

Central Ordinance

2021

1. The Jammu and Kashmir Reorganisation (Amendment) Ordinance, 2021.
2. The Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021.
3. The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021.
4. The Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021.
5. The Indian Medicine Central Council (Amendment) Ordinance, 2021.
6. The Homoeopathy Central Council (Amendment) Ordinance, 2021.
7. The Essential Defence Services Ordinance, 2021.
8. The Narcotic Drugs and Psychotropic Substances (Amendment) Ordinance, 2021
9. The Central Vigilance Commission (Amendment) Ordinance, 2021
10. The Delhi Special Police Establishment (Amendment) Ordinance, 2021

2022

NIL

2023

1. The Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023.

2024

NIL

2025

1. The Manipur Goods and Services (Amendment) Ordinance, 2025.
2. The Manipur Goods and Services (Second Amendment) Ordinance, 2025.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 1]	नई दिल्ली, बृहस्पतिवार, जनवरी 07, 2021/ पौष 17, 1942 (शक)
No. 1]	NEW DELHI, THURSDAY, JANUARY 07, 2021/PAUSHA 17, 1942 (SAKA)

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

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 07th January, 2021/Pausha 17, 1942 (Saka)

THE JAMMU AND KASHMIR REORGANISATION (AMENDMENT) ORDINANCE, 2021

No. 1 of 2021

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

*An Ordinance to amend the Jammu and Kashmir
Reorganisation Act, 2019.*

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 Jammu and
Kashmir Reorganisation (Amendment) Ordinance, 2021.

Short title and
commencement.

(2) It shall come into force at once.

Amendment of
section 13.

2. In section 13 of the Jammu and Kashmir Reorganisation Act, 2019 (hereinafter referred to as the principal Act), after the words, figures and letter “in article 239A”, the words “or any other article containing reference to elected members of the Legislative Assembly of the State” shall be inserted.

34 of 2019.

Amendment of
section 88.

3. In section 88 of the principal Act, for sub-sections (2) to (6), the following sub-sections shall be substituted, namely:-

“(2) The members of the Indian Administrative Service, Indian Police Service and Indian Forest Service for the existing cadre of Jammu and Kashmir, shall be borne and become part of the Arunachal Pradesh, Goa, Mizoram and Union territories cadre, and all future allocations of All India Services Officers for the Union territory of Jammu and Kashmir and Union territory of Ladakh shall be made to Arunachal Pradesh, Goa, Mizoram and Union territories cadre for which necessary modifications may be made in corresponding cadre allocation rules by the Central Government.

(3) The officers so borne or allocated on Arunachal Pradesh, Goa, Mizoram and Union territories cadre shall function in accordance with the rules framed by the Central Government.”.

RAM NATH KOVIND,
President.

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



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 20]

नई दिल्ली, रविवार, अप्रैल 4, 2021/चैत्र 14, 1943 (शक)

No. 20]

NEW DELHI, SUNDAY, APRIL 4, 2021/CHAITRA 14, 1943 (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 April, 2021/Chaitra 14, 1943 (Saka)

THE TRIBUNALS REFORMS (RATIONALISATION AND CONDITIONS OF SERVICE) ORDINANCE, 2021

No. 2 OF 2021

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

*An Ordinance further to amend the Cinematograph
Act, 1952, the Customs Act, 1962, the Airports Authority
of India Act, 1994, the Trade Marks Act, 1999 and the
Protection of Plant Varieties and Farmers' Rights Act,
2001 and certain other Acts.*

WHEREAS The Tribunal Reforms (Rationalisation
and Conditions of Service) Bill, 2021 has been
introduced in the House of the People on the 13th day of
February, 2021;

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

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

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

CHAPTER I

PRELIMINARY

1.(1) This Ordinance may be called the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021.

Short title and commencement.

(2) It shall come into force at once.

Definitions.

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

(a) “notified date” means the date of commencement of this Ordinance;

(b) “Schedule” means the Schedule appended to this Ordinance;

CHAPTER II

AMENDMENTS TO THE CINEMATOGGRAPH ACT, 1952

Amendment of Act 37 of 1952.

3. In the Cinematograph Act, 1952, —

(a) in section 2, clause (h) shall be omitted;

(b) in section 5C,—

(i) for the word “Tribunal”, at both the places where it occurs, the words “High Court” shall be substituted;

(ii) sub-section (2) shall be omitted;

(c) sections 5D and 5DD shall be omitted;

(d) in section 6, the words “or, as the case may be, decided by the Tribunal (but not including any proceeding in respect of any matter which is pending before the Tribunal)” shall be omitted;

(e) in sections 7A and 7C, for the word “Tribunal”, wherever it occurs, the words “High Court” shall be substituted;

(f) in sections 7D, 7E and 7F, the words “the Tribunal,”, wherever they occur, shall be omitted;

(g) in section 8, in sub-section (2), clauses (h), (i), (j), and (k) shall be omitted.

CHAPTER III

AMENDMENTS TO THE COPYRIGHT ACT, 1957

Amendment of
Act 14 of 1957.

3. In the Copyright Act, 1957,—

(a) in section 2,—

(i) clause (aa) shall be omitted;

(ii) clause (fa) shall be re-lettered as clause (faa) and before the clause (faa) as so re-lettered, the following clause shall be inserted, namely:—

‘(fa) “Commercial Court”, for the purposes of any State, means a Commercial Court constituted under section 3, or the Commercial Division of a High Court constituted under section 4, of the Commercial Courts Act, 2015;’;

4 of 2016.

(iii) for clause (u), the following clause shall be substituted, namely:—

‘(u) “prescribed” means,—

(A) in relation to proceedings before a High Court, prescribed by rules made by the High Court; and

(B) in other cases, prescribed by rules made under this Act;’;

(b) in section 6,—

(i) for the words “Appellate Board”, wherever they occur, the words “Commercial Court” shall be substituted;

(ii) the words “constituted under section 11 whose decision thereon shall be final” shall be omitted;

(c) in Chapter II, in the Chapter heading, the words “AND APPELLATE BOARD” shall be omitted;

(d) sections 11 and 12 shall be omitted;

(e) in sections 19A, 23, 31, 31A, 31B, 31C, 31D, 32, 32A and 33A, for the words “Appellate Board”, wherever they occur, the words “Commercial Court” shall be substituted;

(f) in section 50, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(g) in section 53A,—

(i) for the words “Appellate Board”, wherever they occur, the words “Commercial Court” shall be substituted;

(ii) in sub-section (2), the words “and the decision of the Appellate Board in this behalf shall be final” shall be omitted;

(h) in section 54, for the words “Appellate Board”, the words “Commercial Court” shall be substituted;

(i) for section 72, the following section shall be substituted, namely:—

“72. (1) Any person aggrieved by any final decision or order of the Registrar of Copyrights may, within three months from the date of the order or decision, appeal to the High Court.

Appeals against
orders of
Registrar of
Copyrights.

(2) Every such appeal shall be heard by a single Judge of the High Court:

Provided that any such Judge may, if he so thinks fit, refer the appeal at any stage of the proceeding to a Bench of the High Court.

(3) Where an appeal is heard by a single Judge, a further appeal shall lie to a Bench of the High Court within three months from the date of decision or order of the single Judge.

(4) In calculating the period of three months provided for an appeal under this section, the time taken in granting a certified copy of the order or record of the decision appealed against shall be excluded.”;

(j) in sections 74 and 75, the words “and the Appellate Board”, wherever they occur, shall be omitted;

(k) in section 77, the words “and every member of the Appellate Board” shall be omitted;

(l) in section 78, in sub-section (2),—

(i) clauses (cA) and (ccB) shall be omitted;

(ii) in clause (f), the words “and the Appellate Board” shall be omitted.

CHAPTER IV

AMENDMENTS TO THE CUSTOMS ACT, 1962

Amendment of
Act 52 of 1962.

5. In the Customs Act, 1962,—

(a) in section 28E, clauses (ba), (f) and (g) shall be omitted;

(b) in section 28EA, the proviso shall be omitted;

(c) in section 28F, sub-section (1) shall be omitted;

(d) in section 28KA,—

(i) in sub-section (1), for the word “Appellate Authority”, at both the places where they occur, the words “High Court” shall be substituted;

(ii) sub-section (2) shall be omitted;

(e) in section 28L, the words “or Appellate Authority”, wherever they occur, shall be omitted;

(f) in section 28M,—

(i) in the marginal heading, the words “and

Appellate Authority” shall be omitted;

(ii) sub-section (2) shall be omitted.

CHAPTER V

AMENDMENTS TO THE PATENTS ACT, 1970

Amendment of
Act 39 of 1970.

6. In the Patents Act, 1970,—

(a) in section 2, in sub-section (1),—

(i) clause (a) shall be omitted;

(ii) in clause (u), sub-clause (B) shall be omitted;

(b) in section 52, the words “Appellate Board or”, wherever they occur, shall be omitted;

(c) in section 58,—

(i) the words “the Appellate Board or”, wherever they occur, shall be omitted;

(ii) the words “as the case may be” shall be omitted;

(d) in section 59, the words “the Appellate Board or” shall be omitted;

(e) in section 64, in sub-section (1), the words “by the Appellate Board” shall be omitted;

(f) in section 71, for the words “Appellate Board” and “Board”, wherever they occur, the words “High Court” shall be substituted;

(g) in section 76, the words “or Appellate Board” shall be omitted;

(h) in section 113,—

(i) in sub-section (1),—

(A) the words “the Appellate Board or”, wherever they occur, shall be omitted;

(B) the words “as the case may be” shall be omitted;

(ii) in sub-section (3), the words “or the Appellate Board” shall be omitted;

(i) in Chapter XIX, for the Chapter heading, the Chapter heading “APPEALS” shall be substituted;

(j) sections 116 and 117 shall be omitted;

(k) in section 117A, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(l) sections 117B, 117C and 117D shall be omitted;

(m) in section 117E, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(n) sections 117F, 117G and 117H shall be omitted;

(o) in section 151,—

(A) in sub-section (1), the words “or the Appellate Board”, at both the places where they occur, shall be omitted;

(B) in sub-section (3), for the words “the Appellate Board or the courts, as the case may be”, the words “the courts” shall be substituted;

(p) in section 159, in sub-section (2), clauses (xiia), (xiib) and (xiic) shall be omitted.

CHAPTER VI

AMENDMENTS TO THE AIRPORT AUTHORITY OF INDIA ACT, 1994

7. In the Airports Authority of India Act, 1994,—

Amendment of
Act 55 of 1994.

