1) to operate and manage such Schedule I coal mines in such manner as may be notified, till the completion of the auction of such coal mines or allotment under section 4 and section 5 read with section 8, as the case may be.
- **19.** (I) The designated custodian appointed under sub-section (1) of section 18, shall be entitled to take control and possession of all lands, in or adjacent to Schedule II coal mines, and used for coal mining operations and the mine infrastructure in relation to Schedule II coal mine, on behalf of the Central Government.

Powers and functions of the designated custodian in respect of Schedule II coal mines.

- (2) The designated custodian may direct the prior allottees or any other persons in-charge of the management of the Schedule II coal mine and coal mining operations immediately before the appointed date to provide the requisite manpower, as may be necessary, to ensure continuity in coal mining operations and production of coal.
- (3) The designated custodian shall receive, to the exclusion of all other persons, any monies due to Schedule II coal mines, notwithstanding cases where such receipt pertains to a transaction made at any time before the appointed date.
- (4) The designated custodian may call for any information, records and documents in relation to Schedule II coal mines and coal mining operations from any or all such persons who were in charge of the management and operation of such Schedule II coal mines prior to the appointed date, and such persons shall be bound to deliver to the designated custodian all such documents in their custody relating to Schedule II coal mines.
- (5) The designated custodian may appoint such consultants or experts, as may be necessary, in relation to the management and operation of Schedule II coal mines.
- (6) The designated custodian shall transfer the management and operation of any Schedule II coal mines to such person in such manner as may be prescribed.
- (7) The designated custodian shall have the power to perform such other functions which may be consequential or incidental to the functions specified under this section.
- (8) Notwithstanding anything contained in any other law for the time being in force, the designated custodian shall, in exercise of its or powers or the performance of its functions under this Ordinance, be bound by such directions on questions of policy, as the Central Government may give in writing to it from time to time.

CHAPTER V

CERTAIN ARRANGEMENTS

20. (I) A successful bidder or allottee or coal linkage holder shall, with prior approval of the Central Government and in accordance with such rules as may be prescribed, be entitled to enter into certain agreements or arrangements with other successful bidder or allottee or coal linkage holder, as the case may be, for optimum utilisation of coal mine for the same end uses in the public interest and to achieve cost efficiencies.

Power of Central Government to approve certain arrangements. (2) A successful bidder or allottee may also use the coal mine from a particular Schedule I coal mine for any of its plants engaged in common specified end uses, in accordance with such rules as may be prescribed.

CHAPTER VI

MISCELLANEOUS

Acquisition of land.

21.(I) All existing land acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in relation to Schedule I coal mines, shall continue in respect of such areas of land in accordance with the provisions of the said Act.

30 of 2013.

(2) All such areas of land which are not subject matter of land acquisition proceedings, in relation to the coal mines, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 may be proceeded with by the Central Government in terms of the Coal Bearing Areas (Acquisition and Development) Act, 1957.

20 of 2013.

- 20 of 1957.
- (3) The State Governments which have initiated land acquisition proceedings under provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and all such lands which are also subject matter of the said Act in respect of Schedule I coal mines, shall—

20 of 2013.

- (a) not transfer any land to the prior allottees which have been acquired under the said Act:
 - (b) continue the land acquisition proceedings till the appointed date;
- (c) for such Schedule I coal mines which have not vested in the successful bidder or the allottee, as the case may be, by the appointed date, continue the land acquisition proceedings for and on behalf of the Central Government;
- (d) upon the vesting or the allotment, as the case may be, after the appointed date, continue such land acquisition proceedings on behalf of the successful bidder or the allottee.

Realisation of additional levy.

22. If a prior allottee of Schedule II coal mine fails to deposit the additional levy with the Central Government within the specified time, then, such additional levy shall be realised as the arrears of land revenue.

Penalties for certain offences.

23. If any person—

- (a) obstructs or causes any impediment in taking possession or in the management and operation of the Schedule I coal mines by the Central Government or the designated custodian; or
- (b) fails to deliver to the designated custodian any books of account, registers or any other document in his custody relating to Schedule I coal mines and coal mining operations in respect of the management of which the designated custodian has been appointed; or
 - (c) destroys or misuses any mine infrastructure or coal stock; or
 - (d) retains any property of such coal mine or removes or destroys it,

he and any officer-in-default of the company shall be punishable with imprisonment for a term which may extend to two years, or with the minimum fine of one lakh rupees per day and in the case of continuing failure, with a maximum fine of two lakh rupees for every day during which the failure continues or with both, depending upon the nature of the offence.

24. If any person fails to comply, without reasonable cause, with a direction given by the Central Government or nominated authority or the designated custodian, he shall be punishable with a fine of one lakh rupees and in the case of continuing failure with a maximum fine of two lakh rupees for every day during which the failure continues, depending upon the nature of the offence.

Penalty for failure to comply with directions of Central Government.

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

Offences by companies.

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

- (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- **26.** No court shall take cognizance of any offence punishable under this Ordinance or any rules made thereunder except upon complaint in writing made by a person authorised in this behalf by the Central Government or nominated authority or the designated custodian.

Cognizance of offences.

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

Ordinance to have overriding effect.

28. On and from the date of commencement of this Ordinance, the Coal Mines (Nationalisation) Act, 1973 and the Mines and Minerals (Development and Regulation) Act, 1957 shall stand amended in the manner provided in Schedule IV.

Amendment of certain Acts contained in Schedule IV.

29. (1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the provisions of this Ordinance.

Power to make rules.

- (2) In particular, and without prejudice the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
 - (a) the manner of allocation of Schedule I coal mines by way of public auction and details of fees under sub-section (1) of section 4;
 - (b) the terms and conditions for granting reconnaissance permit, prospecting licence or mining lease and the manner and conditions of competitive bidding under sub-section (2) of section 4;
 - (c) norms to become eligible to bid in an auction and the amount of investment in respect of a company having a coal linkage under sub-section (3) of section 4;
 - (d) the period within which the payment of additional levy by the prior allottee under of sub-section (4) of section 4;
 - (e) the allotment order to make allocations to a Government company or corporation under sub-section (3) of section 5;
 - (f) the powers of the nominated authority under sub-section (1) of section 6;

26 of 1973. 67 of 1957.

- (g) the manner of bidding for Schedule II coal mines and execution of the allocation orders under sub-section (5) of section 6;
- (h) the salaries and allowances and other terms and conditions of service of the nominated authority and other officers and staff under sub-section (6) of section 6;
- (i) the manner of notifying the particulars of Schedule I coal mines to be auctioned and furnishing of required information by the prior allottees under sub-section (1) of section 8:
- (*j*) the manner of conducting auction and drawing of a vesting order under subsection (3) of section 8;
- (*k*) determination of floor price by the nominated authority under sub-section (5) of section 8;
- (1) the form and manner of furnishing of bank guarantee and the time within which such furnishing of bank guarantee under sub-section (6) of section 8;
 - (m) the manner of disbursement of priority payments under section 9;
- (n) the manner of establishing title of movable property by the prior allottee or third party who has a contract with the prior allottee for the movable property under the first proviso to sub-section (5) of section 10;
- (*o*) the manner of receiving compensation from the sale proceeds of the movable property under the second proviso to sub-section (5) of section 10;
- (p) the manner in which the secured creditor paid out of the compensation in respect of any prior allottee under sub-section (2) of section 12;
- (q) the manner of collection of additional levy by the Central Government from the prior allottees of Schedule II coal mines under sub-section (5) of section 14:
- (r) the salaries and allowances and other terms and conditions of service of the Commissioner of Payments and other officers and staff under sub-section (4) of section 15:
- (s) the manner of determination of compensation payable to prior allottee and the lodging of registered sale deeds with the nominated authority under sub-section (1) of section 16:
- (t) the method of determination of compensation for mine infrastructure in relation to Schedule I and its reflection in the statutorily audited balance sheet under subsection (2) of section 16;
- (*u*) the manner of transfer of the management and operation of any Schedule II coal mines by the designated custodian under sub-section (6) of section 19;
- (ν) the manner of providing agreements or arrangements for optimum utilisation of coal mined for specified end uses under sub-section (1) of section 20;
- (w) the manner of usage of coal mine by a successful bidder or allottee for any of its plants under sub-section (2) of section 20;
 - (x) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made under and every notification issued 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 notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification .

30. (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 Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

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

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

SCHEDULE-I [See section 3(1)(p)]

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/ Block Located
1.	Tadicherla-I	Andhra Pradesh Power Generation Corpn. Ltd.	Andhra Pradesh
2.	Anesttipali	Andhra Pradesh Power Generation Corpn. Ltd.	Andhra Pradesh
3.	Punkula-Chilka	Andhra Pradesh Power Generation Corpn. Ltd.	Andhra Pradesh
4.	Penagaddppa	Andhra Pradesh Power Generation Corpn. Ltd.	Andhra Pradesh
5.	Namchik Namphuk	Arunachal Pradesh Mineral Dev. & Trading Corporation	Arunachal Pradesh
6.	Sayang	AES Chhattisgarh Energy Pvt. Ltd.	Chhattisgarh
7.	Rajgamar Dipside (Deavnara)	API Ispat & Powertech Pvt. Ltd.,CG Sponge Manufacturers Consortium Coalfield Pvt. Ltd.	Chhattisgarh
8.	Durgapur-II/ Taraimar	Bharat Alluminium Company Ltd.	Chhattisgarh
9.	Datima	Binani Cement Ltd.	Chhattisgarh
10.	Tara	Chhattisgarh Mineral Development Corporation Limited	Chhattisgarh
11.	Gare Pelma, Sector-I	Chhattisgarh Mineral Development Corporation Limited	Chhattisgarh
12.	Shankarpur Bhatgaon II Extn.	Chhattisgarh Mineral Development Corporation Limited	Chhattisgarh
13.	Sondhia	Chhattisgarh Mineral Development Corporation Limited	Chhattisgarh
14.	Parsa	Chhattisgarh State Electricity Board	Chhattisgarh
15.	Vijay Central	Coal India Limited, SKS Ispat & Power Ltd.	Chhattisgarh
16.	Gidhmuri	Chattishgarh State Electricity Board	Chhattisgarh
17.	Paturia	Chattishgarh State Electricity Board	Chhattisgarh
18.	Durgapur-II/Sarya	DB Power Ltd.	Chhattisgarh
19.	Bhaskarpara	Electrotherm (India) Ltd., Grasim Industries Ltd.	Chhattisgarh
20.	West of Umaria	Sainik Finance and Industries Ltd. (Earlier Garuda Clays Ltd.)	Chhattisgarh
21.	Morga II	Gujrat Mineral Development Corporation	Chhattisgarh
22.	Gare Pelma Sector III	Goa Industrial Development Corporation	Chhattisgarh
23.	Madanpur South	Hindustan Zinc Ltd., Akshya Investment Pvt. Ltd., Chhattisgarh Steel & Power Ltd., Chhattisgarh Electricity Corporation Ltd., MSP Steel & Power Ltd., Chhattisgarh Captive Coal Mining Ltd. (Consortium of five Cos.)	Chhattisgarh
24.	Nakia I	Ispat Godavari Ltd. , Ind Agro Synergy Ltd., Shri Nakoda Ispat Ltd., Vandana Gobal Ltd., Shree Bajrang Power & Ispat Ltd.	Chhattisgarh
25.	Nakia II	Ispat Godavari,Ind Agro Synergy,Shri Nakoda Ispat,Vandana Gobal Ltd.,Shree Bajrang Power & Ispat Ltd.	Chhattisgarh
26.	Gare-Palma- IV/4	Jayaswal Neco Ltd.	Chhattisgarh
27.	Gare Palma IV/8	Jayaswal Neco Ltd.	Chhattisgarh
28.	Gare-Palma-IV/2	Jindal Power Ltd. (Now Jindal Steel & Power Ltd.)	Chhattisgarh
29.	Gare-Palma-IV/3	Jindal Power Ltd. (Now Jindal Steel & Power Ltd.)	Chhattisgarh
30.	Gare-Palma-IV/1	Jindal Strips Limited (Now Jindal Steel & Power Ltd.)	Chhattisgarh

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/ Block Located
31.	Gare Palma IV/6	Jindal Steel & Power Ltd., Nalwa Sponge Iron Ltd.	Chhattisgarh
32.	Fatehpur East	JLD Yavatmal Energy Ltd., R.K.M. Powergen Pvt. Ltd., Visa Power Ltd., Green Infrastructure Pvt. Ltd., Vandana Vidyut Ltd.	Chhattisgarh
33.	Morga-I	Madhya Pradesh State Mining Corporation Limited	Chhattisgarh
34.	Morga III	Madhya Pradesh State Mineral Corporation Limited	Chhattisgarh
35.	Morga IV	Madhya Pradesh State Mineral Corporation Limited	Chhattisgarh
36.	Gare Pelma Sector II	Maharashtra State Mining Corpn Ltd., Tamil Nadu State Electricity Board	Chhattisgarh
37.	Gare-Palma-IV/5	Monet Ispat Ltd.	Chhattisgarh
38.	Rajgamar Dipside (South of Phulakdih Nala)	Monnet Ispat and Energy Ltd., Topworth Steel Pvt. Ltd.	Chhattisgarh
39.	Talaipali	National Thermal Power Ltd.	Chhattisgarh
40.	Chotia	Prakash Industries Ltd.	Chhattisgarh
41.	Gare-Palma-IV/7	Raipur Alloys & Steel Ltd. (Now Sarda Energy and Mineral Limited)	Chhattisgarh
42.	Parsa East	Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL)	Chhattisgarh
43.	Kesla North	Rathi Udyog Ltd.	Chhattisgarh
44.	Kanta Basan	Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL)	Chhattisgarh
45.	Panchbahani	Shree Radhe Industries Ltd.	Chhattisgarh
46.	Fatehpur	SKS Ispat and Power Ltd., Prakash Industries Ltd.	Chhattisgarh
47.	Madanpur (North)	Ultratech Ltd., Singhal Enterprise Ltd., Nav Bharat Coalfield Ltd., Vandana Energy & Steel Pvt. Ltd., Prakash Industries Ltd., Anjani Steel Pvt. Ltd., Chhattisgarh Captive Coal Mining Ltd. (Consortium of five Co.)	Chhattisgarh
48.	Brinda	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
49.	Sasai	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
50.	Meral	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
51.	Seregarha	Arcelor Mittal India Ltd., GVK Power (Govindwal Sahib) Ltd.	Jharkhand
52.	Patal East	Bhushan Power and Steel Ltd.	Jharkhand
53.	Saria Koiyatand	Bihar Rajya Khanij Vikas Nigam (BRKVN) Patna	Jharkhand
54.	Macherkunda	Bihar Sponge Iron Ltd.	Jharkhand
55.	Brahmadiha	Castron Technologies Ltd.	Jharkhand
56.	Mahuagarhi	Calcutta Electricity Supply Corporation Ltd. (CESC), Jas Infrastructure Capital Pvt. Ltd.	Jharkhand
57.	Chitarpur	Corporate Ispat Alloys Ltd.	Jharkhand
58.	Saharpur Jamarpani	Damodar Valley Corporation	Jharkhand
59.	Lalgarh (North)	Domco Smokeless Fuel Pvt. Ltd.	Jharkhand
60.	Parbatpur-Central	Electrosteel Castings Ltd.	Jharkhand
61.	Chakla	Essar Power Ltd.	Jharkhand
62.	Ashok Karkatta Central	Essar Power Ltd.	Jharkhand
63.	Jainagar	Gujarat Mineral Development Corporation (GMDC)	Jharkhand

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/ Block Located
64.	Tokisud North	GVK Power (Govindwal Sahib) Ltd.	Jharkhand
65.	Tubed	Hindalco Industries Ltd., Tata Power Company Ltd.	Jharkhand
66.	Moitra	Jayaswal Neco Ltd.	Jharkhand
67.	North Dhadu	Jharkhand Ispat Pvt. Ltd, Pavanjay Steel & Power Ltd., Electrosteel castings Ltd, Adhunik Alloys & Power Ltd.	Jharkhand
68.	Banhardih	Jharkhand State Electricity Board	Jharkhand
69.	Sugia Closed mine	Jharkhand State Mineral Development Corporation	Jharkhand
70.	Rauta Closed mine	Jharkhand State Mineral Development Corporation	Jharkhand
71.	Burakhap small patch	Jharkhand State Mineral Development Corporation	Jharkhand
72.	Pindra-Debipur- Khaowatand	Jharkhand State Mineral Development Corporation Ltd.	Jharkhand
73.	Latehar	Jharkhand State Mineral Development Corporation Ltd.	Jharkhand
74.	Patratu	Jharkhand State Mineral Development Corporation Ltd.	Jharkhand
75.	Rabodih OCP	Jharkhand State Mineral Development Corporation Ltd.	Jharkhand
76.	Jogeshwar & Khas Jogeshwar	Jharkhand State Mineral Development Corporation	Jharkhand
77.	Jitpur	Jindal Steel & Power Ltd.	Jharkhand
78.	Amarkonda Murgadangal	Jindal Steel and Power Ltd., Gagan Sponge Iron Pvt. Ltd.	Jharkhand
79.	Urma Paharitola	Jharkhand State Electricity Board, Bihar State Mineral Development Corporation Ltd.	Jharkhand
80.	Rohne	JSW Steel Ltd., Bhushan Power & Steel Ltd., Jai Balaji Industries Ltd.	Jharkhand
81.	Gomia	Metals and Minerals Trading Corporation	Jharkhand
82.	Rajhara North (Central & Eastern)	Mukund Limited, Vini Iron & Steel Udyog Limited	Jharkhand
83.	Dumri	Nilachal Iron & Power Ltd., Bajrang Ispat Pvt. Ltd.	Jharkhand
84.	Kerandari	National Thermal Power Ltd.	Jharkhand
85.	Chatti Bariatu	National Thermal Power Ltd.	Jharkhand
86.	Chhati Bariatu Sout	h National Thermal Power Ltd.	Jharkhand
87.	Brahmini	National Thermal Power Ltd.+ Coal India Limited JV	Jharkhand
88.	Chichro Patsimal	National Thermal Power Ltd.+ Coal India Limited JV	Jharkhand
89.	Pachwara Central	Punjab State Electricity Board	Jharkhand
90.	Mahal	Rashtriya Ispat Nigam Limited	Jharkhand
91.	Tenughat-Jhirki	Rashtriya Ispat Nigam Limited	Jharkhand
92.	Bundu	Rungta Mines Limited	Jharkhand
93.	Mednirai	Rungta Mines Limited, Kohinoor Steel (P) Ltd.	Jharkhand
94.	Choritand Tiliaya	Rungta Mines Limited, Sunflag Iron & Steel Co. Ltd.	Jharkhand
95.	Sitanala	Steel Authority of India Ltd.	Jharkhand
96.	Ganeshpur	Tata Steel Ltd., Adhunik Thermal Energy	Jharkhand
97.	Badam	Tenughat Vidyut Nigam Limited	Jharkhand

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/ Block Located
98.	Rajbar E&D	Tenughat Vidyut Nigam Limited	Jharkhand
99.	Gondulpara	Tenughat Vidyut Nigam Limited, Damodar Valley Corporation	Jharkhand
100.	Kotre -Basantpur	Tata Iron and Steel Co. Ltd.(Now Tata Steel Ltd.)	Jharkhand
101.	Pachmo	Tata Iron and Steel Co. Ltd. (Now Tata Steel Ltd.)	Jharkhand
102.	Lohari	Usha Martin Ltd.	Jharkhand
103.	Kathautia	Usha Martin Ltd.	Jharkhand
104.	Pachwara North	West Bengal Power Development Corporation Limited (WBPDCL)	Jharkhand
105.	Suliyari	Andhra Pradesh Mineral Development Corporation	Madhya Pradesh
106.	Bikram	Birla Corporation Ltd.	Madhya Pradesh
107.	Gotitoria (East)	BLA Industries Ltd.	Madhya Pradesh
108.	Gotitoria (West)	BLA Industries Ltd.	Madhya Pradesh
109.	Mahan	Essar Power Ltd., Hindalco Industries Ltd.	Madhya Pradesh
110.	Mandla North	Jaipraskash Associates Ltd.	Madhya Pradesh
111.	Urtan North	Jindal Steel & Power Ltd., Monet Ispat and Energy Ltd.	Madhya Pradesh
112.	Thesgora-B/ Rudrapuri	Kamal Sponge Steel & Power Limited, Revati Cement P. Ltd.	Madhya Pradesh
113.	Amelia	Madhya Pradesh State Mining Corporation	Madhya Pradesh
114.	Amelia (North)	Madhya Pradesh State Mining Corporation	Madhya Pradesh
115.	Mandla South	Madhya Pradesh State Mining Corporation Ltd.	Madhya Pradesh
116.	Dongeri Tal-II	Madhya Pradesh State Mining Corporation Ltd. (MPSMC)	Madhya Pradesh
117.	Marki Barka	Madhya Pradesh State Mining Corporation (MPSMC)	Madhya Pradesh
118.	Semaria/Piparia	Madhya Pradesh State Mining Corporation (MPSMC)	Madhya Pradesh
119.	Bicharpur	Madhya Pradesh State Mining Corporation Ltd. (MPSMC)	Madhya Pradesh
120.	Tandsi-III & Tandsi -III (Extn.)	Mideast Integrated Steels Ltd.	Madhya Pradesh
121.	Sahapur East	National Mineral Dev. Corp.	Madhya Pradesh
122.	Sahapur West	National Mineral Dev. Corp.	Madhya Pradesh
123.	Mara II Mahan	NCT of Delhi, Delhi, Haryana Power Generation Corp. Ltd. (HPGCL)	Madhya Pradesh
124.	Sial Ghoghri	Prism Cement Limited	Madhya Pradesh
125.	Brahampuri	Pushp Steel and Mining Ltd.	Madhya Pradesh
126.	Rawanwara North	SKS Ispat Limited	Madhya Pradesh
127.	Bander	AMR Iron & Steels Pvt. Ltd., Century Textiles & Industries Ltd., J.K.Cement Ltd.	Maharashtra
128.	Marki Mangli-I	B.S. Ispat Ltd.	Maharashtra
129.	Takli-Jena-Bellora (North) & Takli-Jena- Bellora (South)	Central Collieries Co. Ltd. and Lloyds Metals & Engineering Ltd.	Maharashtra
130.	Dahegaon/ Makard hokra- IV	IST Steel & Power Ltd., Gujarat Ambuja Cement Ltd., Lafarge India Pvt. Ltd.	Maharashtra

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/ Block Located
131.	Gondkhari	Maharashtra Seamless Limited, Dhariwal Infrastructure (P) Ltd., Kesoram Industries Ltd.	Maharashtra
132.	Marki-Zari- Jamani-Adkoli	Maharashtra State Mining Corpn. Ltd.	Maharashtra
133.	Lohara (East)	Murli Industries Ltd., Grace Industries Ltd.	Maharashtra
134.	Khappa & Extn.	Sunflag Iron & Steel Ltd., Dalmia Cement (Bharat) Ltd.	Maharashtra
135.	Lohara West Extn.	Adani Power Ltd.	Maharashtra
136.	Warora West (North)	Bhatia International Ltd.	Maharashtra
137.	Kosar Dongergaon	Chaman Metaliks Ltd.	Maharashtra
138.	Warora (West) Southern Part	Fieldmining & Ispat Ltd.	Maharashtra
139.	Chinora	Fieldmining & Ispat Ltd.	Maharashtra
140.	Majra	Gondwana Ispat Ltd.	Maharashtra
141.	Nerad Malegaon	Gupta Metallics & Power Ltd., Gupta Coalfields & Washeries Ltd.	Maharashtra
142.	Baranj - I	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
143.	Baranj - II	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
144.	Baranj - III	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
145.	Baranj - IV	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
146.	Kiloni	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
147.	Manora Deep	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
148.	Agarzari	Maharastra State Mining Corporation Limited (MSMCL)	Maharashtra
149.	Warora	Maharashtra State Mining Corporation Limited (MSMCL)	Maharashtra
150.	Bhandak West	Shree Baidyanath Ayurved Bhawan Ltd.	Maharashtra
151.	Marki Mangli-II	Shree Veerangana Steel Limited.	Maharashtra
152.	Marki Mangli-III	Shree Veerangana Steel Limited.	Maharashtra
153.	Marki Mangli-IV	Shree Veerangana Steel Limited.	Maharashtra
154.	Belgaon	Sunflag Iron & Steel Co. Ltd.	Maharashtra
155.	Mandakini B	Assam Mineral Dev. Corporation Ltd., Meghalaya Mineral Dev. Corp, Tamil Nadu Electricity Board, Orissa Mining Corporation Ltd.	Orissa
156.	New Patrapara	Bhusan Steel & Strips Ltd., Adhunik Metaliks Ltd., Deepak Steel & Power Ltd., Adhunik Corp. Ltd., Orissa Sponge Iron Ltd., SMC Power Generation Ltd., Sree Metaliks Ltd., Visa Steel Ltd.	Orissa
157.	Bijahan	Bhushan Ltd., Shri Mahavir Ferro Alloys Pvt. Limited	Orissa
158.	Jamkhani	Bhushan Ltd.	Orissa
159.	Naini	Gujarat Mineral Development Corporation, Pondichery Industrial	
		Promotion Development and Investment Corporation Limited	Orissa
160.	Mahanadi	Gujarat State Electricity Corporation Limited, Maharashtra State Electricity Board	Orissa
161.	Machhakata	Gujarat State Electricity Corporation Limited, Maharashtra State Electricity Board	Orissa

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/ Block Located
162.	Talabira-I	Hindalco Industries Ltd.	Orissa
163.	Ramchandi Promotion Block	Jindal Steel & Power Limited	Orissa
164.	Utkal B 1	Jindal Steel & Power Ltd.	Orissa
165.	Baitarni West	Kerala State Electricity Board, Orissa Hydro Power Corp., Gujarat Power Corporation Ltd.	Orissa
166.	Talabira II & III	Mahanadi Coalfields Ltd. (MCL), Neyveli Lignite Corporation Ltd., Hindalco Industries Ltd.	Orissa
167.	Utkal-A	Mahanadi Coalfields Ltd. (MCL), JSW Steels Ltd., Jindal Thermal Power Comp. Ltd., Jindal Stainless Steels Ltd., Shyam DRI Ltd.	Orissa
168.	Utkal-B2	Monet Ispat Ltd.	Orissa
169.	Mandakini	Monet Ispat Energy Ltd., Jindal Photo Ltd., Tata Power Company Ltd.	Orissa
170.	Utkal-E	National Alluminium Corporation	Orissa
171.	Dulanga	National Thermal Power Corporation	Orissa
172.	Utkal-D	Orissa Mining Corporation	Orissa
173.	Nuagaon Telisahi	Orissa Mining Corporation, Andhra Pradesh Mineral Development (APMDC)	Orissa
174.	Manoharpur	Orissa Power Generation Corporation	Orissa
175.	Dipside Manoharpur	Orissa Power Generation Corporation	Orissa
176.	Radhikapur(West)	Rungta Mines Limited, OCL India Ltd., Ocean Ispat Ltd.	Orissa
177.	Rampia	Sterlite Energy Ltd., (IPP), GMR Energy Ltd. (IPP), Arcelor Mittal India Ltd. (CPP), Lanco Group Ltd. (IPP), Navbharat Power Pvt. Ltd. (IPP), Reliance Energy Ltd. (IPP)	Orissa
178.	Dipside of Rampia	Sterlite Energy Ltd., (IPP), GMR Energy (IPP), Arcelor Mittal India Ltd. (CPP), Lanco Group Ltd. (IPP), Navbharat Power Pvt. Ltd. (IPP), Reliance Energy Ltd. (IPP)	Orissa
179.	North of Arkhapal Srirampur	Strategic Energy Technology Systems Limited (SETSL)	Orissa
180.	Radhikapur (East)	Tata Sponge Iron Ltd., Scaw Industries Ltd., SPS Sponge Iron Ltd.	Orissa
181.	Chendipada	Uttar Pradesh Rajya Vidut Utpadan Limited, Chhattisgarh Mineral Development Corporation Limited, Maharashtra State Power Generation Corporation Ltd.	Orissa
182.	Chendipada-II	Uttar Pradesh Rajya Vidut Utpadan Limited, Chhattisgarh Mineral Development Corporation Limited, Maharashtra State Power Generation Corporation Ltd.	Orissa
183.	Utkal-C	Utkal Coal Ltd. (formerly ICCL)	Orissa
184.	Biharinath	Bankura DRI Mining Manufacturers Co. Pvt. Ltd.	West Bengal
185.	Andal East	Bhushan Steel Ltd., Jai Balaji Industries Ltd., Rashmi Cement Ltd.	West Bengal
186.	Barjora (North)	Damodar Valley Corporation	West Bengal
187.	Kagra Joydev	Damodar Valley Corporation	West Bengal
188.	Kasta (East)	Damodar Valley Corporation	West Bengal
189.	Gourangdih ABC	Himachal EMTA Power Ltd., JSW Steel Ltd.	West Bengal

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/ Block Located
190.	Moira- Madhujore	Ramsarup Lohh Udyog Ltd., Adhunik Corporation Ltd., Uttam Galva Steels Ltd., Howrah Gases Ltd., Vikas Metal & Power Ltd., ACC Ltd.	West Bengal
191.	Sarisatolli	Calcutta Electricity Supply Corporation Ltd.	West Bengal
192.	Ardhagram	Sova Ispat Limited, Jaibalaji Sponge Ltd.	West Bengal
193.	Tara (West)	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
194.	Gangaramchak	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
195.	Barjora	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
196.	Gangaramchak- Bhadulia	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
197.	Tara (East)	West Bengal State Electricity Board	West Bengal
198.	Jaganathpur B	West Bengal Mineral Development & Trading Corp.	West Bengal
199.	Sitarampur	West Bengal Mineral Dev. & Trading Corp. Ltd.	West Bengal
200.	Trans Damodar	West Bengal Mineral Dev. & Trading Corp. Ltd.	West Bengal
201.	Ichhapur	West Bengal Mineral Dev. & Trading Corp. Ltd.	West Bengal
202.	Kulti	West Bengal Mineral Dev. & Trading Corp. Ltd.	West Bengal
203.	Jaganathpur A	West Bengal Mineral Dev. & Trading Corp. Ltd.	West Bengal
204.	East of Damogoria (Kalyaneshwari)	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal

SCHEDULE-II

[See section 3(1)(q)]

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine Block Located
1.	Namchik Namphuk	Arunachal Pradesh Mineral Dev. & Trading Corporation	Arunachal Pradesh
2.	Gare-Palma- IV/4	Jayaswal Neco Ltd.	Chhattisgarh
3.	Gare-Palma-IV/2	Jindal Power Ltd. (Now Jindal Steel & Power Ltd.)	Chhattisgarh
4.	Gare-Palma-IV/3	Jindal Power Ltd. (Now Jindal Steel & Power Ltd.)	Chhattisgarh
5.	Gare-Palma-IV/1	Jindal Strips Limited (Now Jindal Steel & Power Ltd.)	Chhattisgarh
6.	Gare-Palma-IV/5	Monet Ispat Ltd.	Chhattisgarh
7.	Chotia	Prakash Industries Ltd.	Chhattisgarh
8.	Gare-Palma-IV/7	Raipur Alloys & Steel Ltd. (Now Sarda Energy and Mineral Limited)	Chhattisgarh
9.	Parsa East	Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL)	Chhattisgarh
10.	Kanta Basan	Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL)	Chhattisgarh
11.	Parbatpur-Central	Electrosteel Castings Ltd.	Jharkhand
12.	Tokisud North	GVK Power (Govindwal Sahib) Ltd.	Jharkhand
13.	Pachwara Central	Punjab State Electricity Board	Jharkhand
14.	Kathautia	Usha Martin Ltd.	Jharkhand
15.	Pachwara North	West Bengal Power Development Corporation Limited (WBPDCL)	Jharkhand
16.	Gotitoria (East)	BLA Industries Ltd.	Madhya Pradesh
17.	Gotitoria (West)	BLA Industries Ltd.	Madhya Pradesh
18.	Mandla North	Jaipraskash Associates Ltd.	Madhya Pradesh
19.	Amelia (North)	Madhya Pradesh State Mining Corporation	Madhya Pradesh
20.	Bicharpur	Madhya Pradesh State Mining Corporation Ltd.(MPSMC)	Madhya Pradesh
21.	Sial Ghoghri	Prism Cement Limited	Madhya Pradesh
22.	Marki Mangli-I	B.S. Ispat Ltd.	Maharashtra
23.	Baranj-I	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
24.	Baranj-II	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
25.	Baranj-III	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
26.	Baranj-IV	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
27.	Kiloni	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
28.	Manora Deep	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
29.	Marki Mangli-II	Shree Veerangana Steels Limited	Maharashtra
30.	Marki Mangli-III	Shree Veerangana Steels Limited	Maharashtra
31.	Belgaon	Sunflag Iron & Steel Co. Ltd.	Maharashtra
32.	Talabira-I	Hindalco Industries Ltd.	Orissa
33.	Barjora (North)	Damodar Valley Corporation	West Bengal
34.	Kagra Joydev	Damodar Valley Corporation	West Bengal
35.	Sarisatolli	Calcutta Electricity Supply Corporation Ltd.	West Bengal
36.	Ardhagram	Sova Ispat Limited, Jai Balaji Sponge Ltd.	West Bengal
37.	Tara (West)	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
38.	Gangaramchak	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/ Block Located
39.	Barjora	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
40.	Gangaramchak- Bhadulia	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
41.	Tara (East)	West Bengal State Electricity Board	West Bengal
42.	Trans Damodar	West Bengal Mineral Dev. & Trading Corp. Ltd.	West Bengal

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SCHEDULEIII

[See section 3(1)(r)]

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/ Block Located
1.	Durgapur-II/ Taraimar	Bharat Alluminium Company Ltd.	Chhattisgarh
2.	Durgapur-II/Sarya	DB Power Ltd.	Chhattisgarh
3.	Gare Pelma Sector III	Goa Industrial Development Corporation	Chhattisgarh
4.	Gare Palma IV/8	Jayaswal Neco Ltd.	Chhattisgarh
5.	Talaipali	National Thermal Power Ltd.	Chhattisgarh
6.	Chatti Bariatu	National Thermal Power Ltd.	Jharkhand
7.	Mahan	Essar Power Ltd., Hindalco Industries Ltd.	Madhya Pradesh
8.	Mandla South	Madhya Pradesh State Mining Corporation Ltd.	Madhya Pradesh
9.	Dongeri Tal-II	Madhya Pradesh State Mining Corporation Ltd. (MPSMC)	Madhya Pradesh
10.	Kosar Dongergaon	Chaman Metaliks Ltd.	Maharashtra
11.	Nerad Malegaon	Gupta Metallics & Power Ltd., Gupta Coalfields & Washeries Ltd.	Maharashtra
12.	Marki Mangli-IV	Shree Veerangana Steel Limited	Maharashtra
13.	Jamkhani	Bhushan Ltd.	Orissa
14.	Utkal B 1	Jindal Steel & Power Ltd.	Orissa
15.	Utkal-B2	Monet Ispat Ltd.	Orissa
16.	Mandakini	Monet Ispat Energy Ltd., Jindal Photo Ltd., Tata Power Company Ltd.	Orissa
17.	Utkal-C	Utkal Coal Ltd. (formerly ICCL)	Orissa
18.	Brinda	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
19.	Sasai	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
20.	Meral	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
21.	Moitra	Jayaswal Neco Ltd.	Jharkhand
22.	Jitpur	Jindal Steel & Power Ltd.	Jharkhand
23.	Rohne	JSW Steel Ltd., Bhushan Power & Steel Ltd., Jai Balaji Industries Ltd.	Jharkhand
24.	Dumri	Nilachal Iron & Power Ltd., Bajrang Ispat Pvt. Ltd.	Jharkhand
25.	Kerandari	National Thermal Power Ltd.	Jharkhand
26.	Sitanala	Steel Authority of India Ltd.	Jharkhand
27.	Ganeshpur	Tata Steel Ltd., Adhunik Thermal Energy	Jharkhand
28.	Badam	Tenughat Vidyut Nigam Limited	Jharkhand
29.	Tara	Chhattisgarh Mineral Development Corporation Ltd.	Chhattisgarh
30.	Lohari	Usha Martin Ltd.	Jharkhand
31.	Dulanga	National Thermal Power Corporation	Orissa
32.	Manoharpur	Orissa Power Generation Corporation	Orissa

SCHEDULEIV

(See section 28)

PART-A

THE COAL MINES (NATIONALISATION) ACT, 1973 (26 of 1973)

Amendment of section 1A.

1. In the Coal Mines (Nationalisation) Act, 1973 (herein referred to as the principal Act), in sub-section (*I*) of section 1A, after the word and figure "section 3", the word, figure and letter ", section 3A" shall be inserted.

Insertion of new section 3A.

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

Mining operation by company and others.

- "3A. (1) Notwithstanding anything contained in this Act, any person being—
- (a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may, or any other company incorporated in India; or
- (b) a company or a joint venture company formed by two or more companies, may carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the prospecting licence or mining lease, as the case may be.
- (2) The Central Government may, with a view to rationalise such coal mines so as to ensure the co-ordinated and scientific development and utilisation of coal resources consistent with the growing requirements of the country, from time to time, prescribe—
 - (i) the coal mines or coal bearing areas and their location;
 - (ii) the minimum size of the coal mine or coal bearing areas;
 - (iii) such other conditions,

which in the opinion of that Government may be necessary for the purpose of coal mining operations or mining for sale by a company.

Explanation.—For the purposes of this section, "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013."

18 of 2013.

Amendment of section 34.

3. In section 34 of the principal Act, in sub-section (2), after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) the coal mines or coal bearing areas and their location, the minimum size of the coal mine or coal bearing areas, and such other conditions which may be necessary for the purpose of coal mining operations including mining for sale by a company under sub-section (2) of section 3A.".

PART-B

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957

(67 of 1957)

Substitution of new section for section 11A.

1. In the Mines and Minerals (Development and Regulation) Act, 1957 (herein referred to as the principal Act), for section 11A,the following section shall be substituted, namely:—

Granting of reconnaissance permit, prospecting licence or mining lease. "11A. (1) Notwithstanding anything contained in this Act, the Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal or lignite, select any of the following companies through auction by competitive bidding, on such terms and conditions as may be prescribed, namely:—

- (a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may, or any other company incorporated in India; or
- (b) a company or a joint venture company formed by two or more companies, may carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be.
- (2) The Central Government may, with a view to rationalise coal and lignite mines referred to in sub-section (1), so as to ensure the co-ordinated and scientific development and utilisation of resources consistent with the growing requirements of the country, from time to time, prescribe—
 - (i) the details of mines and their location;
 - (ii) the minimum size of the such mines;
 - (iii) such other conditions,

which in the opinion of that Government may be necessary for the purpose of mining operations or mining for sale by a company.

(3) The State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal or lignite to such company as selected through auction by competitive bidding or otherwise under this section:

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

- (a) where such area is considered for allocation to a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be;
- (b) where such area is considered for allocation to a company or corporation or that has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects).

Explanation.—For the purposes of this section, "company" means a company as 18 of 2013. defined in clause (20) of section 2 of the Companies Act, 2013."

> 3. In section 13 of the principal Act, in sub-section (2), for clause (d), the following clause shall be substituted, namely:-

Amendment of section 13.

"(d) the terms and conditions of auction by competitive bidding, the details of mines and their location, the minimum size of such mines and such other conditions which may be necessary for the purpose of coal mining operations including mining for sale by a company under sub-section (1) and sub-section (2) of section 11A.".

> PRANAB MUKHERJEE. President.

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



असाधारण

EXTRAORDINARY

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

PUBLISHED BY AUTHORITY

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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 24th October, 2014/Kartika 2, 1936 (Saka)

THE TEXTILE UNDERTAKINGS (NATIONALISATION) LAWS (AMENDMENT AND VALIDATION) ORDINANCE, 2014

No. 6 of 2014

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

57 of 1974. 39 of 1995. An Ordinance further to amend the Sick Textile Undertakings (Nationalisation) Act, 1974 and the Textile Undertakings (Nationalisation) Act, 1995 in order to continue with the lease-hold rights vested in the National Textile Corporation on completion of the lease-hold tenure;

Whereas the National Textile Corporation subserves the interests of the general public and the land continue to be in possession of the said Corporation;

And Whereas various other textile undertakings have been nationalised from time to time and their assets vested absolutely in the Central Government and thereafter transferred to the National Textile Corporation Limited by the Central Government free from all encumbrances;

AND WHEREAS after the nationalisation of the textile undertakings, a large sum of money have been invested with a view to making the said textile undertakings viable;

AND WHEREAS the Central Government has taken initiative to revive certain sick undertakings including the National Textile Corporation under a revival scheme sanctioned by the Board for Industrial and Financial Reconstruction under the Sick Industrial Companies (Special Provisions) Act, 1985;

1 of 1986.

And Whereas it is necessary for the proper and effective implementation of the revival scheme and to protect the public investment in the acquired textile undertakings and to explicitly clarify the status of such vesting of the lease-hold rights in the Central Government;

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

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

CHAPTER I

PRELIMINARY

Short title and commencement.

- **1.** (*I*) This Ordinance may be called the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014.
 - (2) It shall come into force at once.

CHAPTER II

AMENDMENT TO THE SICK TEXTILE UNDERTAKINGS (NATIONALISATION) ACT, 1974

Amendment of section 3.

2. On and from the date of commencement of the Sick Textile Undertakings (Nationalisation) Act. 1974, (hereafter in this Chapter referred to as the principal Act), in section 3 after sub-section (2), the following sub-sections shall be inserted and shall be deemed to have been inserted, namely:—

57 of 1974.

- "(3) Notwithstanding the transfer and vesting of any sick textile undertaking to the National Textile Corporation by virtue of sub-section (2), the lease-hold rights of the sick textile undertakings shall continue to remain vested in the Central Government on payment of lease-hold rents and shall be discharged, for and on behalf of that Government, by the National Textile Corporation as and when payment of such lease-hold rents or any amount becomes due and payable.
- (4) Subject to sub-section (3), no court shall have jurisdiction to order divestment from the National Textile Corporation of the property vested in it by the Central Government.".

Amendment of section 4.

- **3.** On and from the date of commencement of the principal Act, in section 4, after sub-section (7), the following sub-sections shall be inserted and shall be deemed to have been inserted, namely:—
 - "(8) Notwithstanding the fact that the textile operations have been discontinued in any sick textile undertaking being revived, shall for all effects and purposes be deemed that the textile operations are being continued and no suit or proceeding shall be instituted or if instituted be maintainable against the National Textile Corporation on the ground that it has discontinued such activity in the sick textile undertaking.
 - (9) For the removal of doubts, it is hereby declared that the continued deemed vesting of the lease-hold land in the Central Government shall not affect, impair or in any manner prejudice the rights of the National Textile Corporation to prosecute or defend any proceedings as a subsequent vestee in respect of any such lease-hold rights and no such proceedings shall fail only on account of the non impleadment of that Government.".

4. After section 40 of the principal Act, the following section shall section be inserted, namely:—

Insertion of new section 41.

"41. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

Validation.

- (a) the provisions of this Act, as amended by the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014, shall have and shall be deemed always to have effect for all purposes as if the provisions of this Act, as amended by the said Ordinance, had been in force at all material times:
- (b) any lease-hold property divested from the National Textile Corporation to any person under the provisions of this Act, as it stood immediately before the commencement of the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014, shall stand transferred to and vest or continue to vest, free from all encumbrances, in the National Textile Corporation in the same manner as it was vested in the National Textile Corporation before such divesting of that property under the provisions of this Act, as if the provisions of this Act as amended by the aforesaid Ordinance, were in force at all material times;
- (c) no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or authority for the enforcement of any decree or order or direction given by such court or tribunal or authority, notwithstanding any undertaking filed by the National Textile Corporation in any court or tribunal or authority, directing divestment of such lease-hold property from the National Textile Corporation vested in it under section 3 of this Act, as it stood before the commencement of the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014, and such lease-hold property shall continue to vest in the National Textile Corporation under section 3 of this Act as amended by the aforesaid Ordinance, as if the said section was in force at all material times;
- (d) any transfer of any property, vested in the National Textile Corporation, by virtue of any order of attachment, seizure or sale in execution of a decree of a civil court or orders of any tribunal or other authority in respect of lease-hold property vested in the National Textile Corporation which is contrary to the provisions of this Act, as amended by the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014, shall be deemed to be null and void and notwithstanding such transfer, continue to vest in the National Textile Corporation under this Ordinance."

CHAPTER III

AMENDMENTS TO THE TEXTILE UNDERTAKINGS (NATIONALISATION) ACT, 1995

5. On and from the date of commencement of the Textile Undertakings (Nationalisation) Act, 1995 (hereafter in this Chapter referred to as the principal Act), in section 3, after sub-section (2), the following sub-sections shall be inserted and shall be deemed to have been inserted, namely:—

Amendment of section 3.

"(3) Notwithstanding the transfer and vesting of any textile undertaking to the National Textile Corporation by virtue of sub-section (2), the lease-hold rights of the textile undertakings shall continue to remain vested in the Central Government on payment of lease-hold rents and shall be discharged, for and on behalf of that Government, by the National Textile Corporation as and when payment of such lease-hold rents or any amount becomes due and payable.

39 of 1995.

(4) Subject to sub-section (3), no court shall have jurisdiction to order divestment from the National Textile Corporation of the property vested in it by the Central Government.".

Amendment of section 4.

- **6.** On and from the date of commencement of the principal Act, in section 4, after sub-section (7), the following sub-sections shall be inserted and shall be deemed to have been inserted, namely:—
 - "(8) Notwithstanding the fact that the textile operations have been discontinued in any textile undertaking being revived, shall for all effects and purposes shall be deemed that the textile operations are being continued and no suit or proceeding shall be instituted or if instituted be maintainable against the National Textile Corporation on the ground that it has discontinued such activity in the textile undertaking.
 - (9) For the removal of doubts, it is hereby declared that the continued deemed vesting of the lease-hold land in the Central Government shall not affect, impair or in any manner prejudice the rights of the National Textile Corporation to prosecute or defend any proceedings as a subsequent vestee in respect of any such lease-hold rights and no such proceedings shall fail only on account of the non-impleadment of that Government.".

Insertion of new 7. After section 38 of the principal Act, the following section shall be inserted, section 39. namely:—

Validation.

- "39. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—
 - (a) the provisions of this Act, as amended by the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014, shall have and shall be deemed always to have effect for all purposes as if the provisions of this Act, as amended by the said Ordinance, had been in force at all material times;
 - (b) any lease-hold property divested from the National Textile Corporation to any person under the provisions of this Act, as it stood immediately before the commencement of the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014, shall stand transferred to and vest or continue to vest, free from all encumbrances, in the National Textile Corporation in the same manner as it was vested in the National Textile Corporation before such divesting of that property under the provisions of this Act as if the provisions of this Act, as amended by the aforesaid Ordinance, were in force at all material times;
 - (c) no suit or other proceedings shall, without prejudice to the generality of the foregoing provisions, be maintained or continued in any court or tribunal or authority for the enforcement of any decree or order or direction given by such court or tribunal or authority, notwithstanding any undertaking filed by the National Textile Corporation in any court or tribunal or authority, directing divestment of such lease-hold property from the National Textile Corporation vested in it under section 3 of this Act, as it stood before the commencement of the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014, and such lease-hold property shall continue to vest in the National Textile Corporation under section 3 of this Act, as amended by the aforesaid Ordinance, as if the said section was in force at all material times;
 - (d) any transfer of any property, vested in the National Textile Corporation, by virtue of any order of attachment, seizure or sale in execution of a decree of a civil court or orders of any tribunal or other authority in respect of lease-hold property vested in the National Textile Corporation which is contrary to the

provisions of this Act, as amended by the Textile Undertakings (Nationalisation) Laws (Amendment and Validation) Ordinance, 2014, shall be deemed to be null and void and notwithstanding such transfer, continue to vest in the National Textile Corporation under this Ordinance.".

 $\begin{array}{c} \text{PRANAB MUKHERJEE,} \\ \textit{President.} \end{array}$

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



असाधारण

EXTRAORDINARY

भाग II — खण्ड I PART II — Section I प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 44]

नई दिल्ली, शुक्रवार, दिसम्बर 26, 2014/ पौष 5, 1936 (शक)

No. 44]

NEW DELHI, FRIDAY, DECEMBER 26, 2014/PAUSA 5, 1936 (SAKA)

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

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th December, 2014/Pausa 5, 1936 (Saka)

THE COAL MINES (SPECIAL PROVISIONS) SECOND ORDINANCE, 2014

No. 7 of 2014

Promulgated by the President in the sixty-fifth year of the Republic of India.

An Ordinance to provide for allocation of coal mines and vesting of the right, title and interest in and over the land and mine infrastructure together with mining leases to successful bidders and allottees with a view to ensure continuity in coal mining operations and production of coal, and for promoting optimum utilisation of coal resources consistent with the requirement of the country in national interest and for matters connected therewith or incidental thereto.

WHEREAS the Supreme Court vide judgment dated 25th August, 2014 read with its order dated 24th September, 2014 has cancelled the allocation of coal blocks and issued directions with regard to such coal blocks and the Central Government in pursuance of the said directions has to take immediate action to implement the said order;

AND WHERFAS it is expedient in public interest for the Central Government to take immediate action to allocate coal mines to successful bidders and allottees keeping in view the energy security of the country and to minimise any impact on core sectors such as steel, cement and power utilities, which are vital for the development of the nation;

AND WHEREAS in pursuance of the judgment and order of the Supreme Court, the Coal Mines (Special Provisions) Ordinance, 2014 (5 of 2014) was promulgated by the President on the 21st day of October, 2014;

AND WHEREAS the Coal Mines (Special Provisions) Bill, 2014 to replace the Coal Mines (Special Provisions) Ordinance, 2014 was introduced in House of the People on 10th December, 2014 with certain modifications so as to provide for dispute settlement, bar of jurisdiction of civil courts and protection of action taken in good faith by the authorities in performance of their duties under the said Ordinance;

AND WHEREAS the Coal Mines (Special Provisions) Bill, 2014, to replace the said Ordinance has been passed by the House of the People and is pending in the Council of States;

AND WHEREAS in pursuance of the Coal Mines (Special Provisions) Ordinance, 2014 action has been initiated by the Central Government including the framing of rules for allocation of coal mines and therefore, it is considered necessary to give continuity to the provisions of the said Ordinance and save the actions taken thereunder;

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

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

CHAPTER I PRELIMINARY

Short title, extent and commencement.

- 1. (1) This Ordinance may be called the Coal Mines (Special Provisions) Second Ordinance, 2014.
 - (2) It extends to the whole of India
 - (3) It shall be deemed to have come into force on the

21st day of October, 2014.

2. It is hereby declared that it is expedient in the public interest that Union should take action for the development of Schedule I coal mines and extraction of coal on continuous basis for optimum utilisation.

Declaration as to expediency of Union action.

Definitions.

- 3. (1) In this Ordinance, unless the context otherwise requires,—
 - (a) "additional levy" means, the additional levy as determined by the Supreme Court in Writ Petition (Criminal) No. 120 of 2012 as two hundred and ninety-five rupees per metric tonne of coal extracted;
 - (b) "allotment order" means the allotment order issued under section 5;
 - (c) "appointed date" in relation to—
 - (i) Schedule I coal mines excluding Schedule II coal mines, shall be the 24th day of September, 2014 being the date on which the allocation of coal blocks to prior allottees stood cancelled; and
 - (ii) Schedule II coal mines shall be the 1st day of April, 2015 being the date on which the allocation of coal blocks to prior allottees shall stand cancelled,

in pursuance of the order of the Supreme Court dated the 24th September, 2014 passed in Writ Petition (Criminal) No. 120 of 2012;

- (d) "bank" shall have the same meaning as assigned to it in clause (c) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (e) "coal mining operations" means any operation undertaken for the purpose of winning coal;
- (f) "company" shall have the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013;
- (g) "corporation" shall have the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013;
- (h) "financial institution" shall have the same meaning as assigned to it in clause (m) of section 2 of

54 of 2002.

18 of 2013.