(a) in section 28A, clause (e) shall be omitted;

(b) in section 28E, for the word “Tribunal”, at both the places where it occurs, the words “Central Government” shall be substituted;

(c) sections 28I, 28J and 28JA shall be omitted;

(d) in section 28K,—

(i) in sub-section (1),—

(A) for the words “Tribunal in such form as may be prescribed”, the words “High Court” shall be substituted;

(B) in the proviso, for the word “Tribunal”, the words “High Court” shall be substituted;

(ii) sub-sections (2), (3), (4) and (5) shall be omitted;

(e) section 28L shall be omitted;

(f) in section 28M, the words “or the Tribunal” shall be omitted;

(g) in section 28N, in sub-section (2), for the word “Tribunal”, the words “High Court” shall be substituted;

(h) in section 33, the words “or the Chairperson of the Tribunal” shall be omitted;

(i) in section 41, in sub-section (2), clauses (gvi), (gvii), (gviii) and (gix) shall be omitted.

CHAPTER VII

AMENDMENTS TO THE TRADE MARKS ACT, 1999

Amendment of
Act 47 of 1999.

8. In the Trade Marks Act, 1999,—

(a) in section 2, in sub-section (1), —

(i) clauses (a), (d), (f), (k), (n), (ze) and (zf) shall be omitted;

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

‘(s) “prescribed” means,—

(i) in relation to proceedings before a High Court, prescribed by rules made by the High Court; and

(ii) in other cases, prescribed by rules made under this Act;’;

(b) in section 10, for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(c) in section 26, for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(d) in section 46, in sub-section (3), for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(e) in section 47, —

(i) for the words “Appellate Board”, at both the places where it occurs, the words “High Court” shall be substituted;

(ii) for the word “tribunal”, wherever it occurs, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(f) in section 55, in sub-section (1), for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(g) in section 57, —

(i) for the words “Appellate Board”, wherever it occurs, the words “High Court” shall be substituted;

(ii) for the word “tribunal”, wherever it occurs, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(h) in section 71, in sub-section (3), for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(i) in Chapter XI, for the Chapter heading, the

Chapter heading “APPEALS” shall be substituted;

(j) sections 83, 84, 85, 86, 87, 88, 89, 89A and 90 shall be omitted;

(k) in section 91, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(l) sections 92 and 93 shall be omitted;

(m) for section 94, the following section shall be substituted, namely:—

Bar to appear
before
Registrar.

“94. On ceasing to hold the office, the erstwhile Chairperson, Vice-Chairperson or other Members, shall not appear before the Registrar.”;

(l) sections 95 and 96 shall be omitted;

(m) in section 97, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(n) in section 98, for the words “Appellate Board” and “Board”, wherever they occur, the words “High Court” shall be substituted;

(o) sections 99 and 100 shall be omitted;

(p) in section 113, —

(i) for the words “Appellate Board”, at both the places where they occur, the words “High Court” shall be substituted;

(ii) for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(q) in section 123, the words “and every Member of the Appellate Board” shall be omitted;

(r) in sections 124 and 125, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(s) in section 130, the words “the Appellate Board or” shall be omitted;

(t) in section 141, for the words “Appellate Board”, at both the places where they occur, the words “High Court” shall be substituted;

(u) in section 144, for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(v) in section 157, in sub-section (2),—

(i) clauses (xxxi) and (xxxii) shall be omitted;

(ii) in clause (xxxiii), for the words “Appellate Board”, the words “High Court” shall be substituted.

CHAPTER VIII

AMENDMENTS TO THE GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999

Amendment of
Act 48 of 1999.

9. In the Geographical Indications of Goods
(Registration and Protection) Act, 1999,—

(a) in section 2, in sub-section (1), clauses (a) and (p) shall be omitted;

(b) in section 19, for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(c) in section 23, for the words “and before the Appellate Board before which”, the words “before whom” shall be substituted;

(d) in section 27, —

(i) for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(ii) for the word “tribunal”, wherever it occurs,

the words “Registrar or the High Court, as the case may be,” shall be substituted;

(e) in Chapter VII, for the Chapter heading, the Chapter heading “APPEALS” shall be substituted;

(f) in section 31,—

(i) for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

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

(g) sections 32 and 33 shall be omitted;

(h) in sections 34 and 35, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(i) section 36 shall be omitted;

(j) in sections 48,—

(i) for the words “Appellate Board”, at both the places where it occurs, the words “High Court” shall be substituted;

(ii) for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(k) in sections 57 and 58, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(l) in section 63, the words “the Appellate Board or” shall be omitted;

(m) in section 72, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(n) in section 75, for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(o) in section 87, in sub-section (2), clause (n) shall be omitted.

CHAPTER IX

AMENDMENTS TO THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT, 2001

Amendment of
Act 53 of 2001.

10. In the Protection of Plant Varieties and Farmers' Rights Act, 2001,—

(a) in section 2, —

(i) clauses (d), (n) and (o) shall be omitted;

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

‘(q) “prescribed” means,—

(A) in relation to proceedings before a High Court, prescribed by rules made by the High Court; and

(B) in other cases, prescribed by rules made under this Act;’

(iii) clauses (y) and (z) shall be omitted;

(b) in section 44, the words “or the Tribunal” shall be omitted;

(c) in Chapter VIII, for the Chapter heading, the Chapter heading “APPEALS” shall be substituted;

(d) sections 54 and 55 shall be omitted;

(e) in section 56,—

(i) for the word “Tribunal”, wherever they occur, the words “High Court” shall be substituted;

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

(f) in section 57,—

(i) for the word “Tribunal”, wherever it occurs, the words “High Court” shall be substituted;

(ii) sub-section (5) shall be omitted;

(g) sections 58 and 59 shall be omitted;

(h) in section 89, the words “or the Tribunal” shall be omitted.

CHAPTER X

AMENDMENTS TO THE CONTROL OF NATIONAL HIGHWAYS (LAND AND TRAFFIC) ACT, 2002

11. In the Control of National Highways (Land and Traffic) Act, 2002,— Amendment of Act 13 of 2003.

(a) in section 2,—

(i) clause (a) shall be omitted;

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

‘(da) “Court” means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction;’;

(iii) clause (l) shall be omitted;

(b) in Chapter II, in the Chapter heading, the words “AND TRIBUNALS, ETC.” shall be omitted;

(c) section 5 shall be omitted;

(d) for section 14, the following section shall be substituted, namely:—

Appeals.

“14. An appeal from any order passed, or any action taken, excluding issuance or serving of notices, under sections 26, 27, 28, 36, 37 and 38 by the Highway Administration or an officer authorised on its behalf, as the case may be, shall lie to the

Court.”;

(e) sections 15 and 16 shall be omitted;

(f) in section 17, for the word “Tribunal”, at both the places where it occurs, the word “Court” shall be substituted;

(g) section 18 shall be omitted;

(h) in section 19, for the word “Tribunal”, at both the places where it occurs, the word “Court” shall be substituted;

(i) section 40 shall be omitted;

(j) in section 41,—

(i) the words “or every order passed or decision made on appeal under this Act by the Tribunal” shall be omitted;

(ii) the words “or Tribunal” shall be omitted;

(k) in section 50, in sub-section (2), clause (f) shall be omitted.

CHAPTER XI

AMENDMENTS TO THE FINANCE ACT, 2017

Amendment of
Act 7 of 2017.

12. In the Finance Act, 2017 (hereinafter referred to as the Finance Act),—

(i) for section 184, the following section shall be substituted, namely:—

Qualifications,
appointment,
etc., of
Chairperson and
Members of
Tribunal.

“184. (1) The Central Government may, by notification, make rules to provide for the qualifications, appointment, salaries and allowances, resignation, removal and the other conditions of service of the Chairperson and Members of the Tribunal as specified in the Eighth Schedule:

Provided that a person who has not completed the age of fifty years shall not be eligible for appointment as a Chairperson or Member:

Provided further that the allowances and benefits so payable shall be to the extent as are admissible to a Central Government officer holding the post carrying the same pay:

Provided also that where the Chairperson or Member takes a house on rent, he may be reimbursed a house rent subject to such limits and conditions as may be provided by rules.

(2) The Chairperson and Members of a Tribunal shall be appointed by the Central Government on the recommendation of a Search-cum-Selection Committee (hereinafter referred to as the Committee) constituted under sub-section (3), in such manner as the Central Government may, by rules, provide.

(3) The Search-cum-Selection Committee shall consist of—

(a) the Chief Justice of India or a Judge of Supreme Court nominated by him— Chairperson of the Committee;

(b) two Secretaries nominated by the Government of India — Members;

(c) one Member, who—

(i) in case of appointment of a Chairperson of a Tribunal, shall be the outgoing Chairperson of the Tribunal; or

(ii) in case of appointment of a Member of a Tribunal, shall be the sitting Chairperson of the Tribunal; or

(iii) in case of the Chairperson of the Tribunal seeking re-appointment, shall be a retired Judge of the Supreme Court or a retired Chief Justice of a High Court nominated by the Chief Justice of India:

Provided that, in the following cases, such Member shall always be a retired Judge of the Supreme Court or a retired Chief Justice of a

High Court nominated by the Chief Justice of India, namely:—

(i) Industrial Tribunal constituted by the Central Government under the Industrial Disputes Act, 1947; 14 of 1947.

(ii) Tribunals and Appellate Tribunals constituted under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993; 51 of 1993.

(iii) Tribunals where the Chairperson or the outgoing Chairperson, as the case may be, of the Tribunal is not a retired Judge of the Supreme Court or a retired Chief Justice or Judge of a High Court; and

(iv) such other Tribunals as may be notified by the Central Government in consultation with the Chairperson of the Search-cum-Selection Committee of that Tribunal; and

(d) the Secretary to the Government of India in the Ministry or Department under which the Tribunal is constituted or established — Member-Secretary.

(4) The Chairperson of the Committee shall have the casting vote.

(5) The Member-Secretary of the Committee shall not have any vote.

(6) The Committee shall determine its procedure for making its recommendations.

(7) Notwithstanding anything contained in any judgment, order or decree of any court or in any law for the time being in force, the Committee shall recommend a panel of two names for appointment to the post of Chairperson or Member, as the case may be, and the Central Government shall take a decision on the recommendations of the Committee preferably within three months from the date on which the Committee makes its recommendations to the Government.

(8) No appointment shall be invalid merely by reason of any vacancy or absence in the Committee.

(9) The Chairperson and Member of a Tribunal shall be eligible for re-appointment in accordance with the provisions of this section:

Provided that in making such re-appointment, preference shall be given to the service rendered by such person.

(10) The Central Government shall, on the recommendation of the Committee, remove from office, in such manner as may be provided by rules, any Member, who—

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence which involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such a Member; or

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

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

Provided that where a Member is proposed to be removed on any ground specified in clauses (b) to (e), he shall be informed of the charges against him and given an opportunity of being heard in respect of those charges.