18 of 2013.

the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

(i) "Government company" shall have the same meaning as assigned to it in clause (45) of section 2 of the Companies Act, 2013;

- "mine infrastructure" includes mining infrastructure such as tangible assets used for coal mining operations, being civil works, workshops, immovable coal winning equipment, foundations, pavements. embankments. electrical systems. communication systems. relief centres. administrative offices, fixed installations, coal handling arrangements, crushing and conveying systems, railway sidings, pits, shafts, inclines, underground transport systems, hauling systems (except movable equipment unless the same is embedded in land for permanent beneficial enjoyment thereof), land demarcated for afforestation and land for rehabilitation and re-
- (k) "nominated authority" means the authority nominated by the Central Government under section 6;

settlement of persons affected by coal mining operations

under the relevant law:

- (1) "notification" means a notification published in the Official Gazette;
- (m) "prescribed" means prescribed by rules made under this Ordinance;
- (n) "prior allottee" means prior allottee of Schedule I coal mines as listed therein who had been allotted coal mines between 1993 and 31st day of March, 2011, whose allotments have been cancelled pursuant to the judgment of the Supreme Court dated the 25th August, 2014 and its order dated 24th September, 2014 including those allotments which may have been de-allocated prior to and during the pendency of the Writ Petition (Criminal) No.120 of 2012.

Explanation.—In case a mining lease has been executed in favour of a third party, subsequent to such allocation of Schedule I coal mines, then, the third party shall be deemed to be the prior allottee;

- (o) "Schedule" means a Schedule appended to this Ordinance;
 - (p) "Schedule I coal mines" means,—
- (i) all the coal mines and coal blocks the allocation of

54 of 2002.

18 of 2013.

which was cancelled by the judgment dated 25th August, 2014 and its order dated 24th September, 2014 passed in Writ Petition (Criminal) No.120 of 2012, including those allotments which may have been de-allocated prior to and during the pendency of the said Writ Petition;

- (ii) all the coal bearing land acquired by the prior allottee and lands, in or adjacent to the coal mines used for coal mining operations acquired by the prior allottee;
- (iii) any existing mine infrastructure as defined in clause (j);
- (q) "Schedule II coal mines" means the forty-two Schedule I coal mines listed in Schedule II which are the coal mines in relation to which the order of the Supreme Court dated 24th day of September, 2014 was made;
- (r) "Schedule III coal mines" means the thirty-two Schedule I coal mines listed in Schedule III or any other Schedule I coal mine as may be notified under subsection (2) of section 7;
- (s) "secured creditor" shall have the same meaning as assigned to it in clause (zd) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (t) "secured debt" shall have the same meaning as assigned to it in clause (ze) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (u) "security interest" shall have the same meaning as assigned to it in clause (zf) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (v) "specified end-use" means any of the following end-uses and the expression "specified end user" shall with its grammatical variations be construed accordingly,—
 - (i) production of iron and steel;
 - (ii) generation of power including the generation of power for captive use;
 - (iii) washing of coal obtained from a mine;

(iv) cement;

(v) such other end-use as the Central Government may, by notification, specify:

54 of 2002.

- (w) "vesting order" means the vesting order issued under section 8.
- (2) Words and expressions used herein and not defined, but defined in the Coal Bearing Areas (Acquisition and Development) Act, 1957, the Mines and Minerals (Development and Regulation) Act, 1957 and the Coal Mines (Nationalisation) Act, 1973 including any rules or regulations made thereunder, shall have the meanings, respectively assigned to them in those Acts.

20 of 1957. 67 of 1957. 26 of 1973.

CHAPTER II

AUCTION AND ALLOTMENT

Eligibility to participate in auction and payment of fees.

- **4.** (1) Subject to the provisions of section 5, Schedule I coal mines shall be allocated by way of public auction in accordance with such rules, and on the payment of such fees which shall not exceed five crore rupees, as may be prescribed.
- (2) Subject to the provisions in sub-section (3) of this section and section 5, the Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal, select any of the following companies through auction by competitive bidding, on such terms and conditions as may be prescribed—
 - (a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India; or
 - (b) a company or a joint venture company formed by two or more companies,

that carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be, and the State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal to such company as selected through auction by competitive bidding under this section.

(3) Subject to the provisions of section 5, the following persons who fulfil such norms as may be prescribed, shall be

eligible to bid in an auction of Schedule II coal mines and Schedule III coal mines and to engage in coal mining operations in the event they are successful bidders, namely:—

(a) a company engaged in specified end-use including a company having a coal linkage which has made such investment as may be prescribed;

Explanation.—A "company with a coal linkage" includes any such company whose application is pending with the Central Government on the date of commencement of this Ordinance;

- (b) a joint venture company formed by two or more companies having a common specified end-use and are independently eligible to bid in accordance with this Ordinance:
- (c) a Government company or corporation or a joint venture company formed by such company or corporation or with any other company having common specified end-use:

Provided that nothing contained in sub-section (2) shall apply to this sub-section.

- (4) A prior allottee shall be eligible to participate in the auction process subject to payment of the additional levy within such period as may be prescribed and if the prior allottee has not paid such levy, then, the prior allottee, its promoter or any of its company of such prior allottee shall not be eligible to bid either by itself or by way of a joint venture.
- (5) Any prior allottee who is convicted for an offence relating to coal block allocation and sentenced with imprisonment for more than three years, shall not be eligible to participate in the auction.
- 5. (1) Notwithstanding the provisions contained in subsections (1) and (3) of section 4, the Central Government may allot a Schedule I coal mine to a Government company or corporation or to a joint venture between two or more Government companies or corporations or to a company which has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects) from specified Schedule I coal mines by making an allotment order in accordance with such rules as may be prescribed and the State Government shall grant a reconnaissance permit, prospecting licence or mining lease in respect of any area

Allotment of mines to Government companies or corporations.

containing coal to such company or corporation:

Provided that the Government company or corporation may carry on Coal Mining in any form either for its own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be:

Provided further that no company other than a Government company or corporation shall hold more than twenty-six per cent. of the paid up share capital in the Government company or corporation or in the joint venture between a Government company or corporation, either directly or through any of its subsidiary company or associate company:

Provided also that a joint venture of any two or more Government companies or corporations shall be prohibited from alienating or transferring any interest, except the taking of loans or advances from a bank or financial institution, in the joint venture of whatsoever nature including ownership in favour of a third party.

- (2) No allotment under sub-section (1) shall be made to a prior allottee, if that allottee has not made the payment of the additional levy within the specified period.
- 6. (1) The Central Government shall appoint an officer not below the rank of a Joint Secretary to the Government of India as the nominated authority who shall act for and on behalf of the Central Government for the purposes of this Ordinance and shall exercise such powers as may be prescribed.
- (2) The nominated authority may engage any expert having such qualifications and experience and on such terms and conditions as may be prescribed to make recommendations to the authority for the conduct of auction and in drawing up of the vesting order or allotment order in relation to Schedule I coal mines.
- (3) The Central Government shall act through the nominated authority for the following purposes, namely:—
 - (a) conduct the auction process and allotment with the assistance of experts;
 - (b) execution of the vesting order for transfer and vesting of Schedule I coal mines pursuant to the auction;
 - (c) executing the allotment order for any Government company or corporation in pursuance of section 5:

Central
Government to
act through
nominated
authority.

- (d) recording and mutating incorporeal rights of whatsoever nature including, consents, permissions, permits, approvals, grants, registrations;
- (e) collection of auction proceeds, adjustment of preferential payments and transfer of amount to the respective State Governments where Schedule I coal mine is located in accordance with the provisions of this Ordinance.
- (4) The nominated authority shall complete the auction or execute the allotment orders of Schedule I coal mines within such time and in accordance with such rules as may be prescribed.
- (5) The Central Government may appoint such other officers and staff as it may think fit to assist the nominated authority.
- (6) The salaries and allowances and other terms and conditions of service of the nominated authority and such other officers and staff appointed under this section shall be such as may be prescribed.
- (7) The nominated authority shall be bound by the written direction given by the Central Government on the question of policy.
- 7. (1) The Central Government may, before notifying the particulars of auction, classify mines identified from Schedule I coal mines as earmarked for the same class of specified end-uses.
- (2) The Central Government may in public interest, by notification, modify Schedule III coal mines by adding any other Schedule I coal mine for the purposes of specified enduse.
- 8. (1) The nominated authority shall notify the prior allottees of Schedule I coal mines to enable them to furnish information required for notifying the particulars of Schedule I coal mines to be auctioned in accordance with such rules as may be prescribed.
- (2) The information required to be furnished under subsection (1) shall be furnished within a period of fifteen days from the date of such notice.
- (3) A successful bidder in an auction conducted on a competitive basis in accordance with such rules as may be prescribed, shall be entitled to the vesting of Schedule I coal mine for which it bid, pursuant to a vesting order drawn up in

Power to classify certain Schedule I coal mines Central Government.

Nominated authority to issue vesting order or allotment order.

accordance with such rules.

- (4) The vesting order shall transfer and vest upon the successful bidder, the following, namely:—
 - (a) all the rights, title and interest of the prior allottee, in Schedule I coal mine concerned with the relevant auction;
 - (b) entitlement to a mining lease to be granted by the State Government;
 - (c) any statutory licence, permit, permission, approval or consent required to undertake coal mining operations in Schedule I coal mines if already issued to the prior allottee;
 - (d) rights appurtenant to the approved mining plan of the prior allottee;
 - (e) any right, entitlement or interest not specifically covered under clauses (a) to (d).
 - (5) The nominated authority shall, in consultation with the Central Government, determine the floor price or reserve price in accordance with such rules as may be prescribed.
 - (6) The successful bidder shall, prior to the issuance and execution of a vesting order, furnish a performance bank guarantee for an amount as notified in relation to Schedule I coal mine auctioned to such bidder within such time, form and manner as may be prescribed.
 - (7) After the issuance of a vesting order under this section and its filing with the Central Government and with the appropriate authority designated by the respective State Governments, the successful bidder shall be entitled to take possession of the Schedule I coal mine without let or hindrance.
 - (8) Upon the execution of the vesting order, the successful bidder of the Schedule I coal mine shall be granted a prospecting licence or a mining lease, as applicable, by the concerned State Government in accordance with the Mines and Minerals (Development and Regulation) Act, 1957.
 - (9) A Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India, allotted a Schedule I coal mine shall be granted a prospecting licence or a mining lease, as applicable, by the concerned State Government in accordance with the Mines and Minerals

67 of 1957.

67 of 1957.

(Development and Regulation) Act, 1957.

- (10) In relation to Schedule II coal mines, the successful bidder which was a prior allottee, shall continue coal mining operations after the appointed date in terms of the approved mining plan, till the mining lease in terms of sub-section (8) is granted, upon the grant of a vesting order and to that extent, the successful bidder shall be deemed to have been granted a mining lease till the execution of the mining lease in terms of the said sub-section.
- (11) In relation to Schedule II coal mines, the Government company or corporation which was a prior allottee can continue coal mining operations after the appointed date in terms of the approved mining plan, till the mining lease in terms of sub-section (9) is granted, upon execution of the allotment order and to that extent, the allottee shall be deemed to have been granted a mining lease till the execution of the mining lease in terms of the said sub-section.
- (12) The provisions of sub-sections (1) and (2) and sub-sections (4) to (7) (both inclusive) of this section as applicable to a vesting order, shall *mutatis mutandis* be also applicable to an allotment order.

Priority disbursal proceeds. of

- 9. The proceeds arising out of land and mine infrastructure in relation to a Schedule I coal mine shall be disbursed maintaining, *inter alia*, the priority of payments in accordance with the relevent laws and such rules as may be prescribed—
 - (a) payment to secured creditors for any portion of the secured debt in relation to a Schedule I coal mine which is unpaid as on the date of the vesting order;
 - (b) compensation payable to the prior allottee in respect of the Schedule I coal mine.

CHAPTER III

TREATMENT OF RIGHTS AND OBLIGATIONS OF PRIOR ALLOTTEES

Utilisation of movable property used in coal mining operations.

- 10. (1) A successful bidder or allottee in respect of Schedule I coal mines, may negotiate with prior allottee to own or utilise such movable property used in coal mining operations on such terms and conditions as may be mutually agreed to by them.
- (2) Where a successful bidder or allottee is not vested with any movable property of a Schedule I coal mine, then, he is not bound by any liabilities or obligations arising out of

such ownership or contractual rights, obligations or liabilities which shall continue to remain with the prior allottee.

- (3) In the event that the successful bidder or allottee is unable to satisfactorily negotiate with the prior allottee or any third party who has a contract with the prior allottee for the movable property, it shall be the obligation of the prior allottee or the third party to remove such movable property within a period not exceeding thirty days from the date of the vesting order, or the allotment order, as the case may be, and the successful bidder or allottee shall not be liable for any damage to such property.
- (4) A successful bidder or allottee which has elected not to purchase or transfer or continue to use the movable property referred to in sub-section (1), shall prior to the execution of the vesting order or the allotment order, as the case may be, declare to the nominated authority that he intends to move and store such movable property of the prior allottee or such third party and after the date of the vesting order or the allotment order, as the case may be, the successful bidder or allottee shall be entitled to move and store such movable property, so as not to cause any impediment for coal mining operations.
- (5) If a prior allottee or such third party which has contracted with the prior allottee for its movable property, fails to remove the movable property which the successful bidder or allottee has elected not to purchase or use in accordance with sub-section (4), then, after the period of seventy-five days from the vesting order or the allotment order, as the case may be, a successful bidder or allottee shall be entitled to dispose of such movable property which may be physically located within Schedule I coal mine, the successful bidder or the allottee, shall, in such event be entitled to appropriate the sale proceeds of such movable property disposed of to pay for any cost incurred by the successful bidder or allottee, for the removal, storage, sale and disposal of such movable property, as a first charge over the sale proceeds of such movable property:

Provided that the remaining sale proceeds after appropriation of costs, shall be paid by the successful bidder or allottee to the Central Government towards any compensation that may be payable to the owner of such movable property sold, upon establishment of title to such movable property in accordance with such rules as may be prescribed:

Provided further that if a third party contractor to the prior allottee owns such movable property, then, such third party shall be entitled to prove its right to receive compensation from the sale proceeds of the movable property sold as per this sub-section, in accordance with such rules as may be prescribed.

Discharge or adoption of third party contracts with prior allottees.

11. (1) Notwithstanding anything contained in any other law for the time being in force, a successful bidder or allottee, as the case may be, in respect of Schedule I coal mines, may elect, to adopt and continue such contracts which may be existing with any of the prior allottees in relation to coal mining operations and the same shall constitute a novation for the residual term or residual performance of such contract:

Provided that in such an event, the successful bidder or allottee or the prior allottee shall notify the nominated authority to include the vesting of any contracts adopted by the successful bidder.

(2) In the event that a successful bidder or allottee elects not to adopt or continue with existing contracts which had been entered into by the prior allottees with third parties, in that case all such contracts which have not been adopted or continued shall cease to be enforceable against the successful bidder or allottee in relation to the Schedule I coal mine and the remedy of such contracting parties shall be against the prior allottees.

Provisions in relation to secured creditors.

- 12. (1) The secured creditors of the prior allottees which had any security interest in any part of the land or mine infrastructure of a Schedule I coal mine shall be entitled to—
 - (a) continue with such facility agreements and security interest with the prior allottee if such prior allottee is a successful bidder or allottee; and
 - (b) in the event that the prior allottee is not a successful bidder or allottee, then the security interest of such secured creditor shall only be satisfied out of the compensation payable to such prior allottee, to the extent determined in accordance with such rules as may be prescribed and the outstanding debt shall be recoverable from the prior allottee.
- (2) The Central Government shall, taking into consideration the provisions contained in section 9, prescribe the manner in which the secured creditor shall be paid out of

the compensation in respect of any prior allottee.

13. Any and all alienations of land and mine infrastructure and creation of any encumbrances of whatsoever nature thereon which relate to Schedule I coal mines, made by any prior allottee after the 25th day of August, 2014 shall be void, save and except any registered security interest and charge over the land and mine infrastructure as registered by a bank or a financial institution or any other secured lender.

Void alienations and permitted security interests.

Liabilities of prior allottees.

- 14. (1) Notwithstanding anything contained in any other law for the time being in force, no proceedings, orders of attachment, distress, receivership, execution or the like, suits for the recovery of money, enforcement of a security or guarantee (except as otherwise provided for under this Ordinance), prior to the date of commencement of this Ordinance shall lie, or be proceeded further with and no remedies shall be available against the successful bidder, or allottee, as the case may be, or against the land and mine infrastructure in respect of Schedule I coal mines.
- (2) The proceedings as referred to in sub-section (1), shall continue as a personal remedy against the prior allottee but shall not be maintainable or continued against the land or mine infrastructure of Schedule I coal mines or the successful bidder or allottee, pursuant to this Ordinance.
- (3) Every liability of any prior allottee in relation to a Schedule I coal mine in respect of any period prior to the vesting order or allotment order, shall be the liability of such prior allottee and shall be enforceable against it and not against the successful bidder or allottee or the Central Government.
- (4) All unsecured loans shall continue to remain the liability of the prior allottee.
- (5) The additional levy imposed against the prior allottees of Schedule II coal mines shall continue to remain the liability of such prior allottees and such additional levy shall be collected by the Central Government in such manner as may be prescribed.
- (6) For the removal of doubts, it is hereby declared that—
 - (a) no claim for wages, bonus, royalty, rate, rent,

taxes, provident fund, pension, gratuity or any other dues in relation to a Schedule I coal mine in respect of any period prior to the date of vesting order or allotment order, as the case may be, shall be enforceable against the Central Government or the successful bidder or the allottee, as the case may be;

- (b) no award, decree, attachment or order of any court, tribunal or other authority in relation to any Schedule I coal mine passed prior to the date of commencement of this Ordinance, in relation to the land and mine infrastructure of Schedule I coal mines, shall be enforceable against the Central Government or the successful bidder or the allottee, as the case may be;
- (c) no liability for the contravention of any provision of law for the time being in force, relating to any act or omission prior to the date of vesting order or allotment order, as the case may be, shall be enforceable against the successful bidder or allottee or the Central Government.

Commissioner of Payments to be appointed and his powers.

- 15. (1) For the purposes of disbursing the amounts payable to the prior allottees of Schedule I coal mines, the Central Government shall appoint an officer not below the rank of Joint Secretary to the Government of India, to be the Commissioner of Payments.
- (2) The Central Government may appoint such other officers and staff as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such officers also to exercise all or any of the powers exercisable by him under this Ordinance.
- (3) Any officer authorised by the Commissioner to exercise any powers may exercise those powers in the same manner and with the same effect as if they have been conferred on him directly by this Ordinance and not by way of authorisation.
- (4) The salaries and allowances and other terms and conditions of service of the Commissioner and other officers and staff appointed under this section shall be such as may be prescribed.
- (5) The Central Government shall, within a period of thirty days from such date as may be notified, pay to the Commissioner for payment to the prior allottee, an amount equal to the compensation determined by the nominated

authority.

- (6) Separate records shall be maintained by the Commissioner in respect of each Schedule I coal mine in relation to which payments have been made to him under this Ordinance.
- 16. (1) The quantum of compensation for the land in relation to Schedule I coal mines shall be as per the registered sale deeds lodged with the nominated authority in accordance with such rules as may be prescribed, together with twelve per cent. simple interest from the date of such purchase or acquisition, till the date of the execution of the vesting order or the allotment order, as the case may be.
- (2) The quantum of compensation for the mine infrastructure in relation to Schedule I coal mines shall be determined as per the written down value reflected in the statutorily audited balance sheet of the previous financial year in accordance with such rules and in such manner as may be prescribed.
- (3) If the successful bidder or allottee is a prior allottee of any of the Schedule I coal mines, then, the compensation payable to such successful bidder or allottee shall be set off or adjusted against the auction sum or the allotment sum payable by such successful bidder or allottee, as the case may be, for any of the Schedule I coal mines.
- (4) The prior allottee shall not be entitled to compensation till the additional levy has been paid.

CHAPTER IV

POWERS OF THE CENTRAL GOVERNMENT AFTER THE APPOINTED DATE

Government or a company owned by the Central Government shall be deemed to have become the lessee or licensee of the State Government in relation to each of the Schedule II coal mines, in respect of which a mining lease or prospecting licence has been granted prior to the date of commencement of this Ordinance, as if a mining lease or prospecting licence in relation to such coal mine had been granted to the Central Government or a company owned by the Central Government and the period of such lease or licence shall be the maximum period for which such lease or licence could have been granted by the State Government under the Mineral Concession Rules, 1960, and thereupon all the rights under such mining lease, including surface, underground and other rights shall be deemed to have been transferred to, and vested

Valuation of compensation for payment to prior allottee.

Responsibility of Central Government after the appointed date. in, the Central Government or a company owned by the Central Government.

- (2) On the expiry of the term of any lease or licence, referred to in sub-section (1), such lease or licence shall be renewed, by the State Government, in consultation with the Central Government for the maximum period for which such lease or licence can be renewed under the Mineral Concession Rules, 1960.
- (3) As it is considered expedient and necessary in the public interest and in view of the difficult situation which has arisen, the powers of the State Government, under the Mines and Minerals (Development and Regulation) Act, 1957, to prematurely terminate a prospecting licence or mining lease, shall stand suspended, in relation to Schedule I coal mines, for a period of one year from the date of commencement of this Ordinance or such other period as may be notified by the Central Government.

67 of 1957.

Central
Government to appoint designated custodian.

- 18. (1) On and from the appointed date, if the auction or allotment of Schedule I coal mines is not complete, the Central Government shall appoint any person as a designated custodian to manage and operate such coal mines as may be notified by the Central Government.
- (2) The designated custodian shall act for and on behalf of the Central Government in respect of the notified coal mines under sub-section (1) to operate and manage such Schedule I coal mines in such manner as may be notified, till the completion of the auction of such coal mines or allotment under section 4 and section 5 read with section 8, as the case may be.

Powers and functions of the designated custodian in respect of Schedule II coal mines,

- 19. (1) The designated custodian appointed under subsection (1) of section 18, shall be entitled to take control and possession of all lands, in or adjacent to Schedule II coal mines, and used for coal mining operations and the mine infrastructure in relation to Schedule II coal mine, on behalf of the Central Government.
- (2) The designated custodian may direct the prior allottees or any other persons in charge of the management of the Schedule II coal mine and coal mining operations immediately before the appointed date to provide the requisite manpower, as may be necessary, to ensure continuity in coal mining operations and production of coal.
 - (3) The designated custodian shall receive, to the

exclusion of all other persons, any monies due to Schedule II coal mines, notwithstanding cases where such receipt pertains to a transaction made at any time before the appointed date.

- (4) The designated custodian may call for any information, records and documents in relation to Schedule II coal mines and coal mining operations from any or all such persons who were in charge of the management and operation of such Schedule II coal mines prior to the appointed date, and such persons shall be bound to deliver to the designated custodian all such documents in their custody relating to Schedule II coal mines.
- (5) The designated custodian may appoint such consultants or experts, as may be necessary, in relation to the management and operation of Schedule II coal mines.
- (6) The designated custodian shall transfer the management and operation of any Schedule II coal mines to such person in such manner as may be prescribed.
- (7) The designated custodian shall have rights, liabilities and obligations as a prior allottee or a successful bidder in respect of coal mines entrusted to it under section 18, to be exercised and discharged in such manner as may be prescribed.
- (8) The designated custodian shall have the power to perform such other functions which may be consequential or incidental to the functions specified under this section.
- (9) Notwithstanding anything contained in any other law for the time being in force, the designated custodian shall, in exercise of its powers or the performance of its functions under this Ordinance, be bound by such directions on questions of policy, as the Central Government may give in writing to it from time to time.

CHAPTER V

CERTAIN ARRANGEMENTS

- 20. (1) A successful bidder or allottee or coal linkage holder shall, with prior approval of the Central Government and in accordance with such rules as may be prescribed, be entitled to enter into certain agreements or arrangements with other successful bidder or allottee or coal linkage holder, as the case may be, for optimum utilisation of coal mine for the same end-uses in the public interest and to achieve cost efficiencies.
- (2) A successful bidder or allottee may also use the coal mine from a particular Schedule I coal mine for any of its

Power of Central Government to approve certain arrangements. plants engaged in common specified end-uses, in accordance with such rules as may be prescribed.

CHAPTER VI

MISCELLANEOUS

Acquisition of land.

21. (1) All existing land acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in relation to Schedule I coal mines, shall continue in respect of such areas of land in accordance with the provisions of the said Act.

30 of 2013.

(2) All such areas of land which are not subject matter of land acquisition proceedings, in relation to the coal mines, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 may be proceeded with by the Central Government in terms of the Coal Bearing Areas (Acquisition and Development) Act, 1957.

30 of 2013.

Jul 1957.

(3) The State Governments which have initiated land acquisition proceedings under provisions of the Right to Fair Compensation and Transp. ency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and all such lands which are also subject matter of the said Act in respect of Schedule I coal mines, shall—

30 of 2013.

- (a) not transfer any land to the prior allottees which have been acquired under the said Act;
- (b) continue the land acquisition proceedings till the appointed date;
- (c) for such Schedule I coal mines which have not vested in the successful bidder or the allottee, as the case may be, by the appointed date, continue the land acquisition proceedings for and on behalf of the Central Government;
- (d) upon the vesting or the allotment, as the case may be, after the appointed date, continue such land acquisition proceedings on behalf of the successful bidder or the allottee.

Realisation additional levy.

22. If a prior allottee of Schedule II coal mine fails to deposit the additional levy with the Central Government within the specified time, then, such additional levy shall be realised as the arrears of land revenue.

23. If any person—

Penalties for certain offences.

(a) obstructs or causes any impediment in taking

possession or in the management and operation of the Schedule I coal mines by the Central Government or the designated custodian; or

- (b) fails to deliver to the designated custodian any books of account, registers or any other document in his custody relating to Schedule I coal mines and coal mining operations in respect of the management of which the designated custodian has been appointed; or
- (c) destroys or misuses any mine infrastructure or coal stock; or
- (d) retains any property of such coal mine or removes or destroys it,

he and any officer-in-default of the company shall be punishable with imprisonment for a term which may extend to two years, or with the minimum fine of one lakh rupees per day and in the case of continuing failure, with a maximum fine of two lakh rupees for every day during which the failure continues or with both, depending upon the nature of the offence.

- 24. If any person fails to comply, without reasonable cause, with a direction given by the Central Government or nominated authority or the designated custodian, he shall be punishable with a fine of one lakh rupees and in the case of continuing failure with a maximum fine of two lakh rupees for every day during which the failure continues, depending upon the nature of the offence.
- 25. (1) Where an offence under this Ordinance has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director,

Penalty for failure to comply with directions of Central Government.

Offences by companies.

of

manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Cognizance offences.

26. No court shall take cognizance of any offence punishable under this Ordinance or any rules made thereunder except upon complaint in writing made by a person authorised in this behalf by the Central Government or nominated authority or the designated custodian.

Dispute settlement and Bar of Jurisdiction of civil courts.

27. (1) Any dispute arising out of any action of the Central Government, nominated authority or Commissioner of Payment or designated custodian, or any dispute between the successful bidder or allottee and prior allottee arising out of any issue connected with the Ordinance shall be adjudicated by the Tribunal constituted under the Coal Bearing Areas (Acquisition and Development) Act, 1957

20 of 1957.

- (2) Where the Central Government is of the opinion that any dispute arising out of any issue connected with the Ordinance exists or is apprehended and the dispute should be adjudicated by the Tribunal referred to in sub-section (1), then, the Central Government may by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, to the Tribunal for adjudication.
- (3) The Tribunal referred to in sub-section (1) shall, after hearing the parties to the dispute, make an award in writing within a period of ninety days from the institution or reference of the dispute.
- (4) On and from the commencement of the Ordinance, no court or other authority, except the Supreme Court and a High Court, shall have, or be entitled to exercise, any jurisdiction, powers or authority, in relation to matters connected with the Ordinance.

Protection of action taken in good faith.

- 28. No suit, prosecution or other legal proceeding shall lie against the Central Government, nominated authority, commissioner of payment, or designated custodian or any person acting on their behalf, in respect of anything which is done or intended to be done in good faith under this Ordinance.
- 29. The provisions of this Ordinance shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any instrument having effect by virtue of any such law.
 - 30. On and from the date of commencement of this

Ordinance to have overriding effect.

Amendment of certain Acts

26 of 1973. 67 of 1957. Ordinance, the Coal Mines (Nationalisation) Act, 1973 and the Mines and Minerals (Development and Regulation) Act, 1957 shall stand amended in the manner provided in Schedule IV.

contained in Schedule IV.

Power to make rules.

- **31.** (1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the provisions of this Ordinance.
- (2) In particular, and without prejudice the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
 - (a) the manner of allocation of Schedule I coal mines by way of public auction and details of fees under sub-section (1) of section 4;
 - (b) the terms and conditions for granting reconnaissance permit, prospecting licence or mining lease and the manner and conditions of competitive bidding under sub-section (2) of section 4;
 - (c) norms to become eligible to bid in an auction and the amount of investment in respect of a company having a coal linkage under sub-section (3) of section 4;
 - (d) the period within which the payment of additional levy by the prior allottee under sub-section (4) of section 4;
 - (e) the allotment order to make allocations to a Government company or corporation under sub-section (1) of section 5;
 - (f) the powers of the nominated authority under sub-section (1) of section 6;
 - (g) the manner of auction or allotment of Schedule I coal mines and execution of the vesting or allotment orders under sub-section (4) of section 6;
 - (h) the salaries and allowances and other terms and conditions of service of the nominated authority and other officers and staff under sub-section (6) of section 6:
 - (i) the manner of notifying the particulars of Schedule I coal mines to be auctioned and furnishing of required information by the prior allottees under subsection (1) of section 8;
 - (j) the manner of conducting auction and drawing of a vesting order under sub-section (3) of section 8;

- (k) determination of floor price by the nominated authority under sub-section (5) of section 8;
- (1) the form and manner of furnishing of bank guarantee and the time within which such furnishing of bank guarantee under sub-section (6) of section 8;
- (m) the manner of disbursement of priority payments under section 9;
- (n) the manner of establishing title of movable property by the prior allottee or third party who has a contract with the prior allottee for the movable property under the first proviso to sub-section (5) of section 10;
- (o) the manner of receiving compensation from the sale proceeds of the movable property under the second proviso to sub-section (5) of section 10;
- (p) the manner in which the secured creditor paid out of the compensation in respect of any prior allottee under sub-section (2) of section 12;
- (q) the manner of collection of additional levy by the Central Government from the prior allottees of Schedule II coal mines under sub-section (5) of section 14:
- (r) the salaries and allowances and other terms and conditions of service of the Commissioner of payments and other officers and staff under sub-section (4) of section 15;
- (s) the manner of determination of compensation payable to prior allottee and the lodging of registered sale deeds with the nominated authority under sub-section (1) of section 16;
- (t) the method of determination of compensation for mine infrastructure in relation to Schedule I and its reflection in the statutorily audited balance sheet under sub-section (2) of section 16;
- (u) the manner of transfer of the management and operation of any Schedule II coal mines by the designated custodian under sub-section (6) of section 19;
- (v) the manner of exercising and discharging the rights, liabilities and obligations by the designated custodian under sub-section (7) of section 19;
- (w) the manner of providing agreements or arrangements for optimum utilisation of coal mine for specified end-uses under sub-section (1) of section 20;
- (x) the manner of usage of coal mine by a successful bidder or allottee for any of its plants under

sub-section (2) of section 20;

- (y) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made and every notification issued 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 notification, or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, nowever, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.
 - 32. (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:

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Power to

difficulties.

remove

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

- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.
- **33.** (1) The Coal Mines (Special Provisions) Ordinance, 2014 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall, without prejudice to the judgment of the Supreme Court dated 25th of August, 2014 and its order dated 24th September, 2014 passed in Writ Petition (Criminal) No. 120 of 2012, be deemed to have been done or taken under the corresponding provisions of this Ordinance.

Repeal and saving.

5 of 2014.

SCHEDULE - I

[See section 3(1)(p)]

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/Block Located
ŀ	Tadicherla-I	Andhra Pradesh Power Generation Corpn. Ltd.	Telangana
2	Anesttipali	Andhra Pradesh Power Generation Corpn. Ltd.	Telangana
3	Punkula-Chilka	Andhra Pradesh Power Generation Corpn. Ltd.	Telangana
4	Penagaddppa	Andhra Pradesh Power Generation Corpn. Ltd.	Telangana
5	Namchik Namphuk	Arunachal Pradesh Mineral Dev. & Trading Corporation	Arunachal Pradesh
6	Sayang	AES Chhattisgarh Energy Pvt. Ltd	Chhattisgarh
7	Rajgamar Dipside (Deavnara)	API Ispat & Powertech Pvt. Ltd.,CG Sponge Manufacturers Consortium Coalfield Pvt. Ltd.	Chhattisgarh
8	Durgapur-II/ Taraimar	Bharat Alluminium Company Ltd.	Chhattisgarh
9	Datima	Binani Cement Ltd.	Chhattisgarh
10	Tara	Chhattisgarh Mineral Development Corporation Limited	Chhattisgarh
11	Gare Pelma, Sector-I	Chhattisgarh Mineral Development Corporation Limited	Chhattisgarh
12	Shankarpur Bhatgaon II Extn.	Chhattisgarh Mineral Development Corporation Limited	Chhattisgarh
13	Sondhia	Chhattisgarh Mineral Development Corporation Limited	Chhattisgarh
14	Parsa	Chhattisgarh State Electricity Board	Chhattisgarh
15	Vijay Central	Coal India Limited, SKS Ispat & Power Ltd.	Chhattisgarh
16	Gidhmuri	Chattishgarh State Electricity Board	Chhattisgarh
17	Paturia	Chattishgarh State Electricity Board	Chhattisgarh
18	Durgapur-II /Sarya	DB Power Ltd.	Chhattisgarh
19	Bhaskarpara	Electrotherm (India) Ltd., Grasim Industries Chhattisgarh.	
20	West of Umaria	Sainik Finance and Industries Ltd. (Earlier Garuda Clays Ltd.) Chhattisgarh	

21	Morga II	Gujrat Mineral Development Corporation	Chhattisgarh
22	Sector III	Goa Industrial Development Corporation	Chhattisgarh
Hindustan Zinc Ltd., Akshya In Pvt. Ltd, Chhattisgarh Steel & F Chhattisgarh Electricity Corpor MSP Steel & Power Ltd., Chha		Hindustan Zinc Ltd., Akshya Investment Pvt. Ltd, Chhattisgarh Steel & Power Ltd., Chhattisgarh Electricity Corporation Ltd., MSP Steel & Power Ltd., Chhattisgarh Captive Coal Mining Ltd. (Consortium of five Cos.)	Chhattisgarh
24	Nakia I	Ispat Godavari Ltd., Ind Agro Synergy Ltd., Shrì Nakoda Ispat Ltd., Vandana Gobal Ltd., Shree Bajrang Power & Ispat Ltd.	Chhattisgarh
25	Nakia II	Ispat Godavari,Ind Agro Synergy,Shri Nakoda Ispat,Vandana Gobal Ltd.,Shree Bajrang Power & Ispat Ltd.	Chhattisgarh
26	Gare-Palma- IV/4	Jayaswal Neco Ltd.	Chhattisgarh
27	Gare Palma IV/8	Jayaswal Neco Ltd.	Chhattisgarh
28	Gare-Palma-IV/2	Jindal Power Ltd (Now Jindal Steel & Power Ltd.)	Chhattisgarh
29	Jindal Power Ltd (Now Jindal Steel &		Chhattisgarh
30	Gare-Palma-IV/1	Jindal Strips Limited (Now Jindal Steel & Power Ltd.)	Chhattisgarh
31	Gare Palma IV/6	Jindal Steel & Power Ltd, Nalwa Sponge Iron Ltd.	Chhattisgarh
32	Fatehpur East	JLD Yavatmal Energy Ltd,R.K.M. Powergen Pvt. Ltd,Visa Power Ltd,Green Infrastructure Pvt Ltd,Vandana Vidyut Ltd	Chhattisgarh
33	Morga-l	Madhya Pradesh State Mining Corporation Limited	Chhattisgarh
34	Morga III	Madhya Pradesh State Mineral Corporation Limited	8
35 Morga IV Madhya Pradesh Limited			9
		Maharastra State Mining Corpn Ltd. ,Tamil Nadu State Electricity Board	Cimanogan
37	Gare-Palma-IV/5	Monet Ispat Ltd	Chhattisgarh
Rajgamar Dipside (South of Phulakdih Nala)		Monnet Ispat and Energy Ltd, Topworth Steel Pvt. Ltd.	Chhattisgarh
39		National Thermal Power Ltd.	Chhattisgarh

40	Chotia	Prakash Industries Ltd	Chhattisgarh
41	Gare-Palma-IV/7	Raipur Alloys & Steel Ltd (Now Sarda Energy and Mineral Limited)	Chhattisgarh
42	Parsa East	Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL)	Chhattisgarh
43	Kesla North	Rathi Udyog Ltd.	Chhattisgarh
44	Kanta Basan	Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL)	Chhattisgarh
45	Panchbahani	Shree Radhe Industries Ltd.	Chhattisgarh
46	Fatehpur	SKS Ispat and Power Ltd., Prakash Industries Ltd.	Chhattisgarh
47	Madanpur (North)	Ultratech Ltd., Singhal Enterprise Ltd., Nav bharat Coalfield Ltd., Vandana Energy & Steel Pvt. Ltd., Prakash Industries Ltd, Anjani Steel Pvt. Ltd., Chhattisgarh Captive Coal Mining Ltd. (Consortium of five Co.)	Chhattisgarh
48.	Brinda	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
49	Sasai	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
50	Meral	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
51	Seregarha	Arcelor Mittal India Ltd,GVK Power (Govindwal Sahib) Ltd.	Jharkhand
52	Patal East	Bhushan Power and Steel Ltd.	Jharkhand
53	Saria Koiyatand	Bihar Rajya Khanij Vikas Nigam (BRKVN) Patna.	Jharkhand
54	Macherkunda	Bihar Sponge Iron Ltd.	Jharkhand
55	Brahmadiha	Castron Technologies Ltd.	Jharkhand
56	Mahuagarhi	Calcutta Electricity Supply Corporation Ltd. (CESC), Jas Infrastructure Capital Pvt. Ltd	Jharkhand
57	Chitarpur	Corporate Ispat Alloys Ltd.	Jharkhand
58	Saharpur Jamarpani	Damodar Valley Corporation	Jharkhand
59	Lalgarh (North)	Domco Smokeless Fuel Pvt. Ltd.	Jharkhand
60	Parbatpur-Central	Electrosteel castings Ltd.	Jharkhand
61	Chakla	Essar Power Ltd.	Jharkhand
62	Ashok Karkatta Central	Essar Power Ltd.	Jharkhand
63	Jainagar	Gujarat Mineral Development Corporation (GMDC)	Jharkhand
64	Tokisud North	GVK Power (Govindwal Sahib) Ltd.	Jharkhand
65	Tubed	Hindalco Industries Ltd., Tata Power Company Ltd.	Jharkhand

66	Moitra	Jayaswal Neco Ltd.	Jharkhand
67	North Dhadu	Jharkhand Ispat Pvt. Ltd, Pavanjay Steel & Power Ltd, Electrosteel Castings Ltd., Adhunik Alloys & Power Ltd.	Jharkhand
68	Banhardih	Jharkhand State Electricity Board	Jharkhand
69	Sugia Closed mine	Jharkhand State Mineral Development Corporation	Jharkhand
70	Rauta Closed mine	Jharkhand State Mineral Development Corporation	Jharkhand
71	Burakhap small patch	Jharkhand State Mineral Development Corporation	Jharkhand
72	Pindra-Debipur- Khaowatand	Jharkhand State Mineral Development Corporation Ltd.	Jharkhand
73	Latehar	Jharkhand State Mineral Development Corporation Ltd.	Jharkhand
74	Patratu	Jharkhand State Mineral Development Corporation Ltd.	Jharkhand
75	Rabodih OCP	Jharkhand State Mineral Development Corporation Ltd.	Jharkhand
76	Jogeshwar & Khas Jogeshwar	Jharkhand State Mineral Development Corporation	Jharkhand
77	Jitpur	Jindal Steel & Power Ltd.	Jharkhand
78	Amarkonda Murgadangal	Jindal Steel and Power Ltd, Gagan Sponge Iron Pvt. Ltd	Jharkhand
79	Urma Paharitola	Jharkhand State Electricity Board, Bihar State Mineral Development Corporation Ltd.	Jharkhand
80	Rohne	JSW Steel Ltd.,Bhushan Power & Steel Ltd.,Jai Balaji Industries Ltd	Jharkhand
81	Gomia	Metals and Minerals Trading Corporation	Jharkhand
82	Rajhara North (Central & Eastern)	Mukund Limited, Vini Iron & Steel Udyog Limited	Jharkhand
83	Dumri	Nilachal Iron & Power Ltd., Bajrang Ispat Pvt. Ltd.	Jharkhand
84	Kerandari	National Thermal Power Ltd.	Jharkhand
85	Chatti Bariatu	National Thermal Power Ltd.	Jharkhand
86	Chhati Bariatu South	National Thermal Power Ltd.	Jharkhand
87	Brahmini	National Thermal Power Ltd.+ Coal India Limited JV	Jharkhand

88	Chichro Patsimal	National Thermal Power Ltd.+ Coal India Limited JV	Jharkhand	
89	Pachwara Central	Punjab State Electricity Board	Jharkhand	
90	Mahal	Rashtriya Ispat Nigam Limited	Jharkhand	
91	Tenughat-Jhirki	Rashtriya Ispat Nigam Limited	Jharkhand	
92	Bundu	Rungta Mines Limited	Jharkhand	
93	Mednirai	Rungta Mines Limited, Kohinoor Steel (P) Ltd.	Jharkhand	
94	Choritand Tiliaya	Rungta Mines Limited, Sunflag Iron & Steel Co. Ltd.	Jharkhand	
95	Sitanala	Steel Authority of India Ltd.	Jharkhand	
96	Ganeshpur	Tata Steel Ltd., Adhunik Thermal Energy	Jharkhand	
97	Badam	Tenughat Vidyut Nigam Limited	Jharkhand	
98	Rajbar E&D	Tenughat Vidyut Nigam Limited	Jharkhand	
99	Gondulpara	Tenughat Vidyut Nigam Limited, Damodar Valley Corporation	Jharkhand	
100	Kotre -Basantpur	Tata Iron and Steel Co. Ltd.(Now Tata Steel Ltd.)	a Jharkhand	
101	Pachmo	Tata Iron and Steel Co. Ltd(Now Tata Steel Ltd.)	Jharkhand	
102	Lohari	Usha Martin Ltd.	Jharkhand	
103	Kathautia	Usha Martin Ltd	Jharkhand	
104	Pachwara North	West Bengal Power Development Corporation Limited (WBPDCL)	Jharkhand	
105	Suliyari	Andhra Pradesh Mineral Development Corporation	Madhya Pradesh	
106	Bikram	Birla Corporation Ltd.	Madhya Pradesh	
107	Gotitoria (East)	BLA Industries Ltd.	Madhya Pradesh	
108	Gotitoria (West)	BLA Industries Ltd.	Madhya Pradesh	
109	Mahan	Essar Power Ltd., Hindalco Industries Ltd.	Madhya Pradesh	
110	Mandla North	Jaipraskash Associates Ltd	Madhya Pradesh	
111	Urtan North	Jindal Steel & Power Ltd, Monet Ispat and Energy Ltd Madr		
112	Thesgora-B/ Rudrapuri	hesgora-B/ Kamal Sponge Steel & Power		
113	Amelia	Madhya Pradesh State Mining Corporation	Madhya Pradesh	
114	Amelia (North)	Madhya Pradesh State Mining Corporation Madhya P		
115	Mandla South	Madhya Pradesh State Mining Corporation Ltd.	Madhya Pradesh	
116	Dongeri Tal-II	Madhya Pradesh State Mining Corporation Ltd. (MPSMC)	Madhya Pradesh	

117	Marki Barka	Madhya Pradesh State Mining Corporation (MPSMC)	Madhya Pradesh
118	Semaria/Piparia	Madhya Pradesh State Mining Corporation (MPSMC)	Madhya Pradesh
119	Bicharpur	Madhya Pradesh State Mining Corporation Ltd.(MPSMC)	Madhya Pradesh
120	Tandsi-III & Tandsi –III (Extn.)	Mideast Integrated Steels Ltd.	Madhya Pradesh
121	Sahapur East	National Mineral Dev. Corp	Madhya Pradesh
122	Sahapur West	National Mineral Dev. Corp	Madhya Pradesh
123	Mara II Mahan	NCT of Delhi, Delhi, Haryana Power Generation Generation Corp Ltd .(HPGCL)	Madhya Pradesh
124	Sial Ghoghri	Prism Cement Limited	Madhya Pradesh
125	Brahampuri	Pushp Steel and Mining Ltd.	Madhya Pradesh
126	Rawanwara North	SKS Ispat Limited	Madhya Pradesh
127	Bander	AMR Iron & Steels Pvt. Ltd., Century Textiles & Industries Ltd., J.K. Cement Ltd.	Maharashtra
128	Marki Mangli-I	B.S. Ispat Ltd.	Maharashtra
129	Takli-Jena- Bellora (North) & Takli-Jena- Bellora (South)	Central Collieries Co. Ltd. and Lloyds Metals & Engineering Ltd.	Maharashtra
130	Dahegaon/ Makard hokra- IV	IST Steel & Power Ltd, Gujarat Ambuja Cement Ltd., Lafarge India Pvt. Ltd.	Maharashtra
131	Gondkhari	Maharashtra Seamless Limited, Dhariwal Infrastructure (P) Ltd., Kesoram Industries Ltd.	Maharashtra
132	Marki-Zari- Jamani-Adkoli	Maharastra State Mining Corpn. Ltd.	Maharashtra
133	Lohara (East)	Murli Industries Ltd., Grace Industries Ltd.	Maharashtra
134	Khappa & Extn.	Sunflag Iron & Steel Ltd, Dalmia Cement (Bharat) Ltd.	Maharashtra
135	Lohara West Extn.	Adani Power Ltd	Maharashtra
136	Warora West (North)	Bhatia International Ltd.	Maharashtra
137	Kosar Dongergaon	Chaman Metaliks Ltd.	Maharashtra
138	Warora (West)Southern Part	Fieldmining & Ispat Ltd. Maharastra	
139	Chinora	Fieldmining & Ispat Ltd.	Maharashtra

140	Majra	Gondwana Ispat Ltd.	Maharashtra
141	Nerad Malegaon	Gupta Metallics & Power Ltd.,Gupta Coalfields & Washeries Ltd.	Maharashtra
142	Baranj - I	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
143	Baranj - II	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
144	Baranj - III	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
145	Baranj - IV	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
146	Kiloni	Karnataka Power Corp. Ltd. (KPCL)	Maharasthra
147	Manora Deep	Karnataka Power Corp. Ltd. (KPCL)	Maharashtra
148	Agarzari	Maharastra State Mining Corporation Limited (MSMCL)	Maharashtra
149	Warora	Maharashtra State Mining Corporation Limited (MSMCL)	Maharashtra
150	Bhandak West	Shree Baidyanath Ayurved Bhawan Ltd.	Maharashtra
151	Marki Mangli-II	Shree Veerangana Steel Limited.	Maharashtra
152	Marki Mangli-III	Shree Veerangana Steel Limited.	Maharashtra
153	Marki Mangli-IV	Shree Veerangana Steel Limited.	Maharashtra
154	Belgaon	Sunflag Iron & Steel Co. Ltd	Maharashtra
155	Mandakini B	Assam Mineral Dev. Corporation Ltd., Meghalaya Mineral Dev. Corp, Tamil Nadu Electricity Board, Odisha Mining Corporation Ltd.	Odisha
156	New Patrapara	Bhusan Steel & Strips Ltd.,Adhunik Metaliks Ltd.,Deepak Steel & Power Ltd.,Adhunik Corp. Ltd.,Odisha Sponge Iron Ltd.,SMC Power Generation Ltd.,Sree Metaliks Ltd.,Visa Steel Ltd.	Odisha
157	Bijahan	Bhushan Ltd, Shri Mahavir Ferro Alloys Pvt. Limited	Odisha
158	Jamkhani	Bhushan Ltd.	Odisha
159	Naini	Gujarat Mineral Development Corporation, Pondichery Industrial Promotion Development and Investment Corporation Limited	Odisha
160	Mahanadi	Gujarat State Electricity Corporation Limited, Maharastra State Electricity Board	Odisha
161	Machhakata	Gujarat State Electricity Corporation Limited, Maharashtra State Electricity Board Odisha	
162	Talabira-I	Hindalco Industries Ltd.	Odisha
163	Ramchandi Promotion Block	Jindal Steel & Power Limited	Odisha

164	Utkal B 1	Jindal Steel & Power Ltd.	Odisha
165	Baitarni West	Kerala State Elecricity Board, Odisha Hydro Power Corp., Gujarat Power Corporation Ltd.	Odisha
166	Talabira II & III	Mahanadi Coalfields Ltd.(MCL), Neyveli Lignite Corporation Ltd., Hindalco Industries Ltd.	Odisha
167	Utkal-A	Mahanadi Coalfields Ltd.(MCL), JSW Steels Ltd., Jindal Thermal Power Comp. Ltd., Jindal Stainless Steels Ltd., Shyam DRI Ltd.	Odisha
168	Utkal-B2	Monet Ispat Ltd	Odisha
169	Mandakini	Monet Ispat Energy Ltd, Jindal Photo Ltd, Tata Power Company Ltd	Odisha
170	Utkal 'E'	National Aluminium Corporation	Odisha
171	Dulanga	National Thermal Power Corporation	Odisha
172	Utkal-D	Odisha Mining Corporation	Odisha
173	Nuagaon Telisahi	Odisha Mining Corporation, Andhra Pradesh Mineral Development (APMDC)	Odisha
174	Manoharpur	Odisha Power Generation Corporation	Odisha
175	Dipside Manoharpur	Odisha Power Generation Corporation	Odisha
176	Radhikapur(West)	Rungta Mines Limited,OCL India Ltd.,Ocean Ispat Ltd.	Odisha
177	Rampia	Sterlite Energy Ltd.,(IPP), GMR Energy Ltd. (IPP), Arcelor Mittal India Ltd. (CPP), Lanco Group Ltd. (IPP), Navbharat Power Pvt. Ltd. (IPP), Reliance Energy Ltd. (IPP)	Odisha
178	Dip Side of Rampia	Sterlite Energy Ltd.,(IPP),GMR Energy (IPP),Arcelor Mittal India Ltd. (CPP),Lanco Group Ltd. (IPP),Navbharat Power Pvt. Ltd. (IPP),Reliance Energy Ltd. (IPP)	Odisha
179	North of Arkhapal Srirampur	Strategic Energy Technology Systems Limited (SETSL)	Odisha
180	Radhikapur(East)	Tata Spannera Iran I td Saary Industrias	
181	Chendipada,	Uttar Pradesh Rajya Vidut Utpadan Limited ,Chattishgarh Mineral Development Corporation Limited, Maharastra State Power Generation Corporation Ltd.	Odisha

182	Chendipada-II	Uttar Pradesh Rajya Vidut Utpadan Limited ,Chattishgarh Mineral Development Corporation Limited, Maharastra State Power Generation Corporation Ltd.	Odisha
183	Utkal-C	Utkal Coal Ltd.(formerly ICCL)	Odisha
184	Biharinath	Bankura DRI Mining Manufacturers Co. Pvt. Ltd.	West Bengal
185	Andal East	Bhushan Steel Ltd.,Jai Balaji Industries Ltd.,Rashmi Cement Ltd.	West Bengal
186	Barjora (North)	Damodar Valley Corporation	West Bengal
187	Kagra Joydev	Damodar Valley Corporation	West Bengal
188	Kasta (East)	Damodar Valley Corporation	West Bengal
189	Gourangdih ABC	Himachal EMTA Power Ltd.,JSW Steel Ltd.	West Bengal
190	Moira-Madhujore	Ramsarup Lohh Udyog Ltd., Adhunik Corporation Ltd.,Uttam Galva Steels Ltd.,Howrah Gases Ltd.,Vikas Metal & Power Ltd., ACC Ltd.	West Bengal
191	Sarisatolli	Calcutta Electricity Supply Corporation Ltd,	West Bengal
192	Ardhagram	Sova Ispat Limited, Jaibalaji Sponge Ltd.	West Bengal
193	Tara (West)	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
194	Gangaramchak	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
195	Barjora	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
196	Gangaramchak- Bhadulia	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
197	Tara (East)	West Bengal State Electricity Board	West Bengal
198	Jaganathpur B	West Bengal Mineral Development & Trading. Corp.	West Bengal
199	Sitarampur	West Bengal Mineral Dev. & Trading Corp. Ltd. West Bengal	
200	Trans Damodar	West Bengal Mineral Dev. & Trading. Corp. Ltd.	West Bengal
201	Ichhapur	West Bengal Mineral Dev. & Trading. Corp. Ltd. West Bengal	
202	Kulti	West Bengal Mineral Dev. & Trading. Corp. Ltd. West Bengal	
203	Jaganathpur A	West Bengal Mineral Dev. & Trading. Corp. Ltd. West Bengal	