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

(i) “Tribunal” means a Tribunal, Appellate Tribunal or Authority as specified in column (2) of the Eighth Schedule;

(ii) “Chairperson” includes Chairperson, Chairman, President and Presiding Officer of a Tribunal;

(iii) “Member” includes Vice-Chairman, Vice-Chairperson, Vice-President, Account Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member and Technical Member, as the case may be, of a Tribunal.”;

(ii) in section 184 as so substituted, after sub-section (10) and before the *Explanation*, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 26th May, 2017, namely:—

“(11) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force, —

(i) the Chairperson of a Tribunal shall hold office for a term of four years or till he attains the age of seventy years, whichever is earlier;

(ii) the Member of a Tribunal shall hold office for a term of four years or till he attains the age of sixty-seven years, whichever is earlier:

Provided that where a Chairperson or Member is appointed between the 26th day of May, 2017 and the notified date and the term of his office or the age of retirement specified in the order of appointment issued by the Central Government is greater than that which is specified in this section, then, notwithstanding anything contained in this section, the term of office or age of retirement or both, as the case may be, of the Chairperson or Member shall be as specified in his order of appointment subject to a maximum term of office of five years.”.

Amendment of
section 186.

13. Section 186 of the Finance Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Subject to the provisions of sections 184 and 185, neither the salary and allowances nor the other terms and conditions of service of Chairperson, Vice-

Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or, as the case may be, other Authority may be varied to his disadvantage after his appointment.”.

14. In the Finance Act, in the Eighth Schedule, —

Amendment of
Eighth
Schedule.

(i) items 10, 12, 14, and 15 shall be omitted;

(ii) for item 16, the following item shall be substituted, namely:—

(1)	(2)	(3)
16.	National Consumer Disputes Redressal Commission	The Consumer Protection Act, 2019 (35 of 2019)

15. (1) Notwithstanding anything contained in any law for the time being in force, any person appointed as the Chairperson or Chairman or President or Presiding Officer or Vice-Chairperson or Vice-Chairman or Vice-President or Member of the Tribunal, Appellate Tribunal, or, as the case may be, other Authorities specified in the Schedule and holding office as such immediately before the notified date, shall, on and from the notified date, cease to hold such office, and he shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of term of his office or of any contract of service.

Transitional
provisions.

(2) The officers and other employees of the Tribunals, Appellate Tribunals and other Authorities specified in the Schedule appointed on deputation, before the notified date, shall, on and from the notified date, stand reverted to their parent cadre, Ministry or Department.

(3) Any appeal, application or proceeding pending before the Tribunal, Appellate Tribunal or other Authorities specified in the Schedule, other than those pending before the Authority for Advance Rulings under the Income-tax Act, 1961, before the notified date, shall stand transferred to the Court before which it would have been filed had this Ordinance been in force on the date of filing of such appeal or application or initiation of the

43 of 1961.

proceeding, and the Court may proceed to deal with such cases from the stage at which it stood before such transfer, or from any earlier stage, or de novo, as the Court may deem fit.

(4) The balance of all monies received by, or advanced to, the Tribunal, Appellate Tribunal or other Authorities specified in the Schedule and not spent by it before the notified date, shall, on and from the notified date, stand transferred to the Central Government.

(5) All property of whatever kind owned by, or vested in, the Tribunal, Appellate Tribunal or other Authorities specified in the Schedule before the notified date, shall stand transferred to, on and from the notified date, and shall vest in the Central Government.

Power
remove
difficulties.

to **16.** (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by general or special order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Ordinance, as appear to it to be necessary or expedient for removing the difficulty.

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

THE SCHEDULE
(See section 15)

1. Appellate Tribunal under Cinematograph Act, 1952 (37 of 1952).
2. Authority for Advance Rulings under Income-tax Act, 1961 (43 of 1961).
3. Airport Appellate Tribunal under Airports Authority of India Act, 1994 (Act 55 of 1994).
4. Intellectual Property Appellate Board under Trade Marks Act, 1999 (47 of 1999).
5. Plant Varieties Protection Appellate Tribunal under Protection of Plant Varieties and Farmers' Rights Act, 2001 (53 of 2001).

RAM NATH KOVIND,
President.

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



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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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 April, 2021/Chaitra 14, 1943 (Saka)

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ORDINANCE, 2021

NO. 3 OF 2021

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

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

WHEREAS COVID-19 pandemic has impacted businesses, financial markets and economies all over the world, including India, and has impacted the business operations of micro, small and medium enterprises and exposed many of them to financial distress;

AND WHEREAS the Government has taken several measures to mitigate the distress caused by the pandemic, including increasing the minimum amount of default for initiation of corporate insolvency resolution process to one crore rupees, and suspending filing of applications for initiation of corporate insolvency resolution process in respect of the defaults arising during the period of one year beginning from 25th March 2020;

AND WHEREAS such suspension for filing of applications for initiation of corporate insolvency resolution process has ended on 24th March 2021;

AND WHEREAS the country has shown remarkable resilience, be it tackling the pandemic or ensuring economic recovery;

AND WHEREAS micro, small and medium enterprises are critical for India's economy as they contribute significantly to its gross domestic product and provide employment to a sizeable population;

AND WHEREAS it is considered necessary to urgently address the specific requirements of micro, small and medium enterprises relating to the resolution of their insolvency, due to the unique nature of their businesses and simpler corporate structures;

AND WHEREAS it is considered expedient to provide an efficient alternative insolvency resolution process for corporate persons classified as micro, small and medium enterprises under the Insolvency and Bankruptcy Code, 2016, ensuring quicker, cost-effective and value maximising outcomes for all the stakeholders, in a manner which is least disruptive to the continuity of their businesses and which preserves jobs;

AND WHEREAS in order to achieve these objectives, it is considered expedient to introduce a pre-packaged insolvency resolution process for corporate persons classified as micro, small and medium enterprises;

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

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

Short title and commencement.

1. (1) This Ordinance may be called the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021.

(2) It shall come into force at once.

Amendment of section 4.

2. In the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in section 4, after the proviso, the following proviso shall be inserted, namely:—

31 of 2016.

“Provided further that the Central Government may, by notification, specify such minimum amount of default of higher value, which shall not be more than one crore rupees, for matters relating to the pre-packaged insolvency resolution process of corporate debtors under Chapter III-A.”.

3. In section 5 of the principal Act,—

Amendment of
section 5.

(i) after clause (2), the following clause shall be inserted, namely: —

‘(2A) “base resolution plan” means a resolution plan provided by the corporate debtor under clause (c) of sub-section (4) of section 54A;’;

(ii) in clause (5), in sub-clause (b), after the words “corporate insolvency resolution process”, the words “or the pre-packaged insolvency resolution process, as the case may be,” shall be inserted;

(iii) in clause (11), after the words “corporate insolvency resolution process”, the words “or pre-packaged insolvency resolution process, as the case may be” shall be inserted;

(iv) in clause (15), after the words, “process period”, the words “or by the corporate debtor during the pre-packaged insolvency resolution process period, as the case may be,” shall be inserted;

(v) in clause (19), after the words “for the purposes of”, the words and figures “Chapter VI and” shall be inserted;

(vi) after clause (23), the following clauses shall be inserted, namely: —

‘(23A)“preliminary information” means a memorandum submitted by the corporate debtor under clause (b) of sub-section (1) of section 54G;

(23B)“pre-packaged insolvency date” means the date of admission of an application for initiating the pre-packaged insolvency resolution process by the Adjudicating Authority under clause (a) of sub-section (4) of section 54C;

(23C) “pre-packaged insolvency resolution process costs” means—

(a) the amount of any interim finance and the costs incurred in raising such finance;

(b) the fees payable to any person acting as a resolution professional and any expenses incurred by him for conducting the pre-packaged insolvency resolution process during the pre-packaged insolvency resolution process period, subject to sub-section (6) of section 54F;

(c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern pursuant to an order under sub-section (2) of section 54J;

(d) any costs incurred at the expense of the Government to facilitate the pre-packaged insolvency resolution process; and

(e) any other costs as may be specified;

(23D) “pre-packaged insolvency resolution process period” means the period beginning from the pre-packaged insolvency commencement date and ending on the date on which an order under sub-section (1) of section 54L, or sub-section (1) of section 54N, or sub-section (2) of section 54-O, as the case may be, is passed by the Adjudicating Authority;’;

(vii) in clause (25), after the words, brackets and figures “of sub-section (2) of section 25”, the words, figures and letter “or pursuant to section 54K, as the case may be” shall be inserted;

(viii) in clause (27), after the words “corporate insolvency resolution process”, the words “or the pre-packaged insolvency resolution process, as the case may be,” shall be inserted.

Amendment of
section 11.

4. In section 11 of the principal Act,—

(i) in clause (a), after the words “corporate insolvency resolution process”, the words “or a pre-packaged insolvency resolution process” shall be inserted;

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

“(aa) a financial creditor or an operational creditor of a corporate debtor undergoing a pre-packaged insolvency resolution process; or”;

(iii) after clause (b), the following clause shall be inserted, namely:—

“(ba) a corporate debtor in respect of whom a resolution plan has been approved under Chapter III-A, twelve months preceding the date of making of the application; or”.

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

Insertion of new section 11A.

“**11A.** (1) Where an application filed under section 54C is pending, the Adjudicating Authority shall pass an order to admit or reject such application, before considering any application filed under section 7 or section 9 or section 10 during the pendency of such application under section 54C, in respect of the same corporate debtor.

Disposal of applications under section 54C and under section 7 or section 9 or section 10.

(2) Where an application under section 54C is filed within fourteen days of filing of any application under section 7 or section 9 or section 10, which is pending, in respect of the same corporate debtor, then, notwithstanding anything contained in sections 7, 9 and 10, the Adjudicating Authority shall first dispose of the application under section 54C.

(3) Where an application under section 54C is filed after fourteen days of the filing of any application under section 7 or section 9 or section 10, in respect of the same corporate debtor, the Adjudicating Authority shall first dispose of the application under sections 7, 9 or 10.

(4) The provisions of this section shall not apply where an application under section 7 or section 9 or section 10 is filed and pending as on the date of the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021.”.

6. In section 33 of the principal Act, in sub-section (3), after the words, “approved by the Adjudicating Authority”, the words, figures, brackets and letter “under

Amendment of section 33.

section 31 or under sub-section (1) of section 54L,” shall be inserted.

Amendment of section 34.

7. In section 34 of the principal Act, in sub-section (1), after the words and figures, “under Chapter II”, the words, figures and letter “or for the pre-packaged insolvency resolution process under Chapter III-A” shall be inserted.

Insertion of new Chapter III-A.

8. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

‘CHAPTER III-A

PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS

Corporate debtors eligible for pre-packaged insolvency resolution process.

54A.(1) An application for initiating pre-packaged insolvency resolution process may be made in respect of a corporate debtor classified as a micro, small or medium enterprise under sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006. 27 of 2006.