East of Damogoria (Kalyaneshwari) West Bengal Power Development Corporation Limited (WBPDCL) West Bengal

SCHEDULE – II [See section 3(1)(q)]

Sl.	Name of Coal	Name of Prior Allottee	State where Coal Mine/Block
No.	Mine/Block		Located
1	Namchik Namphuk	Arunachal Pradesh Mineral Dev. & Trading Corporation	Arunachal Pradesh
2	Gare-Palma- IV/4	Jayaswal Neco Ltd.	Chhattisgarh
3	Gare-Palma-IV/2	Jindal Power Ltd (Now Jindal Steel & Power Ltd)	Chhattisgarh
4	Gare-Palma-IV/3	Jindal Power Ltd. (Now Jindal Steel & Power Ltd.)	Chhattisgarh
5	Gare-Palma-IV/1	Jindal Strips Limited (Now Jindal Steel & Power Ltd.)	Chhattisgarh
6	Gare-Palma-IV/5	Monet Ispat Ltd.	Chhattisgarh
7	Chotia	Prakash Industries Ltd.	Chhattisgarh
8	Gare-Palma-IV/7	Raipur Alloys & Steel Ltd.(Now Sarda Energy and Mineral Limited)	Chhattisgarh
9	Parsa East	Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL)	Chhattisgarh
10	Kanta Basan	Rajasthan Rajya Vidyut Utpadan Nigam Ltd. (RRVUNL)	Chhattisgarh
11	Parbatpur-Central	Electrosteel Castings Ltd.	Jharkhand
12	Tokisud North	GVK Power (Govindwal Sahib) Ltd.	Jharkhand
13	Pachwara Central	Punjab State Electricity Board	Jharkhand
14	Kathautia	Usha Martin Ltd.	Jharkhand
15	Pachwara North	West Bengal Power Development Corporation Limited (WBPDCL)	Jharkhand
16	Gotitoria (East)	BLA Industries Ltd.	Madhya Pradesh
17	Gotitoria (West)	BLA Industries Ltd.	Madhya Pradesh

18	Mandla North	Jaipraskash Associates Ltd	Madhya Pradesh
19	Amelia (North)	Madhya Pradesh State Mining Corporation	Madhya Pradesh
20	Bicharpur	Madhya Pradesh State Mining Corporation Ltd.(MPSMC)	Madhya Pradesh
21	Sial Ghoghri	Prism Cement Limited	Madhya Pradesh
22	Marki Mangli-I	B.S. Ispat Ltd.	Maharashtra
23	Baranj - I	Karnataka Power Corp. Ltd. (KPCL)	Maharastra
24	Baranj - II	Karnataka Power Corp. Ltd. (KPCL)	Maharastra
25	Baranj - III	Karnataka Power Corp. Ltd. (KPCL)	Maharastra
26	Baranj - IV	Karnataka Power Corp. Ltd. (KPCL)	Maharastra
27	Kiloni	Karnataka Power Corp. Ltd. (KPCL)	Maharastra
28	Manora Deep	Karnataka Power Corp. Ltd. (KPCL)	Maharastra
29	Marki Mangli-II	Shree Veerangana Steels Limited.	Maharastra
30	Marki Mangli-III	Shree Veerangana Steels Limited.	Maharastra
31	Belgaon	Sunflag Iron & Steel Co. Ltd.	Maharastra
32	Talabira-I	Hindalco Industries Ltd.	Odisha
33	Barjora (North)	Damodar Valley Corporation	West Bengal
34	Kagra Joydev	Damodar Valley Corporation	West Bengal
35	Sarisatolli	Calcutta Electricity Supply Corporation Ltd,	West Bengal
36	Ardhagram	Sova Ispat Limited, Jai balaji Sponge Ltd.	West Bengal
37	Tara (West)	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
38	Gangaramchak	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal

39	Barjora	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
40	Gangaramchak- Bhadulia	West Bengal Power Development Corporation Limited (WBPDCL)	West Bengal
41	Tara (East)	West Bengal State Electricity Board	West Bengal
42	Trans Damodar	West Bengal Mineral Dev. & Trading. Corp. Ltd.	West Bengal

SCHEDULE III

[See section 3(1)(r)]

Sl. No.	Name of Coal Mine/Block	Name of Prior Allottee	State where Coal Mine/Block Located
1	Durgapur-II/ Taraimar	Bharat Alluminium Company Ltd.	Chhattisgarh
2	Durgapur-II /Sarya	DB Power Ltd.	Chhattisgarh
3	Gare Pelma Sector- III	Goa Industrial Development Corporation	Chhattisgarh
4	Gare Palma IV/8	Jayaswal Neco Ltd.	Chhattisgarh
5	Talaipali	National Thermal Power Ltd.	Chhattisgarh
6	Chatti Bariatu	National Thermal Power Ltd.	Jharkhand
7	Mahan	Essar Power Ltd., Hindalco Industries Ltd.	Madhya Pradesh
8	Mandla South	Madhya Pradesh State Mining Corporation Ltd.	Madhya Pradesh
9	Dongeri Tal-II	Madhya Pradesh State Mining Corporation Ltd. (MPSMC)	Madhya Pradesh
10	Kosar Dongergaon	Chaman Metaliks Ltd.	Maharastra
11	Nerad Malegaon	Gupta Metallics & Power Ltd.,Gupta Coalfields & Washeries Ltd.	Maharastra
12	Marki Mangli-IV	Shree Veerangana Steel Limited.	Maharastra
13	Jamkhani	Bhushan Ltd.	Odisha
14	Utka- B 1	Jindal Steel & Power Ltd.	Odisha
15	Utkal-B2	Monet Ispat Ltd	Odisha
16	Mandakini	Monet Ispat Energy Ltd,Jindal Photo Ltd,Tata Power Company Ltd.	Odisha
17	Utkal-C	Utkal Coal Ltd.(formerly ICCL)	Odisha

18	Brinda	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
19	Sasai	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
20 -	Meral	Abhijeet Infrastructure Pvt. Ltd.	Jharkhand
21	Moitra	Jayaswal Neco Ltd.	Jharkhand
22	Jitpur	Jindal Steel & Power Ltd.	Jharkhand
23	Rohne	JSW Steel Ltd.,Bhushan Power & Steel Ltd.,Jai Balaji Industries Ltd	Jharkhand
24	Dumri	Nilachal Iron & Power Ltd., Bajrang Ispat Pvt. Ltd.	Jharkhand
25	Kerandari	National Thermal Power Ltd.	Jharkhand
26	Sitanala	Steel Authority of India Ltd.	Jharkhand
27	Ganeshpur	Tata Steel Ltd., Adhunik Thermal Energy	Jharkhand
28	Badam	Tenughat Vidyut Nigam Limited	Jharkhand
29	Tara	Chhattisgarh Mineral Development Corporation Ltd.	Chhattisgarh
30	Lohari	Usha Martin Ltd.	Jharkhand
31	Dulanga	National Thermal Power Corporation	Odisha
32	Manoharpur	Odisha Power Generation Corporation	Odisha

SCHEDULE IV

(See section 28)

PART A

THE COAL MINES (NATIONALISATION) ACT, 1973 (26 of 1973)

Amendment of section 1A.

1. In the Coal Mines (Nationalisation) Act, 1973 (herein referred to as the principal Act), in sub-section (1) of section 1A, after the word and figure "section 3", the word, figure and letter ", section 3A" shall be inserted.

Insertion of new section 3A.

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

Mining operation by company and others.

- '3A. (1) Notwithstanding anything contained in this Act, any person being—
 - (a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India; or
 - (b) a company or a joint venture company formed by two or more companies,

that carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the prospecting licence or mining lease, as the case may be.

- (2) The Central Government may, with a view to rationalise such coal mines so as to ensure the coordinated and scientific development and utilisation of coal resources consistent with the growing requirements of the country, from time to time, prescribe—
 - (i) the coal mines or coal bearing areas and their location;
 - (ii) the minimum size of the coal mine or coal bearing areas;
 - (iii) such other conditions,

which in the opinion of that Government may be necessary for the purpose of coal mining operations or mining for sale by a company.

Explanation.—For the purposes of this section, "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013)...'.

Amendment of section 34.

- 3. In section 34 of the principal Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:—
- "(aa) the coal mines or coal bearing areas and their location, the minimum size of the coal mine or coal bearing areas, and such other conditions which may be necessary for the purpose of coal mining operations including mining for sale by a company under sub-section (2) of section 3A.".

PART B

THE MINES AND MINERALS (DEVELOPMENT AND REGULATION) ACT, 1957 (67 OF 1957)

Substitution of new section for section 11A.

Granting of reconnaissance permit, prospecting licence or mining lease.

- of 1. In the Mines and Minerals (Development and Regulation) Act, 1957 (herein for referred to as the principal Act), for section 11A, the following section shall be substituted, namely:—
 - '11A. (1) Notwithstanding anything contained in this Act, the Central Government may, for the purpose of granting reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal or lignite, select any of the following companies through auction by competitive bidding, on such terms and conditions as may be prescribed, namely:—
 - (a) a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be, or any other company incorporated in India; or
 - (b) a company or a joint venture company formed by two or more companies,

that carry on coal mining operations in India, in any form either for own consumption, sale or for any other purpose in accordance with the permit, prospecting licence or mining lease, as the case may be.

- (2) The Central Government may, with a view to rationalise coal and lignite mines referred to in sub-section (1), so as to ensure the coordinated and scientific development and utilisation of resources consistent with the growing requirements of the country, from time to time, prescribe—
 - (i) the details of mines and their location;
 - (ii) the minimum size of such mines;
 - (iii) such other conditions,

which in the opinion of that Government may be necessary for the purpose of mining operations or mining for sale by a company.

(3) The State Government shall grant such reconnaissance permit, prospecting licence or mining lease in respect of any area containing coal or lignite to such company as selected through auction by competitive bidding or otherwise under this section:

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

- (a) where such area is considered for allocation to a Government company or corporation or a joint venture company formed by such company or corporation or between the Central Government or the State Government, as the case may be;
- \(b\) where such area is considered for allocation to a company or corporation or that has been awarded a power project on the basis of competitive bids for tariff (including Ultra Mega Power Projects).

Explanation.—For the purposes of this section, "company" means a company as defined in clause (20) of section 2 of the Companies Act, 2013 (18 of 2013).'.

Amendment of section 13.

- 2. In section 13 of the principal Act, in sub-section (2), for clause (d), the following clause shall be substituted, namely:—
 - "(d) the terms and conditions of auction by competitive bidding, the details of mines and their location, the minimum size of such mines and such other conditions which may be necessary for the purpose of coal mining operations including mining for sale by a company under sub-section (1) and sub-section (2) of section 11A.".

PRANAB MUKHERJEE, President.

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



असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 45] No. 451 नई दिल्ली, शुक्रवार, दिसम्बर 26, 2014/ पौष 5, 1936 (शक)

NEW DELHI, FRIDAY, DECEMBER 26, 2014/PAUSA 5, 1936 (SAKA)

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

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 26th December, 2014/Pausa 5, 1936 (Saka)

THE INSURANCE LAWS (AMENDMENT) ORDINANCE, 2014

No. 8 of 2014

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

WHEREAS the Insurance Laws (Amendment) Bill, 2008 further to amend the Insurance Act, 1938, the General Insurance Business (Nationalisation) Act, 1972 and the Insurance Regulatory and Development Authority Act, 1999 was introduced in the Council of States on the 22nd December, 2008 and was referred to the Department related Parliamentary Standing Committee on Finance for examination and Report;

AND WHEREAS the Parliamentary Standing Committee had submitted its Report on the 13th December, 2011;

AND WHEREAS the said Bill along with the official amendments prepared on the basis of the recommendations of the Standing Committee could not be taken up for consideration and passing in the Council of States:

AND WHEREAS the said Bill was further referred to the Select Committee of the Council of States for examination and Report and the Committee submitted its Report, alongwith the Insurance Laws (Amendment) Bill, 2014 incorporating therein the amendments decided by the Committee, on the 10th December, 2014:

AND WHEREAS the Insurance Laws (Amendment) Bill, 2014, as reported by the Select Committee, could not be taken up for consideration and passing in the Council of States;

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

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

CHAPTER I PRELIMINARY

1. (1) This Ordinance may be called the Insurance Laws (Amendment) Ordinance, 2014.

Short title and commencement.

(2) It shall come into force at once.

CHAPTER II AMENDMENTS TO THE INSURANCE ACT, 1938

4 of 1938.

2. In the Insurance Act, 1938 (hereafter in this Chapter referred to as the Insurance Act), throughout the Act,—

Substitution of references to certain expressions by certain other expressions.

7 of 1913. 18 of 2013. (a) for the words and figures "the Indian Companies Act,1913", wherever they occur, the words and figures "the Companies Act,2013" shall be substituted;

1 of 1956. 18 of 2013. (b) for the words and figures "the Companies Act, 1956", wherever they occur, the words and figures "the Companies Act, 2013" shall be substituted.

3. In section 2 of the Insurance Act,—

Amendment of section 2.

- (i) for clauses (1) and (1A), the following clauses shall be substituted, namely:—
 - '(1) "actuary" means an actuary as defined in clause (a) of sub-section (1) of section 2 of the Actuaries Act,

35 of 2006.

2006;

41 of 1999.

- (1A) "Authority" means the Insurance Regulatory and Development Authority of India established under subsection (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999;";
- (ii) clause (5A) shall be omitted;
- (iii) after clause (6B), the following clause shall be inserted, namely:—
 - '(6C) "health insurance business" means the effecting of contracts which provide for sickness benefits or medical, surgical or hospital expense benefits, whether inpatient or out-patient travel cover and personal accident cover;';
- (iv) for clause (7A), the following clause shall be substituted, namely:—
 - '(7A) "Indian insurance company" means any insurer, being a company which is limited by shares, and,—

18 of 2013.

- (a) which is formed and registered under the Companies Act, 2013 as a public company or is converted into such a company within one year of the commencement of the Insurance Laws (Amendment) Ordinance, 2014;
- (b) in which the aggregate holdings of equity shares by foreign investors, including portfolio investors, do not exceed forty-nine per cent. of the paid up equity capital of such Indian insurance company, which is Indian owned and controlled, in such manner as may be prescribed.

Explanation.—For the purposes of this sub-clause, the expression "control" shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.";

(c) whose sole purpose is to carry on life insurance business or general insurance business or re-insurance business or health insurance business;

- (v) clause (8) shall be omitted;
- (vi) in clause (8A),—
 - (I) for sub-clause (b), the following sub-clause shall be substituted, namely:—
 - "(b) having a minimum paid-up capital of rupees one hundred crores in case of life insurance business, general insurance business and health insurance business;";
 - (II) in sub-clause (d), after the words "general insurance business", the words "or health insurance business" shall be inserted;
- (vii) for clause (9), the following clause shall be substituted, namely:—
 - '(9) "insurer" means
 - (a) an Indian Insurance Company, or
 - (b) a statutory body established by an Act of Parliament to carry on insurance business, or
 - (c) an insurance co-operative society, or
 - (d) a foreign company engaged in re-insurance business through a branch established in India.

Explanation.— For the purposes of this sub-clause, the expression "foreign company" shall mean a company or body established or incorporated under a law of any country outside India and includes Lloyd's established under the Lloyd's Act, 1871 (United Kingdom) or any of its Members;';

- (viii) in clause (10), the words and figures "licensed under section 42" shall be omitted;
- (ix) in clause (11), in sub-clause (c), for the words "annuities payable out of any fund", the words "benefit payable out of any fund" shall be substituted;
 - (x) clauses (12), (13) and (15) shall be omitted;

7 of 1913.

18 of 2013.

(xi) in clause (16), for the words, brackets, figures and letter "clauses (13) and (13A) of section 2 of the Indian Companies Act, 1913", the words, brackets and figures "clause (68) and clause (72) of section 2 of the Companies Act, 2013" shall be substituted;

(xii) after clause (16), the following clauses shall be inserted, namely:—

41 of 1999.

(16A) "regulations" means the regulations framed by the Insurance Regulatory and Development Authority of India established under the Insurance Regulatory and Development Authority Act, 1999;

(16B) "re-insurance" means the insurance of part of one insurer's risk by another insurer who accepts the risk for a mutually acceptable premium;

15 of 1992.

(16C) "Securities Appellate Tribunal" means the Securities Appellate Tribunal established under section 15K of the Securities and Exchange Board of India Act, 1992;";

(xiii) clause (17) shall be omitted.

4. After section 2CA of the Insurance Act, the following section shall be inserted, namely:—

Insertion of new section 2CB.

"2CB. (1) No person shall take out or renew any policy of insurance in respect of any property in India or any ship or other vessel or aircraft registered in India with an insurer whose principal place of business is outside India save with the prior permission of the Authority.

Properties in India not to be insured with foreign insurers except with

the permission of Authority.

- (2) If any person contravenes the provision of sub-section (1), he shall be liable to a penalty which may extend to five crore rupees."
- 5. Section 2E of the Insurance Act shall be omitted.

Omission of section 2E.

7. In section 3 of the Insurance Act,—

Amendment of section 3.

- (i) for sub-section (2), the following sub-section shall be substituted, namely:—
 - "(2) Every application for registration shall be made in such manner and shall be accompanied by such documents as

may be specified by the regulations.";

- (ii) in sub-section (2A), in clause (d), for the figures, letter and word "5, 31A and 32", the figures, word and letter "5 and 31A" shall be substituted;
- (iii) for sub-section (2C), the following sub-section shall be substituted, namely:—
 - "(2C) Any person aggrieved by the decision of the Authority refusing registration may, within thirty days from the date on which a copy of the decision is received by him, appeal to the Securities Appellate Tribunal.";
 - (iv) sub-section (2D) shall be omitted;
- (v) for sub-sections (3), (4), (5) and (5A), the following sub-sections shall be substituted, namely:—
 - "(3) In the case of any insurer having joint venture with a person having its principal place of business domiciled outside India orany insurer as defined in sub-clause (d) of clause (9) of section 2, the Authority may withhold registration already made if it is satisfied that in the country in which such person has been debarred by law or practice of that country to carry on insurance business.
 - (4) The Authority may suspend or cancel the registration of an insurer either wholly or in so far as it relates to a particular class of insurance business, as the case may be,—
 - (a) if the insurer fails, at any time, to comply with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities, or
 - (b) if the insurer is in liquidation or is adjudged as an insolvent, or
 - (c) if the business or a class of the business of the insurer has been transferred to any person or has been transferred to or amalgamated with the business of any other insurer without the approval of the Authority, or
 - (d) if the insurer makes default in complying with, or acts in contravention of, any requirement of this Act or of any rule or any regulation or order made or, any direction

issued thereunder, or

- (e) if the Authority has reason to believe that any claim upon the insurer arising in India under any policy of insurance remains unpaid for three months after final judgment in regular court of law, or
- (f) if the insurer carries on any business other than insurance business or any prescribed business, or
- (g) if the insurer makes a default in complying with any direction issued or order made, as the case may be, by the Authority under the Insurance Regulatory and Development Authority Act, 1999, or
- (h) if the insurer makes a default in complying with, or acts in contravention of, any requirement of the Companies Act, 2013 or the General Insurance Business (Nationalisation) Act, 1972 or the Foreign Exchange Management Act, 1999 or the Prevention of Money Laundering Act, 2002, or
- (i) if the insurer fails to pay the annual fee required under section 3A, or
- (j) if the insurer is convicted for an offence under any law for the time being in force, or
- (k) if the insurer being a co-operative society set up under the relevant State laws or, as the case may be, the Multi-State Co-operative Societies Act, 2002, contravenes the provisions of law as may be applicable to the insurer.
- (5) When the Authority suspends or cancels any registration under clause (a), clause (d), clause (e), clause (f), clause (g) or clause (i) of sub-section (4), it shall give notice in writing to the insurer of its decision, and the decision shall take effect on such date as it may specify in that behalf in the notice, such date not being less than one month nor more than two months from the date of the receipt of the notice in the ordinary course of transmission.
- (5A) When the Authority suspends or cancels any registration under clause (b), (c), (j) or (k) of sub-section (4), the suspension or cancellation, as the case may be, shall take effect on the date on which notice of the order of suspension or cancellation is served on the insurer."

41 of 1999.

18 of 2013. 57 of 1972. 42 of 1999. 15 of 2002.

39 of 2002.

(vi) for sub-section (5C), the following sub-section shall be substituted, namely:—

"(5C) Where a registration is suspended or cancelled under clause (a), clause (d), clause (e), clause (f), clause (g) or clause (i) of sub-section (4), the Authority may at its discretion revive the registration, if the insurer within six months from the date on which the suspension or cancellation took effect complies with the provisions of section 64VA as to the excess of the value of his assets over the amount of his liabilities or has had an application under sub-section (4) of section 3A accepted, or satisfies the Authority that no claim upon him such as is referred to in clause (e) of sub-section (4) remains unpaid or that he has complied with any requirement of this Act or the Insurance Regulatory and Development Authority Act, 1999, or of any rule or any regulation, or any order made thereunder or any direction issued under those Acts, or that he has ceased to carry on any business other than insurance business or any prescribed business, as the case may be, and complies with any directions which may be given to him by the Authority.".

7. For section 3A of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 3A.

"3A (1) An insurer who has been granted a certificate of registration under section 3 shall pay such annual fee to the Authority in such manner as may be specified by the regulations.

Payment of annual fee by insurer.

- (2) Any failure to deposit the annual fee shall render the certificate of registration liable to be cancelled.".
- 8. For section 4 of the Insurance Act, the following section shall be substituted, namely:—

"4. The insurer shall pay or undertake to pay on any policy of life insurance or a group policy issued, a minimum annuity and other benefits as may be determined by regulations excluding any profit or bonus provided that this shall not prevent an insurer from converting any policy into a paid-up policy of any value or payment of surrender value of any amount."

Substitution of new section for section 4.

Minimum limits for annuities and other benefits secured by policies of life insurance.

41 of 1999.

9. In section 5 of the Insurance Act,—

Amendment of section 5.

- (i) in sub-section (2), both the provisos shall be omitted:
- (ii) sub-section (3) shall be omitted.
- 10. For section 6 of the Insurance Act, the following section shall be substituted, namely:-

Substitution of new section for section 6.

"6. (1) No insurer not being an insurer as defined in subclause (d) of clause (9) of section 2, carrying on the business of life insurance, general insurance, health insurance or reinsurance in India or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall be registered unless he has,—

Requirement as to capital.

41 of 1999.

- (i) a paid-up equity capital of rupees one hundred crore, in case of a person carrying on the business of life insurance or general insurance; or
- (ii) a paid-up equity capital of rupees one hundred crore, in case of a person carrying on exclusively the business of health insurance; or
- (iii) a paid-up equity capital of rupees two hundred crore, in case of a person carrying on exclusively the business as a re-insurer:

"Provided that the insurer, may enhance the paid up equity capital, as provided in this section in accordance with

the provisions of the Companies Act, 2013, the Securities Exchange Board of India Act, 1992 and the rules, regulations or directions issued thereunder or any other law for the time being in force:

Provided further that in determining the paid-up equity capital, any preliminary expenses incurred in the formation and registration of any insurer as may be specified by the regulations made under this Act, shall be excluded.".

- (2) No insurer, as defined in sub-clause (d) of clause (9) of section 2, shall be registered unless he has net owned funds of not less than rupees five thousand crore.".
- 11. In section 6A of the Insurance Act,—

Amendment of section 6A.

(i) for sub-section (1), the following sub-section shall be

18 of 2013.

15 of 1992.

substituted, namely:-

- "(1) No public company limited by shares having its registered office in India, shall carry on life insurance business or general insurance business or health insurance business or re-insurance business, unless it satisfies the following conditions, namely:—
 - (i) that the capital of the company shall consist of equity shares each having a single face value and such other form of capital, as may be specified by the regulations;
 - (ii) that the voting rights of shareholders are restricted to equity shares;
 - (iii) that, except during any period not exceeding one year allowed by the company for payment of calls on shares, the paid-up amount is the same for all shares, whether existing or new:

Provided that the conditions specified in this subsection shall not apply to a public company which has, before the commencement of the Insurance (Amendment) Act, 1950, issued any shares other than ordinary shares each of which has a single face value or any shares, the paid-up amount whereof is not the same for all of them for a period of three years from such commencement.":

- (ii) in sub-section (2), after the words "paid-up amount of the", the word "equity" shall be inserted;
- (iii) for sub-section (4), the following sub-section shall be substituted, namely:—
 - "(4) A public company as aforesaid which carries on life insurance business, general and health insurance business and re-insurance business—
 - (a) shall, in addition to the register of members maintained under the Companies Act, 2013, maintain a register of shares in which the name, occupation and address of the beneficial owner of each share shall be entered including any change of beneficial owner declared to it within fourteen days from the receipt of

47 of 1950.

18 of 2013.

such declaration;

(b) shall not register any transfer of its shares—

18 of 2013.

- (i) unless, in addition to compliance being made with the provisions of section 56 of the Companies Act, 2013, the transferee furnishes a declaration in the prescribed form as to whether he proposes to hold the shares for his own benefit or as a nominee, whether jointly or severally, on behalf of others and in the latter case giving the name, occupation and address of the beneficial owner or owners, and the extent of the beneficial interest of each;
- (ii) where, after the transfer, the total paid-up holding of the transferee in the shares of the company is likely to exceed five per cent. of its paid-up capital unless the previous approval of the Authority has been obtained to the transfer;
- (iii) where, the nominal value of the shares intended to be transferred by any individual, firm, group, constituents of a group, or body corporate under the same management, jointly or severally exceeds one per cent. of the paid-up equity capital of the insurer, unless the previous approval of the Authority has been obtained for the transfer.

Explanation.—For the purposes of this subclause, the expressions "group" and "same management" shall have the meanings respectively assigned to them in the Competition Act, 2002.".

12 of 2003.

- (iv) sub-sections (3), (6), (7), (8), (9) and (10) shall be omitted;
- (v) in sub-section (11), the words, brackets and figures "except those of sub-sections (7), (8) and (9)" shall be omitted;
 - (vi) in sub-section (11), clause (ii) shall be omitted; and
- (vii) in the Explanation, in sub-clause (c) of clause (ii), the words "managing agent" shall be omitted.
- 12. Section 6AA of the Insurance Act shall be omitted.

Omission of section 6AA.

13. In section 6B of the Insurance Act,—

Amendment of section 6B.

- (i) in sub-section (1),—
- (a) for the words "life insurance business", the words "life or general or health insurance or re-insurance business" shall be substituted; and
- (b) for the words "Central Government", the word "Authority" shall be substituted;
- (ii) in sub-sections (2) and (3), for the words "High Court", the words "the Securities Appellate Tribunal" shall be substituted.".
 - (iii) sub-section (4) shall be omitted.
- 14. Sections 6C, 7, 8 and 9 of the Insurance Act shall be omitted.

Omission of sections 6C, 7, 8 and 9.

15. In section 10 of the Insurance Act,—

Amendment of section 10.

- (i) in sub-section (1), for the words "prescribed in this behalf", the words "specified by the regulations" shall be substituted;
 - (ii) in sub-section (2),—
 - (a) the words, brackets and figures, "after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1946", shall be omitted;
 - (b) the words "under the law of the insurer's country" occurring at the end, shall be omitted.
- (iii) after sub-section (2A), the following sub-section shall be inserted, namely:—
 - "(2AA) Where the insurer carries on the business of insurance, all receipts due in respect of each sub-clause of such insurance business shall be carried to and shall form a separate fund, the assets of which shall be kept separate and distinct from other assets of the insurer and every insurer shall submit to the Authority the necessary details of such funds as may be required by the Authority from time to time and such funds shall not be applied directly or indirectly save as expressly permitted under this Act or

6 of 1946

regulations made thereunder.".

16. For section 11 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 11.

"11. (1) Every insurer, on or after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, in respect of insurance business transacted by him and in respect of his shareholders' funds, shall, at the expiration of each financial year, prepare with reference to that year, balance-sheet, a profit and loss account, a separate account of receipts and payments, a revenue account in accordance with the regulations as may be specified.

Accounts and balance-sheet.

(2) Every insurer shall keep separate accounts relating to funds of shareholders and policy-holders.

18 of 2013.

(3) Unless the insurer is a company as defined in clause (20) of section 2 of the Companies Act, 2013, the accounts and statements referred to in sub-section (1) shall be signed by the insurer, or in the case of a company by the chairman, if any, and two directors and the principal officer of the company, or in case of an insurance cooperative society by the person in-charge of the society and shall be accompanied by a statement containing the names, descriptions and occupations of, and the directorships held by, the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report on the affairs of the business during that period."

17. For section 12 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 12.

"12. The balance-sheet, profit and loss account, revenue account and profit and loss appropriation account of every insurer, in respect of all insurance business transacted by him, shall, unless they are subject to audit under the Companies Act, 2013, be audited annually by an auditor, and the auditor shall in the audit of all such accounts have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 147 of the Companies Λct, 2013.".

Audit.

18 of 2013.

18 of 2013.

18. In section 13 of the Insurance Act,—

Amendment of section 13.

(i) for sub-section (1), the following sub-section shall be

substituted, namely:-

"(1) Every insurer carrying on life insurance business shall, once at least every year cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him, including a valuation of his liabilities in respect thereto and shall cause an abstract of the report of such actuary to be made in accordance with the regulations:

Provided that the Authority may, having regard to the circumstances of any particular insurer, allow him to have the investigation made as at a date not later than two years from the date as at which the previous investigation was made:

Provided further that every insurer, on or after the commencement of the Insurance Regulatory and Development Authority Act, 1999, shall cause an abstract of the report of the actuary to be made in such manner as may be specified by the regulations.";

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

"(4) There shall be appended to every such abstract a statement prepared in such form and in such manner as many be specified by the regulations:

Provided that, if the investigation referred to in subsections (1) and (2) is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every three years.";

- (iii) for sub-section (6), the following sub-section shall be substituted, namely:—
 - "(6) The provisions of this section relating to the life insurance business shall apply also to any such sub-class of insurance business included in the class "Miscellaneous Insurance" and the Authority may authorise such modifications and variations of regulations as may be necessary to facilitate their application to any such sub-class of insurance business:

Provided that, if the Authority is satisfied that the number and amount of the transactions carried out by an insurer in any such sub-class of insurance business is so

41 of 1999.

small as to render periodic investigation and valuation unnecessary, it may exempt that insurer from the operation of this sub-section in respect of that sub-class of insurance business."

19. For section 14 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 14.

"14(1). Every insurer, in respect of all business transacted by him, shall maintain—

Record of policies and claims.

- (a) a record of policies, in which shall be entered, in respect of every policy issued by the insurer, the name and address of the policy-holder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice,
- (b) a record of claims, every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or, in the case of a claim which is rejected, the date of rejection and the grounds thereof; and
- (c) a record of policies and claims in accordance with clauses (a) and (b) may be maintained in any such form, including electronic mode, as may be specified by the regulations made under this Act.
- (2) Every insurer shall, in respect of all business transacted by him, endeavour to issue policies above a specified threshold in terms of sum assured and premium in electronic form, in the manner and form to be specified by the regulations made under this Act.".
- 20. For section 15 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 15.

"15. (1) The audited accounts and statements referred to in section 11 or subsection (5) of section 13 and the abstract and statement referred to in section 13 shall be printed, and four copies thereof shall be furnished as returns to the Authority within six months from the end of the period to which they refer.

Submission of returns.

(2) Of the four copies so furnished one shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company and, if the company has a managing director by that managing director and one shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be.".

21. Section 16 of the Insurance Act shall be omitted.

Omission of section 16.

22. Sections 17 and 17A of the Insurance Act shall be omitted.

Omission of sections 17 and 17A.

23. In section 20 of the Insurance Act,—

Amendment of section 20.

- (i) for sub-section (1), the following sub-section shall be substituted, namely:—
 - "(1) Every return furnished to the Authority or certified copy thereof shall be kept by the Authority and shall be open to inspection; and any person may procure a copy of any such return, or of any part thereof, on payment of such fee as may be specified by the regulations.";
- (ii) in sub-section (2), the words and figures "or section 16" shall be omitted;
- (iii) in sub-section (3), for the words "one rupee", the words "such fee as may be specified by the regulations" shall be substituted.

24. In section 21 of the Insurance Act,—

Amendment of section 21.

- (i) in clause (d) of sub-section (1), the words and figures "or section 16" shall be omitted;
- (ii) for sub-section (2), the following sub-section shall be substituted, namely:—
 - "(2) The Securities Appellate Tribunal may, on the application of an insurer and after hearing the Authority, cancel any order made by the Authority under clause (d) of sub-section (1) or may direct the acceptance of such a return which the Authority has declined to accept, if the insurer satisfies the Tribunal that the action of the Authority was in the circumstances unreasonable:

Provided that no application under this sub-section shall be entertained unless it is made before the expiration of four months from the date when the Authority made the order or declined to accept the return.".

25. In section 22 of the Insurance Act,—

Amendment of section 22.

- (i) in sub-section (1), the words, brackets, letter and figures "or an abstract of a valuation report furnished under clause (c) of sub-section (2) of section 16" shall be omitted;
- (ii) in sub-section (2), the words, brackets and figures "or, as the case may be, of sub-section (2) of section 16" shall be omitted.
- 26. For sections 27, 27A, 27B, 27C and 27D of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 27, 27A, 27B, 27C and 27D.

"27. (1) Every insurer shall invest and at all times keep invested assets equivalent to not less than the sum of —

Investment of assets.

- (a) the amount of his liabilities to holders of life insurance policies in India on account of matured claims, and
- (b) the amount required to meet the liability on policies of life insurance maturing for payment in India, less—
 - (i) the amount of premiums which have fallen due to the insurer on such policies but have not been paid and the days of grace for payment of which have not expired, and
 - (ii) any amount due to the insurer for loans granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability in the following manner, namely,—
 - (a) twenty-five per cent. of the said sum in Government securities, a further sum equal to not less than twenty-five per cent. of the said sum in Government securities or other approved securities; and
 - (b) the balance in any of the approved investments,

as may be specified in the regulations subject to the limitations, conditions and restrictions specified therein.

(2) In the case of an insurer carrying on general insurance business, twenty per cent. of the assets in Government Securities, a further sum equal to not less than ten per cent. of the assets in Government Securities or other approved securities and the balance in any other investment in accordance with the regulations of the Authority and subject to such limitations, conditions and restrictions as may be specified by the Authority in this regard.

Explanation— In this section, the term "assets" means all the assets of insurer at their carrying value but does not include any assets specifically held against any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or miscellaneous expenditure or in respect of which the Authority is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.

- (3) For the purposes of sub-sections (1) and (2), any specified assets shall, subject to such conditions, if any, as may be specified, be deemed to be assets invested or kept invested in approved investments specified by regulations.
- (4) In computing the assets referred to in sub-sections (1) and (2), any investment made with reference to any currency other than the Indian rupee which is in excess of the amount required to meet the liabilities of the insurers in India with reference to that currency, to the extent of such excess, shall not be taken into account:

Provided that nothing contained in this sub-section shall affect the operation of sub-section (2):

Provided further that the Authority may, either generally or in any particular case, direct that any investment shall, subject to such conditions as may be imposed, be taken into account, in such manner as may be specified in computing the assets referred to in subsections (1) and (2) and where any direction has been issued under this proviso, copies thereof shall be laid before each house of Parliament as soon as may be after it is issued.

(5) Where an insurer has accepted re-insurance in respect

of any policies of life insurance issued by another insurer and maturing for payment in India or has ceded reinsurance to another insurer in respect of any such policies issued by himself, the sum referred to in sub-section (1) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of the liability involved in such cession.

- (6) The Government securities and other approved securities in which assets are under sub-section (1) or sub-section (2) to be invested and kept invested shall be held by the insurer free of any encumbrance, charge, hypothecation or lien.
- (7) The assets required by this section to be held invested by an insurer incorporated or domiciled outside India shall, except to the extent of any part thereof which consists of foreign assets held outside India, be held in India and all such assets shall be held in trust for the discharge of the liabilities of the nature referred to in sub-section (1) and shall be vested in trustees resident in India and approved by the Authority, and the instrument of trust under this sub-section shall be executed by the insurer with the approval of the Authority and shall define the manner in which alone the subject-matter of the trust shall be dealt with.

Explanation.—This sub-section shall apply to an insurer incorporated in India whose share capital to the extent of one-third is owned by, or the members of whose governing body to the extent of one-third consists of members domiciled elsewhere than in India.

- 27A. (1) No insurer carrying on life insurance business shall invest or keep invested any part of his controlled fund and no insurer carrying on general business shall invest or keep invested any part of his assets otherwise than in any of the approved investments as may be specified by the regulations subject to such limitations, conditions and restrictions therein.
- Further provisions regarding investments.
- (2) Notwithstanding anything contained in sub-section (1) or sub-section (2) of section 27, an insurer may, subject to the provisions contained in the next succeeding sub-sections, invest or keep invested any part of his controlled fund or assets otherwise than in an approved investment, if—
 - (i) after such investment, the total amounts of all such

investments of the insurer do not exceed fifteen per cent. of the sum referred to in sub-section (1) of section 27 or fifteen per cent. of the assets referred to in sub-section (2) as the case may be;

- (ii) the investment is made, or, in the case of any investment already made, the continuance of such investment is with the consent of all the directors present at a meeting and eligible to vote, special notice of which has been given to all the directors then in India, and all such investments, including investments in which any director is interested, are reported without delay to the Authority with full details of the investments and the extent of the director's interest in any such investment.
- (3) An insurer shall not out of his controlled fund or assets as referred to in subsection (2) of section 27,—
 - (a) invest in the shares of any one banking company, or
 - (b) invest in the shares or debentures of any one company,

more than the percentage specified by the regulations.

- (4) An insurer shall not out of his controlled fund or assets as referred to in sub-section (2) of section 27 invest or keep invested in the shares or debentures of any private limited company.
- (5) All assets forming the controlled fund or assets as referred to in sub-section (2), of section 27, not being Government securities or other approved securities in which assets are to be invested or held invested in accordance with this section, shall (except for a part thereof not exceeding one-tenth of the controlled fund or assets as referred to in sub-section (2) thereof in value which may, subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment), be held free of any encumbrance, charge, hypothecation or lien.
- (6) If at any time the Authority considers any one or more of the investments of an insurer to be unsuitable or undesirable, the Authority may, after giving the insurer an opportunity of being heard, direct him to realise the investment or investments, and the insurer shall comply with

the direction within such time as may be specified in this behalf by the Authority.

(7) Nothing contained in this section shall be deemed to affect in any way the manner in which any moneys relating to the provident fund of any employee or to any security taken from any employee or other moneys of a like nature are required to be held by or under any Central Act, or Act of a State legislature.

Explanation.—In this section "controlled fund" means—

- (a) in the case of any insurer carrying on life insurance business—
 - (i) all his funds, if he carries on no other class of insurance business;
 - "(ii) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also.

Explanation.—For the purposes of sub-clauses (i) and (ii), the fund does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion, as the case may be, is regulated by the law in force of any country outside India or it would not be in the interest of the insurer to apply the provisions of this section.";

- (b) in the case of any other insurer carrying on life insurance business—
 - (i) all his funds in India, if he carries on no other class of insurance business;
 - (ii) all the funds in India appertaining to his life insurance business if he carries on some other class of insurance business also; but does not include any fund or portion thereof in respect of which the Authority is satisfied that such fund or portion thereof, as the case may be, is regulated by the law of any country outside India or in respect of which the Authority is satisfied that it would not be in the interest of the insurer to apply the provisions of this section.
- 27B. (1) All assets of an insurer carrying on general insurance business shall, subject to such conditions, if any, as

Provisions regarding investments of

may be prescribed, be deemed to be assets invested or kept invested in approved investments specified in section 27.

assets of insurer carrying general insurance business.

- (2) All assets shall (except for a part thereof not exceeding one-tenth of the total assets in value which may subject to such conditions and restrictions as may be prescribed, be offered as security for any loan taken for purposes of any investment or for payment of claims, or which may be kept as security deposit with the banks for acceptance of policies) be held free of any encumbrance, charge, hypothecation or lien.
- (3) Without prejudice to the powers conferred on the Authority by sub-section (5) of section 27A nothing contained in this section shall be deemed to require any insurer to realise any investment made in conformity with the previsions of sub-section (1) of section 27 after the commencement of the Insurance (Amendment) Act, 1968, which, after the making thereof, has ceased to be an approved investment within the meaning of this section.

27C. An insurer may invest not more than five per cent. in aggregate of his controlled fund or assets as referred to in subsection (2) of section 27 in the companies belonging to the promoters, subject to such conditions as may be specified by the regulations.

Investment by insurer in certain cases.

27D. (1) Without prejudice to anything contained in this section, the Authority may, in the interests of the policyholders, specify by the regulations, the time, manner and other conditions of investment of assets to be held by an insurer for the purposes of this Act.

Manner and condition of investment.

- (2) The Authority may give specific directions for the time, manner and other conditions subject to which the funds of policy-holders shall be invested in the infrastructure and social sector as may be specified by the regulations and such regulations shall apply uniformly to all the insurers carrying on the business of life insurance, general insurance, or health insurance or re-insurance in India on or after the commencement of the Insurance Regulatory and Development Authority Λ ct, 1999.
- (3) The Authority may, after taking into account the nature of business and to protect the interests of the policy-holders, issue to an insurer the directions relating to the time, manner and other conditions of investment of assets to be held by him:

Provided that no direction under this sub-section shall be

41 of 1999.

62 of 1968.

issued unless the insurer concerned has been given a reasonable opportunity of being heard.

27E. No insurer shall directly or indirectly invest outside India the funds of the policy-holders.".

Prohibition for investment of funds outside India.

27. For section 28, section 28A and section 28B of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 28, section 28A and section 28B.

"28. Every insurer shall submit to the Authority returns giving details of investments made, in such form, time and manner including its authentication as may be specified by the regulations."

Statement and return of investment of assets.

28. For section 29 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 29.

"29. (1) No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life policies issued by him within their surrender value, to any director, manager, actuary, auditor or officer of the insurer, if a company or to any other company or firm in which any such director, manager, actuary or officer holds the position of a director, manager, actuary, officer or partner:

Prohibition of loans.

Provided that nothing contained in this sub-section shall apply to such loans, made by an insurer to a banking company, as may be specified by the Authority:

Provided further that nothing in this section shall prohibit a company from granting such loans or advances to a subsidiary company or to any other company of which the company granting the loan or advance is a subsidiary company if the previous approval of the Authority is obtained for such loan or advance.

(2) The provisions of section 185 of the Companies Act, 2013 shall not apply to a loan granted to a director of an insurer being a company, if the loan is one granted on the security of a policy on which the insurer bears the risk and the policy was issued to the director on his own life, and the loan is within the surrender value of the policy.

18 of 2013.

(3) Subject to the provisions of sub-section (1), no insurer

shall grant —

- (a) any loans or temporary advances either on hypothecation of property or on personal security or otherwise, except such loans as may be specified by the regulations including the loans sanctioned as part of their salary package to the fulltime employees of the insurer as per the scheme duly approved by its Board of Directors;
- (b) temporary advances to any insurance agent to facilitate the carrying out of his functions as such except in cases where such advances do not exceed in the aggregate the renewal commission earned by him during the year immediately preceding.
- (4) Where any event occurs given rise to circumstances, the existence of which at the time of grant of any subsisting loan or advance would have made such grant a contravention of this section, such loan or advance shall, notwithstanding anything in any contract to the contrary, be repaid within three months from the occurrence of such event.
- (5) In case of default in complying with the provisions of sub-section (4), the director, manager, auditor, actuary, officer or insurance agent concerned shall, without prejudice to any other penalty which he may incur, cease to hold office under, or to act for, the insurer granting the loan on the expiry of three months."
- 29. For section 30 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 30.

"30. If by reason of a contravention of any of the provisions of section 27, 27A, 27B, 27C, 27D or section 29, any loss is sustained by the insurer or by the policyholders, every director, manager or officer who is knowingly a party to such contravention shall, without prejudice to any other penalty to which he may be liable under this Act, be jointly and severally liable to make good the amount of such loss.".

Liability of directors, etc., for loss due to contravention of section 27, 27A, 27B, 27C, 27D or

30. In section 31 of the Insurance Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 31.

section 29.

"(1) None of the assets in India of any insurer shall, except in so far as assets are required to be vested in trustees under

sub-section (7) of section 27, be kept otherwise than in the name of a public officer approved by the Authority, or in the corporate name of the undertaking, if a company or as the case may be an insurance co-operative society."

31. In section 31A of the Insurance Act,—

Amendment of section 31A.

- (a) in sub-section (1), in clause (c) —
- (1) for sub-clauses (i) and (ii) to the proviso, the following <u>sub-clause</u> shall be substituted, namely:—
 - "(i) the payment of commission to an insurance agent, in respect of insurance business procured by or through him;";
 - (II) clause (iii) to the proviso shall be omitted;

7 of 1913.

(b)in sub-section (3), for the words, figures and letter "or in section 86B of the Indian Companies Act, 1913", the words "or in any other law for the time being in force" shall be substituted.

32. For section 31B of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 31B.

"31B. No insurer shall in respect of insurance business transacted by him, shall pay to any person by way of remuneration, whether by way of commission or otherwise in excess of such sum as may be specified by the regulations.".

Power to restrict payment of excessive remuneration.

- 33. Section 32 of the Insurance Act shall be omitted.
- 34. In section 32A of the Insurance Act,—

Omission of section 32.
Amendment of section 32A.

- (i) in sub-section (1), the words, brackets, letter and figures "specified in sub-clause (b) of clause (9) of section 2 and," shall be omitted;
 - (ii) sub-sections (2) and (3) shall be omitted.
- 35. In section 32B of the Insurance Act, for the words "rural or social sector", the words "rural and social sectors" shall be substituted.

Amendment of section 32B.

36. After section 32C of the Insurance Act, the following section shall be inserted, namely:—

Insertion of new section 32D.

"32D. Every insurer carrying on general insurance business shall, after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, underwrite such minimum percentage of insurance business in third party risks of motor vehicles as may be specified by the regulations:

Obligation of insurer in respect of insurance business in third party risks of motor vehicles.

Provided that the Authority may, by regulations, exempt any insurer who is primarily engaged in the business of health, re-insurance, agriculture, export credit guarantee, from the application of this section."

37. For section 33 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 33. Power of investigation and inspection by Authority.

"33. (1) The Authority may, at any time, if it considers expedient to do so by order in writing, direct any person (hereafter in this section referred to as "Investigating Officer") specified in the order to investigate the affairs of any insurer or intermediary or insurance intermediary, as the case may be, and to report to the Authority on any investigation made by such Investigating Officer:

Provided that the Investigating Officer may, wherever necessary, employ any auditor or actuary or both for the purpose of assisting him in any investigation under this section.

- (2) Notwithstanding anything to the contrary contained in section 210 of the Companies Act, 2013, the Investigating Officer may, at any time, and shall, on being directed so to do by the Authority, cause an inspection to be made by one or more of his officers of the books of account of any insurer or intermediary or insurance intermediary, as the case may be, and the Investigating Officer shall supply to the insurer or intermediary or insurance intermediary, as the case may be, a copy of the report on such inspection.
- (3) It shall be the duty of every manager, managing director or other officer of the insurer including a service provider, contractor of an insurer where services are outsourced by the insurer, or intermediary or insurance intermediary, as the case may be, to produce before the Investigating Officer directed to make the investigation under sub-section (1), or inspection under sub-section (2), all such books of account, registers, other documents and the database in his custody or power and to furnish him with any statement and information relating to the affairs of the insurer or intermediary or insurance intermediary, as the case may be, as

18 of 2013.

the Investigating Officer may require of him within such time as the said Investigating Officer may specify.

- (4) Any Investigating Officer, directed to make an investigation under sub-section (1), or inspection under sub-section (2), may examine on oath, any manager, managing director or other officer of the insurer including a service provider or contractor where the services are outsourced by the insurer or intermediary or insurance intermediary, as the case may be, in relation to his business.
- (5) The Investigating Officer shall, if he has been directed by the Authority to cause an inspection to be made, make a report to the Authority on such inspection.
- (6) On receipt of any report under sub-section (1) or sub-section (5), the Authority may, after giving such opportunity to the insurer or intermediary or insurance intermediary, as the case may be, to make a representation in connection with the report as, in the opinion of the Authority, seems reasonable, by order in writing, —
- (a) require the insurer, to take such action in respect of any matter arising out of the report as the Authority may think fit; or
- (b) cancel the registration of the insurer or intermediary or insurance intermediary, as the case may be; or
- (c) direct any person to apply to the court for the winding up of the insurer or intermediary or insurance intermediary, as the case may be, if it is a company, whether the registration of the insurer or intermediary or insurance intermediary, as the case may be, has been cancelled under clause (b) or not.
- (7) The Authority may by the regulations made by it specify the minimum information to be maintained by insurers or intermediary or insurance intermediary, as the case may be, in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by insurers or intermediary or insurance intermediary, as the case may be, in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Officer to discharge satisfactorily his functions under this section.

Explanation -- For the purposes of this section, expression

"insurer" shall include in the case of an insurer incorporated in India—

- (a) all its subsidiaries formed for the purpose of carrying on the business of insurance exclusively outside India; and
- (b) all its branches whether situated in India or outside India.
- (8) Any insurer or intermediary or insurance intermediary aggrieved by any order made under this section may prefer an appeal to the Securities Appellate Tribunal.
- (9) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the insurer or intermediary or insurance intermediary, as the case may be, shall have priority over the debts due from the insurer and shall be recoverable as an arrear of land revenue."
- 38. In section 34B of the Insurance Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of section 34B.

- "(4) If any person in respect of whom an order is made by the Authority under sub-section (1) or under the proviso to sub-section (2), contravenes the provisions of this section, he shall be liable to a penalty of one lakh rupees for each day during which such contravention continues or one crore rupees, whichever is less."
- 39. In section 34C of the Insurance Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 34C.

"(1) If the Authority is of opinion that in the public interest or in the interest of an insurer or his policy-holders it is necessary so to do, it may, from time to time, by order in writing, appoint, in consultation with the Central Government with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the insurer:

Provided that the number of additional directors so appointed shall not, at any time, exceed five or one-third of the maximum strength fixed for the Board by the articles of association of the insurer, whichever is less.".

- 40. Section 34G of the Insurance Act shall be omitted.
- 41. In section 34H of the Insurance Act,—

Omission of section 34G.
Amendment of section

(i) in sub-section (1), for the words "an officer authorised 34H. by the Authority", the words "a Deputy Director or an equivalent officer" shall be substituted;

(ii) in sub-sections (7) and (8), for the words "Central Government", the words "Securities Appellate Tribunal" shall be substituted.

42. In section 35 of the Insurance Act,—

Amendment of section 35.

- (i) for sub-section (1), the following sub-section shall be substituted, namely:—
 - "(1) Notwithstanding anything contained in any other law for the time being in force, no insurance business of an insurer shall be transferred to or amalgamated with the insurance business of any other insurer except in accordance with a scheme prepared under this section and approved by the Authority.";
- (ii) in sub-section (3), for clauses (b) and (c), the following clauses shall be substituted, namely:—
 - "(b) balance-sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in such forms may be specified by regulation;
 - (c) actuarial reports and abstracts in respect of the life insurance business of each of the insurers so concerned, prepared in conformity with the regulations specified in this regard.".
- 43. For section 36 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 36.

"36. When any application under sub-section (3) of section 35 is made to the Authority, the Authority shall cause, a notice of the application to be given to the holders of any kind of policy of insurer concerned along with statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such period as it may direct, and, after hearing the directors and considering the objections of the policy-holders and any other persons whom it considers entitled to be heard, may approve the arrangement, and shall make such consequential orders as

Sanction of amalgamation and transfer by Authority.

are necessary to give effect to the arrangement.".

44. In section 37A of the Insurance Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

Amendment of section 37A.

"(4) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modification or with such modifications as it may consider necessary, and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may notify in this behalf in the Official Gazette:

Provided that different dates may be specified for different provisions of the scheme.

(4A) Every policy-holder or shareholder or member of each of the insurers, before amalgamation, shall have the same interest in, or rights against the insurer resulting from amalgamation as he had in the company of which he was originally a policy-holder or shareholder or member:

Provided that where the interests or rights of any shareholder or member are less than his interest in, or rights against, the original insurer, he shall be entitled to compensation, which shall be assessed by the Authority in such manner as may be specified by the regulations.