(2) Without prejudice to sub-section (1), an application for initiating pre-packaged insolvency resolution process may be made in respect of a corporate debtor, who commits a default referred to in section 4, subject to the following conditions, that—

(a) it has not undergone pre-packaged insolvency resolution process or completed corporate insolvency resolution process, as the case may be, during the period of three years preceding the initiation date;

(b) it is not undergoing a corporate insolvency resolution process;

(c) no order requiring it to be liquidated is passed under section 33;

(d) it is eligible to submit a resolution plan under section 29A;

(e) the financial creditors of the corporate debtor, not being its related parties, representing such number and such manner as may be specified, have proposed the name of the insolvency professional to be appointed as resolution professional for conducting the pre-packaged

insolvency resolution process of the corporate debtor, and the financial creditors of the corporate debtor, not being its related parties, representing not less than sixty-six per cent. in value of the financial debt due to such creditors, have approved such proposal in such form as may be specified:

Provided that where a corporate debtor does not have any financial creditors, not being its related parties, the proposal and approval under this clause shall be provided by such persons as may be specified;

(f) the majority of the directors or partners of the corporate debtor, as the case may be, have made a declaration, in such form as may be specified, stating, *inter alia*, —

(i) that the corporate debtor shall file an application for initiating pre-packaged insolvency resolution process within a definite time period not exceeding ninety days;

(ii) that the pre-packaged insolvency resolution process is not being initiated to defraud any person; and

(iii) the name of the insolvency professional proposed and approved to be appointed as resolution professional under clause (e);

(g) the members of the corporate debtor have passed a special resolution, or at least three-fourth of the total number of partners, as the case may be, of the corporate debtor have passed a resolution, approving the filing of an application for initiating pre-packaged insolvency resolution process.

(3) The corporate debtor shall obtain an approval from its financial creditors, not being its related parties, representing not less than sixty-six per cent. in value of the financial debt due to such creditors, for the filing of an application for initiating pre-packaged insolvency resolution process, in such form as may be specified:

Provided that where a corporate debtor does not have any financial creditors, not being its related parties, the approval under this sub-section shall be provided by such persons as may be specified.

(4) Prior to seeking approval from financial creditors under sub-section (3), the corporate debtor shall provide such financial creditors with —

(a) the declaration referred to in clause (f) of sub-section (2);

(b) the special resolution or resolution referred to in clause (g) of sub-section (2);

(c) a base resolution plan which conforms to the requirements referred to in section 54K, and such other conditions as may be specified; and

(d) such other information and documents as may be specified.

Duties of resolution professional before initiation of pre-packaged insolvency resolution process.

54B. (1) The insolvency professional, proposed to be appointed as the resolution professional, shall have the following duties commencing from the date of the approval under clause (e) of sub-section (2) of section 54A, namely:—

(a) prepare a report in such form as may be specified, confirming whether the corporate debtor meets the requirements of section 54A, and the base resolution plan conforms to the requirements referred to in clause (c) of sub-section (4) of section 54A;

(b) file such reports and other documents, with the Board, as may be specified; and

(c) perform such other duties as may be specified.

(2) The duties of the insolvency professional under sub-section (1) shall cease, if, —

(a) the corporate debtor fails to file an application for initiating pre-packaged insolvency resolution process within the time period as stated under the declaration referred to in clause (f) of sub-section (2) of section 54A; or

(b) the application for initiating pre-packaged insolvency resolution process is admitted or rejected by the Adjudicating Authority,

as the case may be.

(3) The fees payable to the insolvency professional in relation to the duties performed under sub-section (1) shall be determined and borne in such manner as may be specified and such fees shall form part of the pre-packaged insolvency resolution process costs, if the application for initiation of pre-packaged insolvency resolution process is admitted.

54C. (1) Where a corporate debtor meets the requirements of section 54A, a corporate applicant thereof may file an application with the Adjudicating Authority for initiating pre-packaged insolvency resolution process.

Application to initiate pre-packaged insolvency resolution process.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars, in such manner and accompanied with such fee as may be prescribed.

(3) The corporate applicant shall, along with the application, furnish—

(a) the declaration, special resolution or resolution, as the case may be, and the approval of financial creditors for initiating pre-packaged insolvency resolution process in terms of section 54A;

(b) the name and written consent, in such form as may be specified, of the insolvency professional proposed to be appointed as resolution professional, as approved under clause (e) of sub-section (2) of section 54A, and his report as referred to in clause (a) of sub-section (1) of section 54B;

(c) a declaration regarding the existence of any transactions of the corporate debtor that may be within the scope of provisions in respect of avoidance of transactions under Chapter III or fraudulent or wrongful trading under Chapter VI, in such form as may be specified;

(d) information relating to books of account of the corporate debtor and such other documents relating to such period as may be specified.

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order,—

(a) admit the application, if it is complete; or

(b) reject the application, if it is incomplete:

Provided that the Adjudicating Authority shall, before rejecting an application, give notice to the applicant to rectify the defect in the application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The pre-packaged insolvency resolution process shall commence from the date of admission of the application under clause (a) of sub-section (4).

Time-limit for completion of pre-packaged insolvency resolution process.

54D. (1) The pre-packaged insolvency resolution process shall be completed within a period of one hundred and twenty days from the pre-packaged insolvency commencement date.

(2) Without prejudice to sub-section (1), the resolution professional shall submit the resolution plan, as approved by the committee of creditors, to the Adjudicating Authority under sub-section (4) or sub-section (12), as the case may be, of section 54K, within a period of ninety days from the pre-packaged insolvency commencement date.

(3) Where no resolution plan is approved by the committee of creditors within the time period referred to in sub-section (2), the resolution professional shall, on the day after the expiry of such time period, file an application with the Adjudicating Authority for termination of the pre-packaged insolvency resolution process in such form and manner as may be specified.

Declaration of moratorium and public announcement during pre-packaged insolvency resolution process.

54E. (1) The Adjudicating Authority shall, on the pre-packaged insolvency commencement date, along with the order of admission under section 54C —

(a) declare a moratorium for the purposes referred to in sub-section (1) read with sub-section (3) of section 14, which shall, *mutatis mutandis* apply, to the proceedings under this Chapter;

(b) appoint a resolution professional —

(i) as named in the application, if no disciplinary proceeding is pending against him; or

(ii) based on the recommendation made by the Board, if any disciplinary proceeding is pending against the insolvency professional named in the application.

(c) cause a public announcement of the initiation of the pre-packaged insolvency resolution process to be made by the resolution professional, in such form and manner as may be specified, immediately after his appointment.

(2) The order of moratorium shall have effect from the date of such order till the date on which the pre-packaged insolvency resolution process period comes to an end.

54F. (1) The resolution professional shall conduct the pre-packaged insolvency resolution process of a corporate debtor during the pre-packaged insolvency resolution process period.

Duties and powers of resolution professional during pre-packaged insolvency resolution process.

(2) The resolution professional shall perform the following duties, namely:—

(a) confirm the list of claims submitted by the corporate debtor under section 54G, in such manner as may be specified;

(b) inform creditors regarding their claims as confirmed under clause (a), in such manner as may be specified;

(c) maintain an updated list of claims, in such manner as may be specified;

(d) monitor management of the affairs of the corporate debtor;

(e) inform the committee of creditors in the event of breach of any of the obligations of the Board of Directors or partners, as the case may be, of the corporate debtor, under the provisions of this Chapter and the rules and regulations made thereunder;

(f) constitute the committee of creditors and convene and attend all its meetings;

(g) prepare the information memorandum on the basis of the preliminary information memorandum submitted under section 54G and any other relevant information, in such form and manner as may be specified;

(h) file applications for avoidance of transactions under Chapter III or fraudulent or wrongful trading under Chapter VI, if any; and

(i) such other duties as may be specified.

(3) The resolution professional shall exercise the following powers, namely:—

(a) access all books of accounts, records and information available with the corporate debtor;

(b) access the electronic records of the corporate debtor from an information utility having financial information of the corporate debtor;

(c) access the books of accounts, records and other relevant documents of the corporate debtor available with Government authorities, statutory auditors, accountants and such other persons as may be specified;

(d) attend meetings of members, Board of Directors and committee of directors, or partners, as the case may be, of the corporate debtor;

(e) appoint accountants, legal or other professionals in such manner as may be specified;

(f) collect all information relating to the assets, finances and operations of the corporate debtor for determining the financial position of the corporate debtor and the existence of any transactions that may be within the scope of provisions relating to avoidance of transactions under Chapter III or fraudulent or wrongful trading under Chapter VI, including information relating to —

(i) business operations for the previous two years from the date of pre-packaged insolvency commencement date;

(ii) financial and operational payments for

the previous two years from the date of pre-packaged insolvency commencement date;

(iii) list of assets and liabilities as on the initiation date; and

(iv) such other matters as may be specified;

(g) take such other actions in such manner as may be specified.

(4) From the date of appointment of the resolution professional, the financial institutions maintaining accounts of the corporate debtor shall furnish all information relating to the corporate debtor available with them to the resolution professional, as and when required by him.

(5) The personnel of the corporate debtor, its promoters and any other person associated with the management of the corporate debtor shall extend all assistance and cooperation to the resolution professional as may be required by him to perform his duties and exercise his powers, and for such purposes, the provisions of sub-sections (2) and (3) of section 19 shall, *mutatis mutandis* apply, in relation to the proceedings under this Chapter.

(6) The fees of the resolution professional and any expenses incurred by him for conducting the pre-packaged insolvency resolution process shall be determined in such manner as may be specified:

Provided that the committee of creditors may impose limits and conditions on such fees and expenses:

Provided further that the fees and expenses for the period prior to the constitution of the committee of creditors shall be subject to ratification by it.

(7) The fees and expenses referred to in sub-section (6) shall be borne in such manner as may be specified.

54G. (1) The corporate debtor shall, within two days of the pre-packaged insolvency commencement date, submit to the resolution professional the following information, updated as on that date, in such form and manner as may be specified, namely:—

List of claims and preliminary information memorandum.

(a) a list of claims, along with details of the respective creditors, their security interests and

guarantees, if any; and

(b) a preliminary information memorandum containing information relevant for formulating a resolution plan.

(2) Where any person has sustained any loss or damage as a consequence of the omission of any material information or inclusion of any misleading information in the list of claims or the preliminary information memorandum submitted by the corporate debtor, every person who—

(a) is a promoter or director or partner of the corporate debtor, as the case may be, at the time of submission of the list of claims or the preliminary information memorandum by the corporate debtor; or

(b) has authorised the submission of the list of claims or the preliminary information memorandum by the corporate debtor,

shall, without prejudice to section 77A, be liable to pay compensation to every person who has sustained such loss or damage.

(3) No person shall be liable under sub-section (2), if the list of claims or the preliminary information memorandum was submitted by the corporate debtor without his knowledge or consent.

(4) Subject to section 54E, any person, who sustained any loss or damage as a consequence of omission of material information or inclusion of any misleading information in the list of claims or the preliminary information memorandum shall be entitled to move a court having jurisdiction for seeking compensation for such loss or damage.