- (4B) The compensation so assessed shall be paid to the shareholder or member by the insurance company resulting from such amalgamation.
- (4C) Any member or shareholder aggrieved by the assessment of compensation made by the Authority under sub-section (4A) may within thirty days from the publication of such assessment prefer an appeal to the Securities Appellate Tribunal."
- 45. For sections 38, 39 and 40 of the Insurance Act, the following sections shall be substituted, namely:—
 - "38. (1) A transfer or assignment of a policy of insurance, wholly or in part, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorised agent and attested by at

Substitution of new sections for sections 38, 39 and 40. Assignment and transfer of insurance policies.

least one witness, specifically setting forth the fact of transfer or assignment and the reasons thereof, the antecedents of the assignee and the terms on which the assignment is made.

- (2) An insurer may, accept the transfer or assignment, or decline to act upon any endorsement made under sub-section (1), where it has sufficient reason to believe that such transfer or assignment is not bonafide or is not in the interest of the policy-holder or in public interest or is for the purpose of trading of insurance policy.
- (3) The insurer shall, before refusing to act upon the endorsement, record in writing the reasons for such refusal and communicate the same to the policy-holder not later than thirty days from the date of the policy-holder giving notice of such transfer or assignment.
- (4) Any person aggrieved by the decision of an insurer to decline to act upon such transfer or assignment may within a period of thirty days from the date of receipt of the communication from the insurer containing reasons for such refusal, prefer a claim to the Authority.
- (5) Subject to the provisions in sub-section (2), the transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested but except, where the transfer or assignment is in favour of the insurer, shall not be operative as against an insurer, and shall not confer upon the transferee or assignee, or his legal representative, any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment and either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorised agents have been delivered to the insurer:

Provided that where the insurer maintains one or more places of business in India, such notice shall be delivered only at the place where the policy is being serviced.

(6) The date on which the notice referred to in sub-section (5) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment as between persons interested in the policy; and where there is more than one instrument of transfer or assignment the priority of the claims under such instruments shall be governed by the order in which the notices referred to in sub-section (5) are delivered:

Provided that if any dispute as to priority of payment arises as between assignees, the dispute shall be referred to the Authority.

- (7) Upon the receipt of the notice referred to in sub-section (5), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of such fee as may be specified by the regulations, grant a written acknowledgement of the receipt of such notice; and any such acknowledgement shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgment relates.
- (8) Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in sub-section (5), recognise the transferee or assignee named in the notice as the absolute transferee or assignee entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the transferor or assignor was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy, obtain a loan under the policy or surrender the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

Explanation.— Except where the endorsement referred to in sub-section (1) expressly indicates that the assignment or transfer is conditional in terms of subsection (10) hereunder, every assignment or transfer shall be deemed to be an absolute assignment or transfer and the assignee or transferee, as the case may be, shall be deemed to be the absolute assignee or transferee respectively.

- (9) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior to the commencement of the Insurance Laws (Amendment) Ordinance, 2014 shall not be affected by the provisions of this section.
- (10) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made upon the condition that —

- (a) the proceeds under the policy shall become payable to the policyholder or the nominee or nominees in the event of either the assignee or transferee predeceasing the insured; or
- (b) the insured surviving the term of the policy, shall be valid:

Provided that a conditional assignee shall not be entitled to obtain a loan on the policy or surrender a policy.

- (11) In the case of the partial assignment or transfer of a policy of insurance under sub-section (1), the liability of the insurer shall be limited to the amount secured by partial assignment or transfer and such policy-holder shall not be entitled to further assign or transfer the residual amount payable under the same policy.
- 39. (1) The holder of a policy of life insurance on his own life may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death:

Nomination by policy-holder.

Provided that, where any nominee is a minor, it shall be lawful for the policyholder to appoint any person in the manner laid down by the insurer, to receive the money secured by the policy in the event of his death during the minority of the nominee.

- (2) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be, but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made bona fide by him to a nominee mentioned in the text of the policy or registered in records of the insurer.
- (3) The insurer shall furnish to the policyholder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge such fee as may be specified by regulations for registering such cancellation or change.

(4) A transfer or assignment of a policy made in accordance with section 38 shall automatically cancel a nomination:

Provided that the assignment of a policy to the insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its surrender value, or its re-assignment on repayment of the loan shall not cancel a nomination, but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy:

Provided further that the transfer or assignment of a policy, whether wholly or in part, in consideration of a loan advanced by the transferee or assignee to the policyholder, shall not cancel the nomination but shall affect the rights of the nominee only to the extent of the interest of the transferee or assignee, as the case may be, in the policy:

Provided also that the nomination, which has been automatically cancelled consequent upon the transfer or assignment, the same nomination shall stand automatically revived when the policy is reassigned by the assignee or retransferred by the transferee in favour of the policy-holder on repayment of loan other than on a security of policy to the insurer.

- (5) Where the policy matures for payment during the lifetime of the person whose life is insured or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policy-holder or his heirs or legal representatives or the holder of a succession certificate, as the case may be.
- (6) Where the nominee or if there are more nominees than one, a nominee or nominees survive the person whose life is insured, the amount secured by the policy shall be payable to such survivor or survivors.
- (7) Subject to the other provisions of this section, where the holder of a policy of insurance on his own life nominates his parents, or his spouse, or his children, or his spouse and children, or any of them, the nominee or nominees shall be beneficially entitled to the amount payable by the insurer to

him or them under sub-section (6) unless it is proved that the holder of the policy, having regard to the nature of his title to the policy, could not have conferred any such beneficial title on the nominee.

- (8) Subject as aforesaid, where the nominee, or if there are more nominees than one, a nominee or nominees, to whom sub-section (7) applies, die after the person whose life is insured but before the amount secured by the policy is paid, the amount secured by the policy, or so much of the amount secured by the policy as represents the share of the nominee or nominees so dying (as the case may be), shall be payable to the heirs or legal representatives of the nominee or nominees or the holder of a succession certificate, as the case may be, and they shall be beneficially entitled to such amount.
- (9) Nothing in sub-sections (7) and (8) shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of life insurance.
- (10) The provisions of sub-sections (7) and (8) shall apply to all policies of life insurance maturing for payment after the commencement of the Insurance Laws (Amendment) Ordinance, 2014.
- (11) Where a policy-holder dies after the maturity of the policy but the proceeds and benefit of his policy has not been made to him because of his death, in such a case, his nominee shall be entitled to the proceeds and benefit of his policy.
- (12) The provisions of this section shall not apply to any policy of life insurance to which section 6 of the Married Women's Property Act, 1874, applies or has at any time applied:

Provided that where a nomination made whether before or after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, in favour of the wife of the person who has insured his life or of his wife and children or any of them is expressed, whether or not on the face of the policy, as being made under this section, the said section 6 shall be deemed not to apply or not to have applied to the policy.

40. (1) No person shall, pay or contract to pay any remuneration or reward, whether by way of commission or otherwise for soliciting or procuring insurance business in

Prohibition of payment by way of commission

3 of 1874.

India to any person except an insurance agent or an intermediary or insurance intermediary in such manner as may be specified by the regulations.

or otherwise for procuring business.

(2) No insurance agent or intermediary or insurance intermediary shall receive or contract to receive commission or remuneration in any form in respect of policies issued in India, by an insurer in any form in respect of policies issued in India, by an insurer except in accordance with the regulations specified in this regard:

Provided that the Authority, while making regulations under sub-sections (1) and (2), shall take into consideration the nature and tenure of the policy and in particular the interest of the agents and other intermediaries concerned.

- (3) Without prejudice to the provisions of section 102 in respect of a contravention of any of the provisions of the preceding sub-sections or the regulations framed in this regard, by an insurer, any insurance agent or intermediary or insurance intermediary who contravenes the said provisions shall be liable to a penalty which may extend to one lakh rupees."
- 46. Section 40A of the Insurance Act shall be omitted.

Omission of section 40A.

47. For sections 40B and 40C of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 40B and 40C.

"40B. No insurer shall, in respect of insurance business transacted by him in India, spend as expenses of management in any financial year any amount exceeding the amount as may be specified by the regulations made under this Act;

Limitation of expenses of management in life insurance business.

40C. Every insurer transacting insurance business in India shall furnish to the Authority, the details of expenses of management in such manner and form as may be specified by the regulations made under this Act.".

Limitation of expenses of management in general, health insurance and re-insurance business.

48. In section 41 of the Insurance Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 41.

"(2) Any person making default in complying with the

provisions of this section shall be liable for a penalty which may extend to ten lakh rupees.".

49. For section 42 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 42.

"42.(1) An insurer may appoint any person to act as insurance agent for the purpose of soliciting and procuring insurance business:

Appointment of insurance agents.

Provided that such person does not suffer from any of the disqualifications mentioned in sub-section (3).

(2) No person shall act as an insurance agent for more than one life insurer, one general insurer, one health insurer and one of each of the other mono-line insurers:

Provided that the Authority shall, while framing regulations, ensure that no conflict of interest is allowed to arise for any agent in representing two or more insurers for whom he may be an agent.

- (3) The disqualifications referred to in the proviso to subsection (1) shall be the following:—
 - (a) that the person is a minor;
- (b) that he is found to be of unsound mind by a court of competent jurisdiction;
- (c) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating or forgery or an abetment of or attempt to commit any such offence by a court of competent jurisdiction:

Provided that where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Authority shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause;

(d) that in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurer or in the course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation against an insurer or insured;

- (e) that in the case of an individual, who does not possess the requisite qualifications or practical training or passed the examination, as may be specified by the regulations;
- (f) that in the case of a company or firm making, a director or a partner or one or more of its officers or other employees so designated by it and in the case of any other person the chief executive, by whatever name called, or one or more of his employees designated by him, do not possess the requisite qualifications or practical training and have not passed such an examination as required under clauses (e) and (g).
- (g) that he has not passed such examination as may be specified by the regulations;
- (h) that he has violated the code of conduct specified by the regulations.
- (4) Any person who acts as an insurance agent in contravention of the provision of this Act, shall be liable to a penalty which may extend to ten thousand rupees and any insurer or any person acting on behalf of an insurer, who appoints any person as an insurance agent not permitted to act as such or transacts any insurance business in India through any such person shall be liable to penalty which may extend to one crore rupees.
- (5) The insurer shall be responsible for all the acts and omissions of its agents including violation of code of conduct specified under clause (h) of sub-section (3) and liable to a penalty which may extend to one crore rupees."
- 50. For sections 42A, 42B and 42C of the Insurance Act, the following section shall be substituted, namely:-

Substitution of new section for section 42A, 42B and 42C.

- '42A. (1) No insurer shall, on or after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, appoint any principal agent, chief agent, and special agent and transact any insurance business in India through them.
- (2) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance policy through

Prohibition of insurance business through principal agent, special agent and multilevel marketing

multilevel marketing scheme.

(3) The Authority may, through an officer authorised in this behalf, make a complaint to the appropriate police authorities relating to the entity or persons involved in the multilevel marketing scheme.

Explanation.—For the purpose of this section "multilevel marketing scheme" means any scheme or programme or arrangement or plan (by whatever name called) for the purpose of soliciting and procuring insurance business through persons not authorised for the said purpose with or without consideration of whole or part of commission or remuneration earned through such solicitation and procurement and includes enrolment of persons into a multilevel chain for the said purpose either directly or indirectly."

51. In section 42D of the Insurance Act,—

Amendment of section 42D.

- (i) for the words "licence" and "licence issued", wherever they occur, the words "registration" and "registration made", shall respectively be substituted;
- (ii) in sub-section (1), in clause (a) of the proviso, for the word, brackets and figure "sub-section (4)", the word, brackets and figure "sub-section (3)" shall be substituted;

(iii) in sub-section (3),—

- (a) after the words "directors or partners" the words "or one or more of its officers or other employees so designated by it and in the case of any other person, the chief executive by whatever name called, or one or more of his employees designated by him" shall be inserted;
- (b) for the words, brackets, letters and figures "in clauses (b), (c), (d), (e) and (f) of sub-section (4) of section 42", the words, brackets, letters and figures " in clauses (b), (c), (d), (c) and (g) of sub-section (3) of section 42" shall be substituted;
- (iv) for sub-sections (8) and (9), the following sub-sections, shall be substituted, namely:-
- "(8) Any person who acts as an intermediary or an insurance intermediary without being registered under this section to act as such, shall be liable to a penalty which may extend to ten lakh rupees and any person who appoints as an intermediary or an insurance intermediary or any person not registered to act as such or transacts any insurance business in India through any

such person, shall be liable to a penalty which may extend to one crore rupees.

- (9) Where the person contravening sub-section (8) is a company or a firm, then, without prejudice to any other proceedings which may be taken against the company or firm, every director, manager, secretary or other officer of the company, and every partner of the firm who is knowingly a party to such contravention shall be liable to a penalty which may extend to ten lakh rupees."
- 52. For section 42E of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 42E. Condition for intermediary or insurance intermediary.

"42E. Without prejudice to the provisions contained in this Act, the Authority may, by regulations made in this behalf, specify the requirements of capital, form of business and other conditions, to act as an intermediary or an insurance intermediary."

Substitution of new section for section 43.

53. For section 43 of the Insurance Act, the following section shall be substituted, namely:—

Record of insurance agents.

- "43. (I) Every insurer and every person who acting on behalf of an insurer employs insurance agents shall maintain a record showing the name and address of every insurance agent appointed by him and the date on which his appointment began and the date, if any, on which his appointment ceased.
- (2) The record prepared by the insurer under sub-section (1), shall be maintained as long as the insurance agent is in service and for a period of five years after the cessation of appointment".
- 54. Section 44 of the Insurance Act shall be omitted.

Omission of section 44.

55. For sections 44A and 45 of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 44A and 45.

'44A. For the purposes of ensuring compliance with the provisions of sections 40, 40B and 40C, the Authority may, by notice—

Power to call for information.

(a) require from an insurer such information, certified if so required by an auditor or actuary, as he may consider

necessary;

- (b) require an insurer to submit for his examination at the principal place of business of the insurer in India, any book of account, register or other document, or to supply any statement which may be specified in the notice;
- (c) examine any officer of an insurer on oath, in relation to any such information, book, register, document or statement and the insurer, shall comply with any such requirement within such time as may be specified in the notice.
- 45. (1) No policy of life insurance shall be called in question on any ground whatsoever after the expiry of three years from the date of the policy, i.e., from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later.

Policy not be called in question on ground of misstatement after three years.

(2) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground of fraud:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision is based.

Explanation I.—For the purposes of this sub-section, the expression "fraud" means any of the following acts committed by the insured or by his agent, with the intent to deceive the insurer or to induce the insurer to issue a life insurance policy:

- (a) the suggestion, as a fact of that which is not true and which the insured does not believe to be true;
- (h) the active concealment of a fact by the insured having knowledge or belief of the fact;
 - (c) any other act fitted to deceive; and
- (d) any such act or omission as the law specially declares to be fraudulent.

Explanation II.—Mere silence as to facts likely to affect the assessment of the risk by the insurer is not fraud, unless the circumstances of the case are such that regard being had to them, it is the duty of the insured or his agent, keeping silence to speak, or unless his silence is, in itself, equivalent to speak.

(3) Notwithstanding anything contained in sub-section (2), no insurer shall repudiate a life insurance policy on the ground of fraud if the insured can prove that the mis-statement of or suppression of a material fact was true to the best of his knowledge and belief or that there was no deliberate intention to suppress the fact or that such mis-statement of or suppression of a material fact are within the knowledge of the insurer:

Provided that in case of fraud, the onus of disproving lies upon the beneficiaries, in case the policyholder is not alive.

Explanation.—A person who solicits and negotiates a contract of insurance shall be deemed for the purpose of the formation of the contract, to be the agent of the insurer.

(4) A policy of life insurance may be called in question at any time within three years from the date of issuance of the policy or the date of commencement of risk or the date of revival of the policy or the date of the rider to the policy, whichever is later, on the ground that any statement of or suppression of a fact material to the expectancy of the life of the insured was incorrectly made in the proposal or other document on the basis of which the policy was issued or revived or rider issued:

Provided that the insurer shall have to communicate in writing to the insured or the legal representatives or nominees or assignees of the insured the grounds and materials on which such decision to repudiate the policy of life insurance is based:

Provided further that in case of repudiation of the policy on the ground of misstatement or suppression of a material fact, and not on the ground of fraud, the premiums collected on the policy till the date of repudiation shall be paid to the insured or the legal representatives or nominees or assignees of the insured within a period of ninety days from the date of such repudiation.

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

mis-statement of or suppression of fact shall not be considered material unless it has a direct bearing on the risk undertaken by the insurer, the onus is on the insurer to show that had the insurer been aware of the said fact no life insurance policy would have been issued to the insured.

- (5) Nothing in this section shall prevent the insurer from calling for proof of age at any time if he is entitled to do so, and no policy shall be deemed to be called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal.'.
- 56. Sections 47A and 48 of the Insurance Act shall be omitted.

Omission of sections 47A and 48.

57. For section 48A of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 48A.

"48A. No insurance agent or intermediary or insurance intermediary shall be eligible to be or remain a director in insurance company:

Insurance agent or intermediary or insurance intermediary not to be director in insurance company.

Provided that any director holding office at the commencement of the Insurance Laws (Amendment) Ordinance, 2014 shall not become ineligible to remain a director by reason of this section until the expiry of six months from the date of commencement of the said Ordinance:

Provided further that the Authority may permit an agent or intermediary or insurance intermediary to be on the Board of an insurance company subject to such conditions or restrictions as it may impose to protect the interest of policyholders or to avoid conflict of interest."

58. In section 49 of the Insurance Act, in sub-section (1),—

Amendment of section 49.

- (i) the words, brackets, letters and figures "being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2" shall be omitted;
- (ii) the words and figures "or to the Central Government under section 11 of the Indian Life Insurance Companies Act, 1912" shall be omitted.

59. For sections 52 and 52A of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections 52 and 52A. Prohibition of business on dividing principle.

"52. No insurer shall commence any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the result of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums payable by a policyholder depend wholly or partly on the number of policies becoming claims within certain time-limits:

Provided that nothing in this section shall be deemed to prevent an insurer from allocating bonuses to holders of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise.

52A. (1) If at any time the Authority has reason to believe that an insurer carrying on life insurance business is acting in a manner likely to be prejudicial to the interests of holders of life insurance policies, it may, after giving such opportunity to the insurer to be heard appoint an Administrator to manage the affairs of the insurer under the direction and control of the Authority.

When Administrator for management of insurance business may be appointed.

- (2) The Administrator shall receive such remuneration as the Authority may direct and the Authority may at any time carcel the appointment and appoint some other person as Administrator.".
- 60. In section 52BB of the Insurance Act,—

Amendment of section 52BB.

- (a) in sub-section (2), for the words "the Central Government and the Central Government", the words "the Securities Appellate Tribunal and the Securities Appellate Tribunal" shall be substituted;
- (b) in sub-section (3), for the words "Central Government", the words "Securities Appellate Tribunal", shall be substituted;
- (c) in sub-section (10), in clause (a), the words "or the Central Government" shall be omitted.
- 61. For section 52D of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section

"52D. If at any time, it appears to the Authority that the purpose of the order appointing the Administrator has been fulfilled or that, for any reason, it is undesirable that the order of appointment should remain in force, the Authority may cancel the order and thereupon the Administrator shall be divested of the management of the insurance business which shall, unless otherwise directed by the Authority, again vest in the person in whom it was vested immediately prior to the appointment of the Administrator or any other person appointed by the insurer in this behalf.".

52D. Termination appointment Administrator.

62. In section 52E of the Insurance Act, for the words "Central Government", the word "Authority" shall be substituted.".

Amendment of section 52E.

63. In section 52F of the Insurance Act, for the words "punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both", the words "liable to penalty of rupees ten thousand each day during which such failure continues or rupees ten lakh, whichever is less" shall be substituted.

Amendment of section 52F.

64. In section 52G of the Insurance Act, in sub-section (2), the words "Central Government or" shall be omitted.

Amendment of section 52G.

65. Sections 52H, 52-I, 52J, 52K, 52L, 52M and 52N of the Insurance Act shall be omitted.

Omission of sections 52H, 52-I, 52J, 52K, 52L, 52M and 52N.

66. In section 53 of the Insurance Act,—

Amendment of section 53.

- (a) in sub-section (1), the following Explanation shall be inserted at the end, namely:-
- "Explanation.—For the purpose of sections 53 to 61A, "Tribunal" means the National Company Law Tribunal constituted under sub-section (1) of section 408 of the

Companies Act, 2013.";

- (b) in sub-section (2), in clause (b), sub-clause (i), shall be omitted.
- 67. In section 58 of the Insurance Act, for sub-section (4), the following sub-section shall be substituted, namely:-

Amendment of section 58.

"(4) An order of the Tribunal confirming a scheme under this

18 of 2013.

18 of 2013

section whereby the memorandum of a company is altered with respect to its objects shall as respects the alteration have effect as if it were an order confirmed under section 4 of the Companies Act, 2013, and the provisions of sections 7 and 17 of that Act shall apply accordingly."

68. Section 59 of the Insurance Act shall be omitted.

Omission of section 59.

69. In Part II A of the Insurance Act, for the heading "INSURANCE ASSOCIATION OF INDIA, COUNCILS OF THE ASSOCIATION AND COMMITTEES THEREOF" the following heading shall be substituted, namely:—

Amendment of heading.

"LIFE INSURANCE COUNCIL AND GENERAL INSURANCE COUNCIL AND COMMITTEES THEREOF.".

70. Sections 64A and 64B of the Insurance Act, shall be omitted.

Omission of sections 64A and 64B.

71. For sections 64C and 64D of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 64C and 64D.

"64C. On and from the date of commencement of the Insurance Laws (Amendment) Ordinance, 2014,—

Councils of Life Insurance and General Insurance.

- (a) the existing Life Insurance Council, a representative body of the insurers, who carry on the life insurance business in India; and
- (b) the existing General Insurance Council, a representative body of insurers, who carry on general, health insurance business and re-insurance in India,

shall be deemed to have been constituted as the respective Councils under this Act.

64D. It shall be lawful for any member of the Life Insurance Council or the General Insurance Council to authorise any of its officer to act as the representative of such member at any meeting of the Council concerned.".

Authorisation to represent in Councils.

72. For section 64F of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 64F.

"64F. (1) The Executive Committee of the Life Insurance Council shall consist of the following persons, namely:—

Executive Committees of the Life Insurance Council and the General Insurance Council.

- (a) four representatives of members of the Life Insurance Council elected in their individual capacity by the members in such manner as may be laid down in the bye-laws of the Council;
- (b) an eminent person not connected with insurance business, nominated by the Authority; and
- (c) three persons to represent insurance agents, intermediaries and policyholders respectively as may be nominated by the Authority;
- (d) one representative each from self-help groups and Insurance Co-operative Societies:

Provided that one of the representatives as mentioned in clause (a) shall be elected as the Chairperson of the Executive Committee of the Life Insurance Council.

- (2) The Executive Committee of the General Insurance Council shall consist of the following persons, namely:—
- (a) four representatives of members of the General Insurance Council elected in their individual capacity by the members in such manner as may be laid down in the bye-laws of the Council;
- (b) an eminent person not connected with insurance business, nominated by the Authority; and
- (c) four persons to represent insurance agents, third party administrators, surveyors and loss assessors and policyholders respectively as may be nominated by the Authority:

Provided that one of the representatives as mentioned in clause (a) shall be elected as the Chairperson of the Executive Committee of the General Insurance Council.

(3) If anybody of persons specified in sub-sections (1) and (2) fails to elect any of the members of the Executive Committees of the Life Insurance Council or the General Insurance Council, the Authority may nominate any person to fill the vacancy, and any person so nominated shall be deemed to be a member of the Executive Committee of the Life Insurance Council or the General Insurance Council, as the

case may be, as if he had been duly elected thereto.

- (4) Each of the said Executive Committees may make byelaws for the transaction of any business at any meeting of the said Committee.
- (5) The Life Insurance Council or the General Insurance Council may form such other committees consisting of such persons as it may think fit to discharge such functions as may be delegated thereto.
- (6) The Secretary of the Executive Committee of the Life Insurance Council and of the Executive Committee of the General Insurance Council shall in each case be appointed by the Executive Committee concerned:

Provided that each Secretary appointed by the Executive Committee concerned shall exercise all such powers and do all such acts as may be authorised in this behalf by the Executive Committee concerned.".

73. In section 64G of the Insurance Act, in sub-section (2), for the words "by nomination by the Authority", the words "in such manner as may be laid down in the byelaws of the Council concerned" shall be substituted.

Amendment of section 64G.

74. Section 64-I of the Insurance Act shall be omitted.

Omission of section 64-I.

75. In section 64J of the Insurance Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 64J.

- "(2) For the purpose of enabling it to effectively discharge its functions, the Executive Committee of the Life Insurance Council may collect such fees as may be laid down in the bye-laws made by the Council from the insurers carrying on life insurance business.".
- 76. In section 64L of the Insurance Act, for sub section (2), the following sub-section shall be substituted, namely:—

Amendment of section 64L.

"(2) For the purpose of enabling it to effectively discharge its functions, the Executive Committee of the General Insurance Council may collect such fees as may be laid down in the byelaws made by the Council from the insurers carrying on general insurance business.".

77. In section 64N of the Insurance Act, for the words "the Central Government may prescribe", the words "the Authority may specify" shall be substituted.

Amendment of section 64N.

78. In section 64R of the Insurance Act, in sub-section (1),—

Amendment of section 64R.

- (a) for clause (c), the following clause shall be substituted, namely:—
 - "(c) keep and maintain up to date a copy of list of all insurers who are members of the either Council.".
- (b) in clause (d), for the words "with the previous approval of the Authority make regulations for", the words "make bye laws for" shall be substituted.
- 79. Sections 64S and 64T of the Insurance Act shall be omitted.

Omission of sections 64S and 64T.

80. Sections 64U, 64UA, 64UB, 64UC, 64UD, 64UE, 64UF, 64UG, 64UH, 64UI, 64UI, 64UK and 64UL of the Insurance Act shall be omitted.

Omission of sections 64U, 64UA, 64UB, 64UC, 64UD, 64UE, 64UF, 64UG, 64UH, 64UI, 64UJ, 64UK and 64UL.

81. After section 64UL of the Insurance Act, the following section shall be inserted, namely:—

Insertion of new section 64ULA.