Management of
affairs of
corporate debtor.

54H. During the pre-packaged insolvency resolution process period,—

(a) the management of the affairs of the corporate debtor shall continue to vest in the Board of Directors or the partners, as the case may be, of the corporate debtor, subject to such conditions as may be specified;

(b) the Board of Directors or the partners, as the

case may be, of the corporate debtor, shall make every endeavour to protect and preserve the value of the property of the corporate debtor, and manage its operations as a going concern; and

(c) the promoters, members, personnel and partners, as the case may be, of the corporate debtor, shall exercise and discharge their contractual or statutory rights and obligations in relation to the corporate debtor, subject to the provisions of this Chapter and such other conditions and restrictions as may be prescribed.

54-I. (1) The resolution professional shall, within seven days of the pre-packaged insolvency commencement date, constitute a committee of creditors, based on the list of claims confirmed under clause (a) of sub-section (2) of section 54F:

Committee of creditors.

Provided that the composition of the committee of creditors shall be altered on the basis of the updated list of claims, in such manner as may be specified, and any such alteration shall not affect the validity of any past decision of the committee of creditors.

(2) The first meeting of the committee of creditors shall be held within seven days of the constitution of the committee of creditors.

(3) Provisions of section 21, except sub-section (1) thereof, shall, *mutatis mutandis* apply, in relation to the committee of creditors under this Chapter:

Provided that for the purposes of this sub-section, references to the “resolution professional” under sub-sections (9) and (10) of section 21, shall be construed as references to “corporate debtor or the resolution professional”.

54J. (1) Where the committee of creditors, at any time during the pre-packaged insolvency resolution process period, by a vote of not less than sixty-six per cent. of the voting shares, resolves to vest the management of the corporate debtor with the resolution professional, the resolution professional shall make an application for this purpose to the Adjudicating Authority, in such form and manner as may be specified.

Vesting management of corporate debtor with resolution professional.

(2) On an application made under sub-section (1), if the Adjudicating Authority is of the opinion that

during the pre-packaged insolvency resolution process—

(a) the affairs of the corporate debtor have been conducted in a fraudulent manner; or

(b) there has been gross mismanagement of the affairs of the corporate debtor,

it shall pass an order vesting the management of the corporate debtor with the resolution professional.

(3) Notwithstanding anything to the contrary contained in this Chapter, the provisions of—

(a) sub-sections (2) and (2A) of section 14;

(b) section 17;

(c) clauses (e) to (g) of section 18;

(d) sections 19 and 20;

(e) sub-section (1) of section 25;

(f) clauses (a) to (c) and clause (k) of sub-section (2) of section 25; and

(g) section 28,

shall, *mutatis mutandis* apply, to the proceedings under this Chapter, from the date of the order under sub-section (2), until the pre-packaged insolvency resolution process period comes to an end.

Consideration
and approval of
resolution plan.

54K. (1) The corporate debtor shall submit the base resolution plan, referred to in clause (c) of sub-section (4) of section 54A, to the resolution professional within two days of the pre-packaged insolvency commencement date, and the resolution professional shall present it to the committee of creditors.

(2) The committee of creditors may provide the corporate debtor an opportunity to revise the base resolution plan prior to its approval under sub-section (4) or invitation of prospective resolution applicants under sub-section (5), as the case may be.

(3) The resolution plans and the base resolution plan, submitted under this section shall conform to the requirements referred to in sub-sections (1) and (2) of section 30, and the provisions of sub-sections (1), (2) and (5) of section 30 shall, *mutatis mutandis* apply, to

the proceedings under this Chapter.

(4) The committee of creditors may approve the base resolution plan for submission to the Adjudicating Authority if it does not impair any claims owed by the corporate debtor to the operational creditors.

(5) Where —

(a) the committee of creditors does not approve the base resolution plan under sub-section (4); or

(b) the base resolution plan impairs any claims owed by the corporate debtor to the operational creditors,

the resolution professional shall invite prospective resolution applicants to submit a resolution plan or plans, to compete with the base resolution plan, in such manner as may be specified.

(6) The resolution applicants submitting resolution plans pursuant to invitation under sub-section (5), shall fulfil such criteria as may be laid down by the resolution professional with the approval of the committee of creditors, having regard to the complexity and scale of operations of the business of the corporate debtor and such other conditions as may be specified.

(7) The resolution professional shall provide to the resolution applicants, —

(a) the basis for evaluation of resolution plans for the purposes of sub-section (9), as approved by the committee of creditors subject to such conditions as may be specified; and

(b) the relevant information referred to in section 29, which shall, *mutatis mutandis* apply, to the proceedings under this Chapter,

in such manner as may be specified.

(8) The resolution professional shall present to the committee of creditors, for its evaluation, resolution plans which conform to the requirements referred to in sub-section (2) of section 30.

(9) The committee of creditors shall evaluate the resolution plans presented by the resolution professional and select a resolution plan from amongst them.

(10) Where, on the basis of such criteria as may be laid down by it, the committee of creditors decides that the resolution plan selected under sub-section (9) is significantly better than the base resolution plan, such resolution plan may be selected for approval under sub-section (12):

Provided that the criteria laid down by the committee of creditors under this sub-section shall be subject to such conditions as may be specified.

(11) Where the resolution plan selected under sub-section (9) is not considered for approval or does not fulfil the requirements of sub-section (10), it shall compete with the base resolution plan, in such manner and subject to such conditions as may be specified, and one of them shall be selected for approval under sub-section (12).

(12) The resolution plan selected for approval under sub-section (10) or sub-section (11), as the case may be, may be approved by the committee of creditors for submission to the Adjudicating Authority:

Provided that where the resolution plan selected for approval under sub-section (11) is not approved by the committee of creditors, the resolution professional shall file an application for termination of the pre-packaged insolvency resolution process in such form and manner as may be specified.

(13) The approval of the resolution plan under sub-section (4) or sub-section (12), as the case may be, by the committee of creditors, shall be by a vote of not less than sixty-six per cent. of the voting shares, after considering its feasibility and viability, the manner of distribution proposed, taking into account the order of priority amongst creditors as laid down in sub-section (1) of section 53, including the priority and value of the security interest of a secured creditor and such other requirements as may be specified.

(14) While considering the feasibility and viability of a resolution plan, where the resolution plan submitted by the corporate debtor provides for impairment of any claims owed by the corporate debtor, the committee of creditors may require the promoters of the corporate debtor to dilute their shareholding or voting or control rights in the corporate debtor:

Provided that where the resolution plan does not provide for such dilution, the committee of creditors shall, prior to the approval of such resolution plan under sub-section (4) or sub-section (12), as the case may be, record reasons for its approval.

(15) The resolution professional shall submit the resolution plan as approved by the committee of creditors under sub-section (4) or sub-section (12), as the case may be, to the Adjudicating Authority.

Explanation I.—For the removal of doubts, it is hereby clarified that, the corporate debtor being a resolution applicant under clause (25) of section 5, may submit the base resolution plan either individually or jointly with any other person.

Explanation II.—For the purposes of sub-sections (4) and (14), claims shall be considered to be impaired where the resolution plan does not provide for the full payment of the confirmed claims as per the updated list of claims maintained by the resolution professional.

54L. (1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) or sub-section (12) of section 54K, as the case may be, subject to the conditions provided therein, meets the requirements as referred to in sub-section (2) of section 30, it shall, within thirty days of the receipt of such resolution plan, by order approve the resolution plan: Approval of resolution plan.

Provided that the Adjudicating Authority shall, before passing an order for approval of a resolution plan under this sub-section, satisfy itself that the resolution plan has provisions for its effective implementation.

(2) The order of approval under sub-section (1) shall have such effect as provided under sub-sections (1), (3) and (4) of section 31, which shall, *mutatis mutandis* apply, to the proceedings under this Chapter.

(3) Where the Adjudicating Authority is satisfied that the resolution plan does not conform to the requirements referred to in sub-section (1), it may, within thirty days of the receipt of such resolution plan, by an order, reject the resolution plan and pass an order under section 54N.

(4) Notwithstanding anything to the contrary

contained in this section, where the Adjudicating Authority has passed an order under sub-section (2) of section 54J and the resolution plan approved by the committee of creditors under sub-section (4) or sub-section (12), as the case may be, of section 54K, does not result in the change in the management or control of the corporate debtor to a person who was not a promoter or in the management or control of the corporate debtor, the Adjudicating Authority shall pass an order —

(a) rejecting such resolution plan;

(b) terminating the pre-packaged insolvency resolution process and passing a liquidation order in respect of the corporate debtor as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) of section 33; and

(c) declaring that the pre-packaged insolvency resolution process costs, if any, shall be included as part of the liquidation costs for the purposes of liquidation of the corporate debtor.

Appeal against
order under
section 54L.

54M. Any appeal from an order approving the resolution plan under sub-section (1) of section 54L, shall be on the grounds laid down in sub-section (3) of section 61.

Termination of
pre-packaged
insolvency
resolution
process.

54N. (1) Where the resolution professional files an application with the Adjudicating Authority, —

(a) under the proviso to sub-section (12) of section 54K; or

(b) under sub-section (3) of section 54D,

the Adjudicating Authority shall, within thirty days of the date of such application, by an order, —

(i) terminate the pre-packaged insolvency resolution process; and

(ii) provide for the manner of continuation of proceedings initiated for avoidance of transactions under Chapter III or proceedings initiated under section 66 and section 67A, if any.

(2) Where the resolution professional, at any time after the pre-packaged insolvency commencement date, but before the approval of resolution plan under sub-section (4) or sub-section (12), as the case may be, of section 54K, intimates the Adjudicating Authority of the decision of the committee of creditors, approved by a vote of sixty-six per cent. of the voting shares, to terminate the pre-packaged insolvency resolution process, the Adjudicating Authority shall pass an order under sub-section (1).

(3) Where the Adjudicating Authority passes an order under sub-section (1), the corporate debtor shall bear the pre-packaged insolvency resolution process costs, if any.

(4) Notwithstanding anything to the contrary contained in this section, where the Adjudicating Authority has passed an order under sub-section (2) of section 54J and the pre-packaged insolvency resolution process is required to be terminated under sub-section (1), the Adjudicating Authority shall pass an order —

(a) of liquidation in respect of the corporate debtor as referred to in sub-clauses (i), (ii) and (iii) of clause (b) of sub-section (1) of section 33; and

(b) declare that the pre-packaged insolvency resolution process costs, if any, shall be included as part of the liquidation costs for the purposes of liquidation of the corporate debtor.

54-O. (1) The committee of creditors, at any time after the pre-packaged insolvency commencement date but before the approval of resolution plan under sub-section (4) or sub-section (12), as the case may be, of section 54K, by a vote of sixty-six per cent. of the voting shares, may resolve to initiate a corporate insolvency resolution process in respect of the corporate debtor, if such corporate debtor is eligible for corporate insolvency resolution process under Chapter II.