"64ULA. (1) Notwithstanding anything contained in this Part, until the rates, advantage and terms and conditions laid-down by the Advisory Committee under section 64UC are denotified by the Authority with effect from such date as the Authority may by notification in the Official Gazette determine, and the rates, advantages and terms and conditions are decided by the insurer concerned, the rates, advantages and terms and conditions notified by the Advisory Committee shall continue to be in force and shall always be deemed to have been in force and any such rates, advantages and terms and conditions shall be binding on all the insurers.

Transitional provisions.

(2) The Authority shall, in consultation with the Central Government, prepare a scheme for the existing employees of the Tariff Advisory Committee on its dissolution, keeping in view the interests of such employees on such terms and

conditions as it may, by order, determine.

82. For section 64UM of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 64UM. Surveyors or loss assessors.

- 64UM. (1) Save as otherwise provided in this section, no person shall act as a surveyor or loss assessor in respect of general insurance business after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Ordinance,2014, unless he—
- (a) possesses such academic qualifications as may be specified by the regulations made under this Act; and
- (b) is a member of a professional body of surveyors and loss assessors, namely, the Indian Institute of Insurance Surveyors and Loss Assessors:

Provided that in the case of a firm or company, all the partners or directors or other persons, who may be called upon to make a survey or assess a loss reported, as the case may be, shall fulfil the requirements of clauses (a) and (b).

- (2) Every surveyor and loss assessor shall comply with the code of conduct in respect of his duties, responsibilities and other professional requirements, as may be specified by the regulations made under the Act.
- (3) Notwithstanding anything contained in the foregoing provisions, a class or class of persons acting as a licensed surveyor or loss assessor prior to the commencement of the Insurance Laws (Amendment) Ordinance, 2014 shall continue to act as such for such period as may be specified by the regulations made under this Act:

Provided that the surveyor or loss assessor shall, within the period as may be notified by the Authority, satisfy the requirements of clause (a) and clause (b) of sub-section (1), failing which, the surveyor or loss assessor shall be automatically disqualified to act as a surveyor or loss assessor."

(4) No claim in respect of a loss which has occurred in India and requiring to be paid or settled in India equal to or exceeding an amount specified in the regulations by the Authority in value on any policy of insurance, arising or intimated to an insurer at any time after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Ordinance, 2014, shall, unless otherwise directed by the Authority, be admitted for payment or settled by the insurer unless he has obtained a report, on the loss that has occurred, from a person who holds a licence issued under

this section to act as a surveyor or loss assessor (hereafter referred to as "approved surveyor or loss assessor")

Provided that nothing in this sub-section shall be deemed to take away or abridge the right of the insurer to pay or settle any claim at any amount different from the amount assessed by the approved surveyor or loss assessor.

- (5) The Authority may, at any time, in respect of any claim of the nature referred to in sub-section (4), call for an independent report from any other approved surveyor or loss assessor specified by him and such surveyor or loss assessor shall furnish such report to the Authority within such time as may be specified by the Authority or if no time limit has been specified by him within a reasonable time and the cost of, or incidental to, such report shall be borne by the insurer.
- (6) The Authority may, on receipt of a report referred to in sub-section (5), issue such directions as it may consider necessary with regard to the settlement of the claim including any direction to settle a claim at a figure less than, or more than, that at which it is proposed to settle it or it was settled and the insurer shall be bound to comply with such directions:

Provided that where the Authority issues a direction for settling a claim at a figure lower than that at which it has already been settled, the insurer shall be deemed to comply with such direction if he satisfies the Authority that all reasonable steps, with due regard to the question whether the expenditure involved is not disproportionate to the amount required to be recovered, have been taken with due despatch by him:

Provided further that no direction for the payment of a lesser sum shall be made where the amount of the claim has already been paid and the Authority is of opinion that the recovery of the amount paid in excess would cause undue hardship to the insured:

Provided also that nothing in this section shall relieve the insurer from any liability, civil or criminal, to which he would have been subject but for the provisions of this sub-section.

(7) No insurer shall, after the expiry of a period of one year from the commencement of the Insurance Laws (Amendment) Ordinance, 2014 pay to any person any fee or remuneration for surveying, verifying or reporting on a claim

of loss under a policy of insurance unless the person making such survey, verification or report is an approved surveyor or loss assessor.

- (8) Where, in the case of a claim of less than the amount specified in sub-section (4) in value on any policy of insurance it is not practicable for an insurer to employ an approved surveyor or loss assessor without incurring expenses disproportionate to the amount of the claim, the insurer may employ any other person (not being a person disqualified for the time being for being employed as a surveyor or loss assessor) for surveying such loss and may pay such reasonable fee or remuneration to the person so employed as he may think fit.
- (9) The Authority may in respect of any claim of value of less than the amount specified in sub-section (4) on an insurance policy, if the claim has not been or is not proposed to be reported upon by a surveyor or loss assessor, direct that such claim shall be reported upon by an approved surveyor or loss assessor and where the Authority makes such direction, the provisions of sub sections (5) and (6) shall apply in respect of such claim.
- (10) Where, in relation to any class of claims, the Authority is satisfied that it is customary to entrust the work of survey or loss assessment to any person other than a licensed surveyor or loss assessor, or it is not practicable to make any survey or loss assessment, it may, by an order, exempt such class of claims from the operation of this section.
- 83. For sections 64V and 64VA of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 64V and 64VA.

"64V. (1) For the purpose of ascertaining compliance with the provisions of section 64VA, assets shall be valued at value not exceeding their market or realisable value and certain assets may be excluded by the Authority in the manner as may be specified by the regulations made in this behalf.

Assets and liabilities how to be valued.

- (2) A proper value shall be placed on every item of liability of the insurer in the manner as may be specified by the regulations made in this behalf.
 - (3) Every insurer shall furnish to the Authority along with

the returns required to be filed under this Act, a statement, certified by an Auditor, approved by the Authority, in respect of general insurance business or an actuary approved by the Authority in respect of life insurance business, as the case may be, of his assets and liabilities assessed in the manner required by this section as on the 31st day of March of each year within such time as may be specified by the regulations.

64VA. (1) Every insurer and re-insurer shall at all times maintain an excess of value of assets over the amount of liabilities of, not less than fifty per cent. of the amount of minimum capital as stated under section 6 and arrived at in the manner specified by the regulations.

Sufficiency of assets.

- (2) An insurer or re-insurer, as the case may be, who does not comply with subsection (1), shall be deemed to be insolvent and may be wound-up by the court on an application made by the Authority.
- (3) The Authority shall by way of regulation made for the purpose, specify a level of solvency margin known as control level of solvency on the breach of which the Authority shall act in accordance with the provisions of sub-section (4) without prejudice to taking of any other remedial measures as deemed fit:

Provided that if in respect of any insurer the Authority is satisfied that either by reason of an unfavourable claim experience or because of a sharp increase in the volume of new business, or for any other reason, compliance with the provisions of this sub-section shall cause undue hardship to the insurer, it may direct that for such period and subject to such conditions as it may specify, the provisions of this subsection shall apply to that insurer with such modifications provided that such modifications shall not result in the control level of solvency being less than what is stipulated under subsection (1).

- (4) If, at any time, an insurer or re-insurer does not maintain the required control level of solvency margin, he shall, in accordance with the directions issued by the Authority, submit a financial plan to the Authority, indicating a plan of action to correct the deficiency within a specified period not exceeding six months.
- (5) An insurer who has submitted a plan, as required under sub-section (4), the Authority shall propose modifications to

the plan, if the Authority considers the same inadequate, and in such an eventuality, the Authority shall give directions, as may be deemed necessary, including direction in regard to transacting any new business, or, appointment of an administrator or both.

- (6) An insurer or re-insurer, as the case may be, who does not comply with the provisions of sub-section (4) shall be deemed to have made default in complying with the requirements of this section.
- (7) The Authority shall be entitled at any time to take such steps as it may consider necessary for the inspection or verification of the assets and liabilities of any insurer or reinsurer, or for securing the particulars necessary to establish that the requirements of this section have been complied with as on any date, and the insurer or re-insurer, as the case may be, shall comply with any requisition made in this behalf by the Authority, and in the event of any failure to do so within two months from the receipt of the requisition, the insurer or re-insurer, as the case may be, shall be deemed to have made default in complying with the requirements of this section.
- (8) In applying the provisions of sub-section (1) to any insurer or re-insurer, as the case may be, who is a member of a group, the relevant amount for that insurer shall be an amount equal to that proportion of the relevant amount which that group, if considered as a single insurer, would have been required to maintain as the proportion of his share of the risk on each policy issued by the group bears to the total risk on that policy:

Provided that when a group of insurers ceases to be a group, every insurer in that group who continues to carry on any class of insurance business in India shall comply with the requirements of sub-section (1) as if he had not been an insurer in a group at any time:

Provided further that it shall be sufficient compliance of the provisions of the foregoing proviso if the insurer brings up the excess of the value of his assets over the amount of his liabilities to the required amount within a period of six months from the date of cessation of the group:

Provided also that the Authority may, on sufficient cause being shown, extend the said period of six months by such further periods as it may think fit, so, however that the total period may not in any case exceed one year.

- (9) Every insurer shall furnish to the Authority return giving details of solvency margin in such form, time, manner including its authentication as may be specified by the regulations."
- 84. For section 64VC of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 64VC.
Restrictions on opening of new place of business.

"64VC. No insurer shall, after the commencement of the Insurance (Amendment) Act, 1968, open a new place of business or close a place in India or outside India or change otherwise than within the same city, town or village, the location of an existing place of business situated in India or outside India, except in the manner as may be specified by the regulations."

85. PART III and IIIA of the Insurance Act shall be omitted.

Omission of Part III and IIIA. Omission of Part IV.

- **86.** PART IV of the Insurance Act shall be omitted.
- Amendment of section 102.
- 87. In section 102 of the Insurance Act, for the words "not exceeding five lakh rupees for each such failure and punishable with fine", the words "of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less" shall be substituted.
- 88. For sections 103 and 104 of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 103 and 104.

"103. If a person carries on the business of insurance without obtaining a certificate of registration under section 3, he shall be liable to a fine not exceeding rupees twenty-five crores and with imprisonment which may extend to ten years.

Penalty for carrying on insurance business in contravention of section 3.

104. If a person fails to comply with the provisions of section 27, section 27A, section 27B, section 27D and section 27E, he shall be liable to a penalty not exceeding twenty-five crore rupees."

Penalty for contravention of sections 27, 27A, 27B, 27D and 27E.

89. In section 105 of the Insurance Act, for the words "not

Amendment

exceeding two lakh rupees for each such failure", the words "not exceeding one crore rupees" shall be substituted.

of section 105.

90. For sections 105B and 105C of the Insurance Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 105B and 105C.

"105B. If an insurer fails to comply with the provisions of section 32B, section 32C and section 32D, he shall be liable to a penalty not exceeding twenty-five crore rupees.

Penalty for failure to comply with sections 32B, 32C and 32D. Power to adjudicate.

- 105C. (1) For the purpose of adjudication under subsection (2) of section 2CB, sub-section (4) of section 34B sub-section (3) of section 40, sub-section (2) of section 41, subsections (4) and (5) of section 42, sub-sections (8) and (9) of section 42D, section 52Fand section 105B, the Authority, shall appoint any officer not below the rank of a Joint Director or an equivalent officer to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard.
- (2) Upon receipt of the inquiry report from the officer so appointed, the Authority after giving an opportunity of being heard to the person concerned may impose any penalty provided in sections aforesaid.
- (3) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted 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, is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may recommend such penalty as he thinks fit in accordance with the provisions of any of those sections.
- 105D. While recommending the quantum of penalty under section 105C, the adjudicating officer and while imposing such penalty, the Authority shall have due regard to the following factors, namely:—
- Factors to be taken into account by the adjudicating officer.

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

- (b) the amount of loss caused to the policy-holders as a result of the default; and
 - (c) the repetitive nature of default."
- 91. In section 106A of the Insurance Act, in sub-section (2)—

Amendment of section 106A.

- (i) clauses (a), (b) and (f) shall be omitted;
- (ii) in clause (d), the words "or a provident society" shall be omitted.'.
- 92. Sections 107 and 107A of the Insurance Act shall be omitted.

Omission of section 107 and 107A.

93. For section 109 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 109.

"109. No court shall take cognizance of any offence punishable under this Act or any rules or any regulations made thereunder, save on a complaint made by an officer of the Authority or by any person authorised by it.".

Cognizance of offence.

94. For section 110 of the Insurance Act, the following section shall be substituted, namely:—

Substitution of new section for section 110.

"110. (1) Any person aggrieved—

Appeal to Securities Appellate Tribunal.

- (a) by an order of the Authority made on and after the commencement of the Insurance Laws (Amendment) Ordinance, 2014, or under this Act, the rules or regulations made thereunder, or
- (b) by an order made by the Authority by way of adjudication under this Act, may prefer an appeal to the Securities Appellate Tribunal having jurisdiction in the matter.
- (2) Every appeal made under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Authority is received by him and it shall be in such a form and be accompanied by such fees as may be prescribed:

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period of fortyfive days if it is satisfied that there was sufficient cause for not filing it within that period.

- (3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may after giving parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, conforming, modifying or setting aside the order appealed against.
- (4) The Securities Appellate Tribunal shall make available copy of order made by it to the Authority and parties.
- (5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of appeal.
- (6) The procedure for filing and disposing of an appeal shall be such as may be prescribed.
- (7) The provision contained in section 15U, section 15V, section 15W, section 15Y and section 15Z of the Securities and Exchange Board of India Act, 1992 shall apply to the appeals arising out of the provisions of this Act, as they apply to the appeals under the Securities and Exchange Board of India Act, 1992.
- 95. Section 110E of the Insurance Act shall be omitted.

Omission of section 110E.

96. Sections 110G and 110H of the Insurance Act shall be omitted.

Omission of sections 110G and 110H.

97. After section 110H of the Insurance Act, the following section shall be inserted, namely:—

Insertion of new section 110HA.

"110HA. Any penalty imposed by the Authority under this Act shall be recoverable as an arrear of land revenue."

Penalty to be recoverable as arrear of land revenue.

98. In section 111 of the Insurance Act,—

Amendment of section 111.

- (a) in sub-section (1), the words "or provident society" occurring at both the places shall be omitted:
- (b) in sub-section (2), in the proviso, the words "or to a provident society" shall be omitted.

15 of 1992.

99. For section 113 of the Insurance Act, the following section shall be substituted, namely:—

- Substitution of new section for section 113.
 Acquisition of surrender value by policy.
- "113. (1) A policy of life insurance shall acquire surrender value as per the norms specified by the regulations.
- (2) Every policy of life insurance shall contain the formula as approved by the Authority for calculation of guaranteed surrender value of the policy.
- (3) Notwithstanding any contract to the contrary, a policy of life insurance under a non-linked plan which has acquired a surrender value shall not lapse by reason of non-payment of further premiums but shall be kept in force to the extent of paid-up sum insured, calculated by means of a formula as approved by the Authority, and contained in the policy, and the reversionary bonuses that have already been attached to the policy:

Provided that a policy of life insurance under a linked plan shall be kept in force in the manner as may be specified by the regulations.

- (4) The provisions of sub-section (3) shall not apply—
- (i) where the paid-up sum insured by a policy, inclusive of attached bonuses, is less than the amount specified by the Authority or takes the form of annuity of amount less than the amount specified by the Authority; or
- (ii) when the parties after the default has occurred in payment of the premium agree in writing to other arrangement."
- 100. In section 114 of the Insurance Act,—

Amendment of section 114.

- (a) in sub section (2) --
- (i) clause (aa) shall be omitted;
- (ii) after clause (aa) as so omitted, the following clause shall be inserted, namely:-
- "(aaa) the manner of ownership and control of Indian insurance company under sub- clause (b) of clause (7A) of section 2";

- (iii) clause (c) and clause (f) shall be omitted;
- (iv) after clause (l), the following clauses shall be inserted, namely:-
- "(la) the manner of inquiry under sub-section (l) of section 105C:
- (lb) the form in which an appeal may be preferred under subsection (2) and the fee payable in respect of such appeal and the procedure for filing and disposing of an appeal under subsection(6) of section 110;
- (b) in sub-section (3), the words, brackets, figures and letters "or under sub-section (1) of section 64UB and every regulation made under sub-section (3) of section 64UB" shall be omitted.'.
- 101. In section 114A of the Insurance Act, in sub-section (2).—

Amendment of section 114A.

- (i) for clauses (a) and (aa), the following clause shall be substituted, namely:—
- "(a) manner of making application for registration and documents to be accompanied under sub-section (2) of section 3;";
- (ii) for clause (d), the following clause shall be substituted, namely:—
- "(d) such annual fee to the Authority and manner of payment under subsection (1) of section 3A;";
- (iii) after clause (d), the following clauses shall be inserted, namely:—
- "(da) such minimum annuity and other benefits to be secured by the insurer under section 4;
- (daa) determination of preliminary expenses that may be excluded for calculation of the stipulated paid-up equity capital for the insurers under sub-section (1) of section 6;
- (db) such equity capital and such forms of capital including hybrid capital required under sub-section (I) of section 6A;";

- (iv) clause (e) shall be omitted;
- (v) after clause (e), as so omitted, the following clause shall be inserted, namely:—
- "(ea) separation of account of all receipts and payments in respect of each classes and sub-classes of insurance business as required under sub-section (1) and sub-section (2A) of section 10; and its waiver under the said section;";
- (v) in clause (f), for the words, brackets, figures and letter "under sub-section (1A) of section 11", the words, brackets and figures "under sub-section (1) of section 11" shall be substituted;
- (vii) for clause (g), the following clause shall be substituted, namely:—
- "(g) the manner in which an abstract of the report of the actuary to be specified and the form and manner in which the statement referred to in section 13 shall be appended;";
- (viii) after clause (g), the following clauses shall be inserted, namely:-
- "(ga) maintenance of records of policies and claims under clause (c) of sub-section (1) of section 14;
- (gb) manner and form of issuance of policies in electronic form under sub-section (2) of section 14.".'.
- (ix) for clause (h), the following clause shall be substituted, namely:—
- "(h) the fee for procuring a copy of return or any part thereof under subsection (l) of section 20;";
- (x) for clause (i), the following clause shall be substituted, namely:—
- "(i) investment of assets and further provisions regarding investments by an insurer and investment by insurers in certain cases under sections 27, 27A, 27B, 27C and time, manner and other conditions of investment of assets under section 27D;";
 - (xi) for clauses (ia), (ib), (ic), (id) and (ie), the following

clauses shall be substituted, namely:—

- "(ia) the form in which a return giving details of investments made, time and manner including its authentication under section 28;
- (ib) the loans including the loans sanctioned to the fulltime employees of the insurer under clause (a) of sub-section (3) of section 29;
- (ic) the sum to be paid by the insurer to any person under section 31B;
- (id) the obligation of insurer in respect of rural or social or unorganised sector and backward classes under section 32B and 32C;
- (ie) the minimum percentage of insurance business in third party risks of motor vehicles under section 32D;";
- (xii) for clause (j), the following clause shall be substituted, namely:—
- "(j) the minimum information to be maintained by insurers or intermediary or insurance intermediary, as the case may be, in their books, the manner in which such information shall be maintained, the checks and other verifications in that connection and all other matters incidental thereto under subsection (7) of section 33;";
- (xiii) after clause (j), the following clauses shall be inserted, namely:—
- "(ja) the form in which balance-sheets in respect of the insurance business of each of the insurers concerned and the manner in which actuarial reports and abstracts in respect of the life insurance business are to be prepared under clauses (b) and (c) of sub-section (3) of section 35;
- (jb) the manner of assessment of compensation under the proviso to sub-section (4A) of section 37A;
- (jc) the fee to be charged by the insurer under sub-section (3) of section 39;
- (jd) the manner and amount of remuneration or reward to be paid or received by way of commission or otherwise to an insurance agent or an intermediary or insurance intermediary

under section 40;

- (je) the manner and form of expenses of management under sections 40B and 40C.";
 - (xiv) clauses (k) and (l) shall be omitted;
- (xv) for clause (m), the following clause shall be substituted, namely:—
- "(m) the requisite qualifications or practical training or examination to be passed for appointment as an insurance agent under clause (e) of sub-section (3) of section 42 and code of conduct for agents under sub-section (5) of section 42;
 - (xvi) clause (n) shall be omitted;
- (xvii) for clause (o), the following clause shall be substituted, namely:—
- "(o) the code of conduct under clause (h) of sub-section (3) of section 42;";
 - (xviii) clause (p) shall be omitted;
 - (xix) clause (va) shall be omitted;
- (xx) in clause (vb), the words, brackets and figure "subsection (2) of" shall be omitted;
- (xxi) for clause (x), the following clauses shall be substituted, namely:-
- "(x) academic qualifications and code of conduct for surveyors and loss assessors under sub-sections (1) and (2) of section 64UM;
- (xa) the period for which a person may act as a surveyor or loss assessor under sub-section (3) of section 64 UM;".
 - (xxii) clause (w), shall be omitted;
- (xxiii) for clause (y). the following clause shall be substituted, namely:—
- "(y) the manner of exclusion of certain assets under subsection (1), the manner of valuation of liabilities under sub-

section (2) and time for furnishing statement under subsection (3) of section 64V;";

(xxiv) for clause (za), the following clause shall be substituted, namely:—

"(za) the matters specified under sub-section (1) of section 64VA relating to sufficiency of assets;";

(xxv) after clause (zaa), the following clauses shall be inserted, namely:—

"(zab) the form, time, manner including authentication of the return giving details of solvency margin under sub-section (9) of section 64VA;

(zac) the manner of opening and closing places of business under section 64VC;":

(xxvi) after clause (zb), the following clause shall be added, namely:—

"(zba) the norms for surrender value of life insurance policy under subsection (1) of section 113;";

102. In the Insurance Act, the Fifth Schedule, the Sixth Schedule and the Eighth Schedule shall be omitted.

Omission of Fifth, Sixth and Eighth Schedules.

CHAPTER III AMENDMENTS TO THE GENERAL INSURANCE BUSINESS (NATIONALISATON) ACT, 1972

57 of 1972.

103. In the General Insurance Business (Nationalisation) Act, 1972, after section 10A, the following section shall be inserted, namely:—

Insertion of a new section 10 B

"10B. The General Insurance Corporation and the insurance companies specified in section 10A may, raise their capital for increasing their business in rural and social sectors, to meet solvency margin and such other purposes, as the Central Government may empower in this behalf:

Enhancement of equity capital of General Insurance companies

Provided that the shareholding of the Central Government shall not be less than fifty one per cent. at any time.".

57 of 1972.

104. Section 25 of the General Insurance Business Omission of (Nationalisation) Act, 1972 shall be omitted.

Omission of section 25

CHAPTER IV AMENDMENTS TO THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ACT, 1999

41 of 1999.

105. In section 2 of the Insurance Regulatory and Amendment Development Authority Act, 1999, in sub-section (1),— of section 2.

- (i) in clause (b), after the words "Development Authority", the words" of India", shall be inserted;
- (ii) for clause (f), the following clause shall be substituted namely:—
- "(f) "Intermediary" or "insurance intermediary" includes insurance brokers, re-insurance brokers, insurance consultants, corporate agents, third party administrator, surveyors and loss assessors and such other entities, as may be notified by the Authority from time to time."
- 106. In section 3 of the Insurance Regulatory and Amendment Development Authority Act, 1999, in sub-section (I), after the of section 3. words "Development Authority" the words "of India" shall be inserted.
- 41 of 1999

 107. In section 16 of Insurance Regulatory and Development Amendment Authority Act, 1999, in sub-section (1), clause (c) shall be of section 16. omitted.

PRANAB MUKHERJEE,

President.

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



असाधारण

EXTRAORDINARY

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

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नई दिल्ली, बुधवार, दिसम्बर 31, 2014/पौष 10, 1936 (शक)

No. 50] NEW DELHI, WEDNESDAY, DECEMBER 31, 2014/PAUSA 10, 1936 (SAKA)

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

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 31st December, 2014/Pausa 10, 1936 (Saka)

THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT (AMENDMENT) ORDINANCE, 2014

No. 9 of 2014

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

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

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 Right to Fair Compensation and Transparency in Land Acquisition, Rchabilitation and Resettlement (Amendment) Ordinance, 2014.

Short title and commencement.

(2) It shall come into force at once.

Substitution of certain expression throughout the Act.

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

30 of 2013.

Amendment of section 2.

3.In the principal Act, in section 2, -

- (i) in sub-section (1), in clause (b), in sub-clause (i), the words "private hospitals, private educational institutions and" shall be omitted;
- (ii) in sub-section (2), after the second proviso, the following proviso shall be inserted, namely: -

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

Amendment of section 3.

4.In the principal Act, in section 3,-

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

1 of 1956. 18 of 2013.

- (ii) after clause (y), the following clause shall be inserted, namely:-
- '(yy)"private entity" means any entity other than a Government entity or undertaking and includes a proprietorship, partnership, company, corporation, non-profit organisation or other entity under any law for the time being in force.'.

Insertion of new Chapter IIIA.

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

"CHAPTER IIIA

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

Power of appropriate Government to exempt certain projects.

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

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

- (c) affordable housing and housing for the poor people;
- (d) industrial corridors; and
- (e) infrastructure and social infrastructure projects including projects under public private partnership where the ownership of land continues to vest with the Government.".
- 6. In the principal Act, in section 24, in sub-section (2), after the proviso, the following proviso shall be inserted, namely: –

Amendment of section 24.

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

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

Amendment of section 46.

8. In the principal Act, for section 87, the following section shall be substituted, namely: –

Substitution of section 87

"87. Where an offence under this Act has been committed by any person who is or was employed in the Central Government or the State Government, as the case may be, at the time of commission of such alleged offence, no court shall take cognizance of such offence except with the previous sanction of the appropriate Government, in the manner provided in section 197 of the Code of Criminal Procedure."

Offences by Government officials.

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

Amendment of section 101.

10. In the principal Act, in section 105,-

Amendment of section 105

- (i) for sub-section (3), the following sub-section shall be substituted, namely: -
 - "(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 2015.";

2 of 1974

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

Amendment of section 113.

- 11. In the principal Act, in section 113, in sub-section (1), -
 - (i) for the words "the provisions of this Part", the words "the provisions of this Act" shall be substituted;
 - (ii) in the proviso, for the words "a period of two years", the words "a period of five years" shall be substituted.

PRANAB MUKHERJEE, President.

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