Initiation of corporate insolvency resolution process.

(2) Notwithstanding anything to the contrary contained in Chapter II, where the resolution professional intimates the Adjudicating Authority of the decision of the committee of creditors under sub-section (1), the Adjudicating Authority shall, within thirty days of the date of such intimation, pass an order to —

(a) terminate the pre-packaged insolvency

resolution process and initiate corporate insolvency resolution process under Chapter II in respect of the corporate debtor;

(b) appoint the resolution professional referred to in under clause (b) of sub-section (1) of section 54E as the interim resolution professional, subject to submission of written consent by such resolution professional to the Adjudicatory Authority in such form as may be specified; and

(c) declare that the pre-packaged insolvency resolution process costs, if any, shall be included as part of insolvency resolution process costs for the purposes of the corporate insolvency resolution process of the corporate debtor.

(3) Where the resolution professional fails to submit written consent under clause (b) of sub-section (2), the Adjudicating Authority shall appoint an interim resolution professional by making a reference to the Board for recommendation, in the manner as provided under section 16.

(4) Where the Adjudicating Authority passes an order under sub-section (2) —

(a) such order shall be deemed to be an order of admission of an application under section 7 and shall have the same effect;

(b) the corporate insolvency resolution process shall commence from the date of such order;

(c) the proceedings initiated for avoidance of transactions under Chapter III or proceedings initiated under section 66 and section 67A, if any, shall continue during the corporate insolvency resolution process;

(d) for the purposes of sections 43, 46 and 50, references to “insolvency commencement date” shall mean “pre-packaged insolvency commencement date”; and

(e) in computing the relevant time or the period for avoidable transactions, the time-period for the duration of the pre-packaged insolvency resolution process shall also be included, notwithstanding anything to the contrary contained in sections 43, 46 and 50.

54P. (1) Save as provided under this Chapter, the provisions of sections 24, 25A, 26, 27, 28, 29A, 32A, 43 to 51, and the provisions of Chapters VI and VII of this Part shall, *mutatis mutandis* apply, to the pre-packaged insolvency resolution process, subject to the following, namely:—

Application of provisions of Chapters II, III, VI, and VII to this Chapter.

(a) reference to “members of the suspended Board of Directors or the partners” under clause (b) of sub-section (3) of section 24 shall be construed as reference to “members of the Board of Directors or the partners, unless an order has been passed by the Adjudicating Authority under section 54J”;

(b) reference to “clause (j) of sub-section (2) of section 25” under section 26 shall be construed as reference to “clause (h) of sub-section (2) of section 54F”;

(c) reference to “section 16” under section 27 shall be construed as reference to “section 54E”;

(d) reference to “resolution professional” in sub-sections (1) and (4) of section 28 shall be construed as “corporate debtor”;

(e) reference to “section 31” under sub-section (3) of section 61 shall be construed as reference to “sub-section (1) of section 54L”;

(f) reference to “section 14” in sub-sections (1) and (2) of section 74 shall be construed as reference to “clause (a) of sub-section (1) of section 54E”;

(g) reference to “section 31” in sub-section (3) of section 74 shall be construed as reference to “sub-section (1) of section 54L”.

(2) Without prejudice to the provisions of this Chapter and unless the context otherwise requires, where the provisions of Chapters II, III, VI and VII are applied to the proceedings under this Chapter, references to —

(a) “insolvency commencement date” shall be construed as references to “pre-packaged insolvency commencement date”;

(b) “resolution professional” or “interim resolution professional”, as the case may be, shall be construed as references to the resolution

professional appointed under this Chapter;

(c) “corporate insolvency resolution process” shall be construed as references to “pre-packaged insolvency resolution process”; and

(d) “insolvency resolution process period” shall be construed as references to “pre-packaged insolvency resolution process period.”.

Amendment of section 61.

9. In section 61 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) An appeal against a liquidation order passed under section 33, or sub-section (4) of section 54L, or sub-section (4) of section 54N, may be filed on grounds of material irregularity or fraud committed in relation to such a liquidation order.

(5) An appeal against an order for initiation of corporate insolvency resolution process passed under sub-section (2) of section 54-O may be filed on grounds of material irregularity or fraud committed in relation to such an order.”.

Amendment of section 65.

10. In section 65 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely: —

“(3) If, any person initiates the pre-packaged insolvency resolution process—

(a) fraudulently or with malicious intent for any purpose other than for the resolution of insolvency; or

(b) with the intent to defraud any person,

the Adjudicating Authority may impose upon such person a penalty which shall not be less than one lakh rupees, but may extend to one crore rupees.”.

Insertion of new section 67A.

11. After section 67 of the principal Act, the following section shall be inserted, namely:—

Fraudulent management of corporate debtor during pre-packaged insolvency resolution process.

“**67A.** On and after the pre-packaged insolvency commencement date, where an officer of the corporate debtor manages its affairs with the intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may, on an application by the resolution professional, pass an order imposing upon any such officer, a penalty which

shall not be less than one lakh rupees, but may extend to one crore rupees.”.

12. In section 77 of the principal Act, the *Explanation* shall be omitted.

Omission of *Explanation* to section 77.

13. After section 77 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 77A.

“77A. (1) Where—

Punishment for offences related to pre-packaged insolvency resolution process.

(a) a corporate debtor provides any information in the application under section 54C which is false in material particulars, knowing it to be false or omits any material fact, knowing it to be material; or

(b) a corporate debtor provides any information in the list of claims or the preliminary information memorandum submitted under sub-section (1) of section 54G which is false in material particulars, knowing it to be false or omits any material fact, knowing it to be material; or

(c) any person who knowingly and wilfully authorised or permitted the furnishing of such information under sub-clauses (a) and (b),

such corporate debtor or person, as the case may be, shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to five years or with fine which shall not be less than one lakh rupees, but which may extend to one crore rupees, or with both.

(2) If a director or partner of the corporate debtor, as the case may be, deliberately contravenes the provisions of Chapter III-A, such person shall be punishable with imprisonment for not less than three years, but which may extend to five years, or with fine which shall not be less than one lakh rupees, but which may extend to one crore rupees, or with both.

Explanation.—For the purposes of this section, and sections 75, 76 and 77, an application shall be deemed to be false in material particulars in case the facts

mentioned or omitted in the application, if true, or not omitted from the application as the case may be, would have been sufficient to determine the existence of a default under this Code.”.

Amendment of
section 208.

14. In section 208 of the principal Act,—

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

“(ca) pre-packaged insolvency resolution process under Chapter III-A of Part II;”;

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

“(1A) Where the name of the insolvency professional proposed to be appointed as a resolution professional, is approved under clause (e) of sub-section (2) of section 54A, it shall be the function of such insolvency professional to take such actions as may be necessary to perform his functions and duties prior to the initiation of the pre-packaged insolvency resolution process under Chapter III-A of Part II.”.

Amendment of
section 239.

15. In section 239 of the principal Act, in sub-section (2), after clause (fc), the following clauses shall be inserted, namely:—

“(fd) the form, particulars, manner and fee for making application before the Adjudicating Authority under sub-section (2) of section 54C;

(fe) the conditions and restrictions with which the promoters, members, personnel and partners of the corporate debtor shall exercise and discharge contractual or statutory rights and obligations under clause (c) of section 54H;”.

Amendment of
section 240.

16. In section 240 of the principal Act, in sub-section (2),—

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

“(ea) the other costs under sub-clause (e) of clause (23C) of section 5;”;

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

“(zka) such number of financial creditors and the manner of proposing the insolvency professional, and the form for approving such insolvency professional by the financial creditors under clause (e), the persons who shall provide approval under the proviso to clause (e), the form for making a declaration under clause (f) of sub-section (2) of section 54A;

(zkb) the form for obtaining approval from financial creditors under sub-section (3), and the persons who shall provide approval under the proviso to sub-section (3) of section 54A;

(zkc) the other conditions for the base resolution plan under clause (c), and such information and documents under clause (d) of sub-section (4) of section 54A;

(zkd) the form in which the report is to be prepared under clause (a), such reports and other documents under clause (b), and such other duties under clause (c) of sub-section (1), and the manner of determining the fees under sub-section (3) of section 54B;

(zke) the form for providing written consent of the insolvency professional under clause (b), the form for declaration under clause (c), the information relating to books of account and such other documents relating to such period under clause (d) of sub-section (3) of section 54C;

(zkf) the form and manner for making application for termination of the pre-packaged insolvency resolution process under sub-section (3) of section 54D;

(zkg) the form and manner of making public announcement under clause (c) of sub-section (1) of section 54E;

(zkh) the manner of confirming the list of claims under clause (a), the manner of informing creditors under clause (b), the manner of maintaining an updated list of claims under clause (c), the form and manner of preparing the information memorandum under clause (g), and such other duties under clause (i) of sub-section (2) of section 54F;

(zki) such other persons under clause (c), the manner of appointing accountants, legal or other professionals under clause (e), such other matters under sub-clause (iv) of clause (f) and the manner of taking other actions under clause (g) of sub-section (3) of section 54F;

(zkj) the manner of determination of fees and expenses as may be incurred by the resolution professional under sub-section (6) of section 54F;

(zkk) manner of bearing fees and expenses under sub-section (7) of section 54F;

(zkl) the form and manner of list of claims and preliminary information memorandum under sub-section (1) of section 54G;

(zkm) the conditions under clause (a) of section 54H;

(zkn) the manner of alteration of the composition of the committee of creditors under the proviso to sub-section (1) of section 54I;

(zko) the form and manner of making application under sub-section (1) of section 54J;

(zkp) the manner of inviting prospective resolution applicants under sub-section (5) of section 54K;

(zqq) other conditions under sub-section (6) of section 54K;

(zkr) the conditions under clause (a) and the manner of providing the basis for evaluation of resolution plans and the information referred to in section 29 under sub-section (7) of section 54K;

(zks) the conditions under the proviso to sub-section (10) of section 54K;

(zkt) the manner and conditions under sub-section (11) of section 54K;

(zku) the form and manner of filing application under the proviso to sub-section (12) of section 54K;

(zkv) other requirements under sub-section (13) of section 54K;

(zkw) the form for submission of written consent under clause (b) of sub-section (2) of section 54-O;”.

17. In section 240A of the principal Act, in sub-section (1), after the words “corporate insolvency resolution process”, the words “or pre-packaged insolvency resolution process” shall be inserted. Amendment of section 240A.

RAM NATH KOVIND,
President.

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

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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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 13th April, 2021/Chaitra 23, 1943 (Saka)

THE COMMISSION FOR AIR QUALITY
MANAGEMENT IN NATIONAL CAPITAL REGION
AND ADJOINING AREAS ORDINANCE, 2021

No. 4 OF 2021

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

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

WHEREAS the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 was promulgated by the President on the 28th day of October, 2020; Ord.13 of 2020.

AND WHEREAS the Bill to replace the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 has not been passed;

AND WHEREAS the Commission constituted under section 3 of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 was operational, but ceased to exist on account of lapse of said Ordinance on the 12th day of March, 2021;

AND WHEREAS the continuance of the Commission is necessary for effective management of air quality in the National Capital Region and Adjoining Areas;

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,
application and
commencement.

1. (1) This Ordinance may be called the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2021.

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

(3) It shall come into force at once.

Definitions.

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

(a) “adjoining areas” means the areas in the States of Haryana, Punjab, Rajasthan and Uttar Pradesh, adjoining the National Capital Territory of Delhi and the National

Capital Region, where any source of pollution is located, causing adverse impact on air quality in the National Capital Region;

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

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

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

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

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

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

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

CHAPTER II

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

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

Constitution of
Commission.

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

(a) a full-time Chairperson having special knowledge in

the field of environment protection or pollution control with experience of not less than fifteen years or having administrative experience of not less than twenty-five years;

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

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

(d) one full-time member who is or has been a Joint Secretary to the Government of India;

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

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

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

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

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

(j) one officer in the rank of Joint Secretary to the Government of India to be appointed by the Central Government as a full-time Member-Secretary of the Commission;

(k) three members, being stakeholders from such sectors as agriculture, industry, transport or construction.

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

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

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

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

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

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

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

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

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

(4) The Member-Secretary shall be the Chief Coordinating Officer of the Commission and shall assist the Commission in the discharge of its functions under this Ordinance.

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

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

covered under this Ordinance:

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

Provided further that in case of any conflict in the orders or directions of the Commission and the Governments of the National Capital territory of Delhi and of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh or the Central Pollution Control Board or the State Pollution Control Boards of the States of Punjab, Haryana, Rajasthan and Uttar Pradesh or the Pollution Control Committee of the State of Delhi or any other statutory authority set up or established under a State Act, the order or direction of the Commission shall prevail.

Appointment of
Chairperson,
Members and
Member-
Secretary.

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

Provided that every appointment under this sub-section shall, subject to the provisions of second proviso, be made on the recommendations of a Selection Committee consisting of—

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

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

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

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

(e) Cabinet Secretary— member:

Provided further that in case where the Central Government appoints a serving officer as the Chairperson under clause (a) of sub-section (2) of section 3, or the full-time Member under clause (d) thereof, then, no recommendation of the Selection Committee shall be required.

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

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

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

Resignation
and removal of
Chairperson
and Members.

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

(a) is adjudged an insolvent;

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

(c) is unfit to continue in office by reason of infirmity of mind or body;

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

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

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

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

Provided that no such Member shall be so removed,

unless he has been given an opportunity of being heard.

Term of office
of Chairperson
and Members.

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

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

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

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

Terms and
conditions of
service of
Chairperson and
Members.

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

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

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

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

Procedure to be
regulated by
Commission.

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

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

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

this behalf.

(4) The Commission may, by general or special order, subject to such conditions and limitations, if any, as may be specified therein, delegate to the Chairperson, full-time member, Member-Secretary or any Sub-Committee constituted under section 11, such of its powers under this Ordinance (except the power to make regulations under section 25), as it may deem necessary or expedient for the purpose of protecting and improving the quality of the air in the Nation Capital Region and Adjoining Areas.

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

Sub-Committees and other staff of Commission.

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

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

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

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

- (a) one representative each, not below the rank of Secretary from the department tackling air pollution from the National Capital territory of Delhi and the States of Punjab,

Haryana, Rajasthan and Uttar Pradesh;

(b) one representative each from the State Pollution Control Board or Committee, as the case may be, from National Capital territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

(c) one officer not below the rank of Inspector General of Police or equivalent from the National Capital territory of Delhi and the States of Punjab, Haryana, Rajasthan and Uttar Pradesh;

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

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

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

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

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

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

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

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

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

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

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

CHAPTER III

POWERS AND FUNCTIONS OF THE COMMISSION

12. (1) Notwithstanding anything contained in any other law for the time being in force, the Commission shall have the power to take all such measures, issue directions and entertain complaints, as it deems necessary or expedient for the purpose of protecting and improving the quality of the air in the National Capital Region and Adjoining Areas and shall also have the duty to take all such measures as may become necessary for protecting and improving the quality of the air in the National Capital Region and Adjoining Areas.

Powers and
functions of
Commission.

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

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

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

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

(iv) laying down parameters for emission or discharge of environmental pollutants from various sources whatsoever

that have implications on air quality in the region:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) the provisions of the Code of Criminal Procedure, 1973 shall apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code or, as the case may be, under the corresponding provisions of the said law. 2 of 1974.

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

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

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

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

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

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

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

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

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

sample; and

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

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

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

(6) For removal of doubts, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, and notwithstanding any judgment or order of any court, and subject to the provisions of this Ordinance, the Commission shall have exclusive jurisdiction in respect of matters covered by this Ordinance and no other body or authority or committee or individual shall have any power or jurisdiction in that matter.

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

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

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

- (i) the National Clean Air Programme;
- (ii) the National Air Quality Monitoring Programme;
- (iii) the National Ambient Air Quality Standards;
- (c) provide an effective framework and platform in the National Capital Region and Adjoining Areas for –
 - (i) source identification of air pollutants on a periodic basis;
 - (ii) taking on-ground steps for curbing air pollution;
 - (iii) specific research and development in the field of air pollution;
 - (iv) synergising the energies and efforts of all stakeholders in developing innovative ways to monitor, enforce and research on the issues concerning air pollution;
 - (v) building a network between technical institutions working or researching in the field of air pollution;
 - (vi) international co-operation including sharing of international best practices in the field of air pollution;
 - (vii) training and creating a special work-force for tackling the problem of air pollution;
- (d) provide an effective frame work, action plan and take appropriate steps for –
 - (i) tackling the problem of stubble burning;
 - (ii) monitoring, assessing and inspecting air polluting agents;
 - (iii) increasing plantation;
- (e) monitoring the measures taken by the States to prevent stubble burning;
- (f) undertake and promote research in the field of air pollution;
- (g) spread awareness regarding air pollution among various sections of society and promote awareness of the collective steps that the public may take through publications, the media, seminars and other available means;
- (h) encourage the efforts of non-governmental

organisations and institutions working in the field of air pollution;

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

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

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

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

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

Provided that the provisions of this section shall not apply to any farmer for causing air pollution by stubble burning or mismanagement of agricultural residue.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offence under this Ordinance shall be non-cognizable and shall be triable by the Judicial Magistrate of the First Class who shall not take cognizance of the offence except upon a complaint made by the Commission or any officer authorised by the Commission in this behalf. 2 of 1974.

(3) Where any offence under this Ordinance has been committed by a company, every person who, at the time the

offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

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

Explanation.—For the purposes of sub-sections (3) and (4),—

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

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

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

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

(6) Notwithstanding anything contained in sub-section (5), where an offence under this Ordinance has been committed

by a Department of Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

2 of 1974. (7) For the purpose of this section and the procedure to be followed thereunder, the provisions of the Code of Criminal Procedure, 1973, shall apply.

15. The Commission may impose and collect Environmental Compensation from farmers causing air pollution by stubble burning, at such rate and in such manner, as may be prescribed.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

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

Grants by
Central
Government.

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

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

Accounts and
audit.

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

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Ordinance shall have the same

rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

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

CHAPTER V

MISCELLANEOUS

Appeal.

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

Constitution of special investigation teams.

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

Power of Central Government to issue direction.

20. Notwithstanding anything contained in any other law for the time being in force, but subject to the provision of this Ordinance, the Central Government may issue in writing such direction, as it deems fit, to the Commission or any person, officer or authority authorised by the Commission, and the Commission, person, or authority, as the case may be, shall be bound to comply with such direction.

Power of Central Government to call for information.

21. The Central Government may, from time to time, call for such information and reports from the Commission, as it deems fit and the Commission shall be bound to provide such information and report.

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

Bar of jurisdiction.

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

Protection of action taken in good faith.

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

Members and officers to be public servants.

45 of 1860.

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

Power of Central Government to make rules.

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

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

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

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

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

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

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

(g) the manner of taking samples under clause (a), and the form of notice under sub-clause (i) of clause (c), of sub-section (4) of section 12;

(h) the rate at which, and the manner in which, the Environmental Compensation shall be imposed and collected under section 15;

(i) the form in which annual statement of accounts shall be prepared under sub-section (1) of section 17;

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

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

Power of
Commission to
make
regulations.

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

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

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

(b) the conditions and limitations subject to which power may be delegated by the Commission under sub-section (4), of section 10;

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

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

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

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

27. (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.

Power to
remove
difficulties.

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

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

Ordinance to
have
overriding
effect.

(2) Notwithstanding anything contained in any other law for the time being in force or any judgement or any order of any Court and subject to the provisions of this Ordinance, upon the notification of the constitution of the Commission under section 3, no other individual or body or authority

constituted either under a law enacted by Parliament, or by a State, or appointed or nominated in terms of any judicial order, shall act upon or have jurisdiction in relation to the matters covered by this Ordinance.

Repeal and savings of order constituting Environment Pollution (Prevention and Control) Authority for National Capital Region.

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

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

Savings.

30. Notwithstanding the cessation of the Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020, anything done or any action taken under the Ordinance so ceased, shall be deemed to have been done or taken under the corresponding provisions of this Ordinance. Ord. 13 of 2020.

RAM NATH KOVIND,
President.

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

CORRIGENDA

In the Tribunal Reforms (Rationalisation and Conditions of Service) Ordinance, 2021 (2 of 2021), as Published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 4th April, 2021, Issue No.20,—

- (i) at page 3, in line 7, *for “3.”, read “4.”*;
- (ii) at page 5, in line 22, *for “word”, read “words”*;
- (iii) at page 7, in line 26, *for “AIRPORT”, read “AIRPORTS”*;
- (iv) at page 22, in line 5, *for “(Act 55 of 1994)”, read “(55 of 1994)”*.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

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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 22nd April, 2021 / Vaisakha 2, 1943 (Saka)

THE INDIAN MEDICINE CENTRAL COUNCIL (AMENDMENT) ORDINANCE, 2021

No. 5 of 2021

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

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

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

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

1. (1) This Ordinance may be called the Indian Medicine Council (Amendment) Ordinance, 2021. Short title and commencement.

(2) It shall come into force at once.

Amendment
of section 3A.

2. In section 3A of the Indian Medicine Central Council Act, 1970, in sub-section (2), 48 of 1970.
for the words “within a period of one year”, the words “within a period of two years” shall
be substituted.

RAM NATH KOVIND,
President.

DR. G. NARAYANARAJU,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 29]

नई दिल्ली, रविवार, मई 16, 2021/वैशाख 26, 1943 (शक)

No. 29]

NEW DELHI, SUNDAY, MAY 16, 2021/VAISAKHA 26, 1943 (SAKA)

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

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi the 16th May, 2021 / Vaisakha 26, 1943 (Saka)

THE HOMOEOPATHY CENTRAL COUNCIL (AMENDMENT) ORDINANCE, 2021

No. 6 OF 2021

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

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

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

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

1. (1) This Ordinance may be called the Homoeopathy Central Council (Amendment) Ordinance, 2021.

Short title and
commencement.

(2) It shall come into force at once.

Amendment
of section 3A.

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

RAM NATH KOVIND,
President.

ANOOP KUMAR MENDIRATTA,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 30] नई दिल्ली, बुधवार, जून 30, 2021/आषाढ़ 9, 1943 (शक)
No. 30] NEW DELHI, WEDNESDAY, JUNE 30, 2021/ASADHA 9, 1943 (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 30th June, 2021/Asadha 9, 1943 (Saka)

THE ESSENTIAL DEFENCE SERVICES ORDINANCE, 2021

No. 7 OF 2021

Promulgated by the President in the Seventy-second year of the Republic of India.

An Ordinance to provide for the maintenance of essential defence services so as to secure the security of nation and the life and property of public at large and for matters connected therewith or incidental thereto.

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

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

1. (1) This Ordinance may be called the Essential Defence Services Ordinance, 2021.

Short title, extent and commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

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

(a) “essential defence services” means —

(i) any service in any establishment or undertaking dealing with production of goods or equipment required for any purpose connected with defence;

(ii) any service in any establishment of, or connected with, the armed forces of the Union or in any other establishment or installation connected with defence;

(iii) any service in any section of any establishment connected with defence, on the working of which the safety of such establishment or employee employed therein depends;

(iv) any other service, as the Central Government may, by notification in the Official Gazette, declare to be essential defence services, the cessation of work of which would prejudicially affect the —

(I) production of defence equipment or goods; or

(II) operation or maintenance of any industrial establishment or unit engaged in production of goods or equipment required for any purpose connected with defence; or

(III) repair or maintenance of products connected with defence;

(b) “strike” means the cessation of work, go-slow, sit down, stay-in, token strike, sympathetic strike or mass casual leave, by a body of persons engaged in the essential defence services, acting in combination or a concerted refusal or a refusal under a common understanding of

any number of persons who are or have been so engaged to continue to work or to accept employment, and includes—

- (i) refusal to work overtime, where such work is necessary for the maintenance of the essential defence services;
- (ii) any other conduct which is likely to result in, or results in, cessation or retardation or disruption of work in the essential defence services.

14 of 1947. (2) Words and expressions used herein and not defined but defined in the Industrial Disputes Act, 1947, shall have the meanings respectively assigned to them in that Act.

3. (1) If the Central Government is satisfied that in the—

- (a) public interest; or
- (b) interest of the sovereignty and integrity of India; or
- (c) security of any State; or
- (d) public order; or
- (e) decency; or
- (f) morality,

Power to prohibit strikes in essential defence services.

it is necessary or expedient so to do, it may, by general or special order, prohibit strikes in the essential defence services.

(2) An order made under sub-section (1) shall be published in such manner as the Central Government may deem fit to bring it to the notice of the persons affected by such order.

(3) An order made under sub-section (1) shall be in force for six months, but the Central Government may, by a like order, extend it for any period not exceeding six months, if it is satisfied that in the public interest it is necessary or expedient so to do.

(4) Upon the issue of an order made under sub-section (1) —

- (a) no person engaged in the essential defence services shall go or remain on strike;

- (b) any strike declared or commenced, whether before or after the issue of such order, by persons engaged or employed in such services shall be illegal.

4. Where any order has been issued under sub-section (1) of section 3, any police officer may take all such measures as such officer may deem fit including the use of police force, if he considers necessary, to remove any person, whose presence in any area connected with the—

Removal of persons.

- (a) defence equipment production services; or
- (b) operation or maintenance of any industrial establishment or unit engaged in production or manufacturing of goods or equipment required for any purpose connected with defence; or
- (c) repair or maintenance of products connected with defence,

would be prejudicial to the functioning, safety or maintenance of the essential defence services.

5. (1) Any person —

Dismissal of employees participating in illegal strikes.

- (a) who commences a strike which is illegal under this Ordinance or goes or remains on, otherwise takes part in, any such strike; or
- (b) who instigates or incites other persons to commence, or go or remain on, or otherwise take part in, any such strike,

shall be liable to disciplinary action (including dismissal) in accordance with the same provisions as are applicable for the purpose of taking such disciplinary action (including dismissal) on any other ground under the terms and conditions of service applicable to him in relation to his employment.

(2) Notwithstanding anything contained in any other law for the time being in force or under the terms and conditions of service applicable to any person employed in the essential defence services, before dismissing any person under sub-section (1), no inquiry shall be necessary if the authority empowered to dismiss or remove such person is satisfied that for some reason,

to be recorded by that authority in writing, it is not reasonably practicable to hold such inquiry.

6. Any person, who commences a strike which is illegal under this Ordinance or goes or remains on, or otherwise takes part in, any such strike, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees, or with both.

Penalty for illegal strikes.

7. Any person, who instigates or incites other persons to take part in, or otherwise acts in furtherance of, a strike which is illegal under this Ordinance, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifteen thousand rupees, or with both.

Penalty for instigation, etc.

8. Any person, who knowingly expends or supplies any money in furtherance or support of a strike which is illegal under this Ordinance, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to fifteen thousand rupees, or with both.

Penalty for giving financial aid to illegal strikes.

9.(1) If the Central Government is satisfied that in the—

- (a) public interest; or
- (b) interest of the sovereignty and integrity of India; or
- (c) security of any State; or
- (d) public order; or
- (e) decency; or
- (f) morality,

Power to prohibit lock-outs in any industrial establishment or unit engaged in essential defence services.

it is necessary or expedient so to do, it may by general or special order, prohibit lock-outs in the industrial establishments or units engaged in the essential defence services.

(2) An order made under sub-section (1) shall be published in such manner as the Central Government may deem fit to bring it to the notice of the persons affected by such order.

(3) An order made under sub-section (1) shall be in force for six months, but the Central Government may, by a like order

extend it for any period not exceeding six months, if it is satisfied that in the public interest it is necessary so to do.

(4) Upon the issue of an order under sub-section (1),—

(a) no employer engaged in the essential defence services shall commence any lock-out; and

(b) any lock-out declared or commenced, whether before or after the issue of such order, by any employer engaged in the essential defence services shall be illegal.

(5) Any employer of an industrial establishment or unit engaged in the essential defence services, who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this section, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees, or with both.

10. (1) If the Central Government is satisfied that in the—

(a) public interest; or

(b) interest of the sovereignty and integrity of India; or

(c) security of any State; or

(d) public order; or

(e) decency; or

(f) morality,

Power to prohibit lay-off in any industrial establishment or unit engaged in essential defence services.

it is necessary or expedient so to do, it may, by general or special order, prohibit lay-off, on any ground other than shortage of power or natural calamity, of any workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of any industrial establishment or unit engaged in the essential defence services.

(2) An order made under sub-section (1) shall be published in such manner as the Central Government may deem fit to bring it to the notice of the persons affected by the order.

(3) An order made under sub-section (1) shall be in force for six months, but the Central Government may, by a like order, extend it for any period not exceeding six months, if it is satisfied that in the public interest it is necessary or expedient so to do.

(4) Upon the issue of an order under sub-section (1),—

(a) no employer in relation to an establishment to which such order applies shall lay-off or continue the lay-off any workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of any industrial establishment or unit engaged in the essential defence services, unless such lay-off is due to shortage of power or natural calamity, and any laying-off or continuation of laying-off shall, unless such laying-off or continuation of laying-off is due to shortage of power or natural calamity, be illegal;

(b) a workman whose laying-off is illegal under clause (a) shall be entitled to all the benefits under any law for the time being in force as if he had not been laid-off.

(5) Any employer, of an industrial establishment or unit engaged in the essential defence services, who lays-off or continues the laying-off of any workman shall, if such laying-off or continuation of laying-off is illegal under this section, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees, or with both.

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|------------|---|----------------------------------|
| 2 of 1974. | 11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any police officer may arrest without warrant any person who is reasonably suspected to have committed any offence under this Ordinance. | Power to arrest without warrant. |
| 2 of 1974. | 12. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Ordinance shall be tried in a summary way by any Metropolitan Magistrate or any Judicial Magistrate of the first class, specially empowered in this behalf | Offences to be tried summarily. |

by the State Government and the provisions of sections 262 to 265 (inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that in a case of conviction for any offence in a summary trial under this section, it shall be lawful for such Magistrate to pass a sentence of imprisonment for any term for which such offence is punishable under this Ordinance.

- | | | |
|-------------|--|--|
| 2 of 1974. | <p>13. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Ordinance shall be cognisable and non-bailable.</p> | Cognizance of offences. |
| | <p>14. Any reference in this Ordinance to any law which is not in force in any area and to any authority under such law shall, in relation to that area, be construed as a reference to the corresponding law in force in that area and to the corresponding authority under such corresponding law.</p> | Reference of other laws in certain areas. |
| | <p>15. No suit, prosecution or other legal proceedings shall lie against the Central Government or any officer for anything which is in good faith done or intended to be done under this Ordinance.</p> | Protection of action taken in good faith. |
| 14 of 1947. | <p>16. The provisions of this Ordinance and of any order issued thereunder shall have effect notwithstanding anything inconsistent therewith contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force.</p> | Ordinance to override other laws. |
| | <p>17. In the Industrial Disputes Act, 1947, in section 2, in clause (n), in sub-clause (ia), for the words “or dock”, the words “or dock or any industrial establishment or unit engaged in essential defence services” shall be substituted.</p> | Amendment of Act 14 of 1947. |
| | <p>18. Every notification issued under this Ordinance shall be laid, as soon as may be after it is made or issued, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in such notification or both Houses agree that the notification should not be issued, the notification shall thereafter have effect only in such</p> | Laying of notifications before Parliament. |

modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

RAM NATH KOVIND,
President.

ANOOP KUMAR MENDIRATTA,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 53] नई दिल्ली, बृहस्पतिवार, सितम्बर 30, 2021/आश्विन 8, 1943 (शक)
No. 53] NEW DELHI, THURSDAY, SEPTEMBER 30, 2021/ASVINA 8, 1943 (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 30th September, 2021 / Asvina 8, 1943 (Saka)

THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES (AMENDMENT) ORDINANCE, 2021

No. 8 OF 2021

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

An Ordinance further to amend the Narcotic Drugs and Psychotropic Substances Act, 1985.

WHEREAS the Narcotic Drugs and Psychotropic Substances Act, 1985 was amended by the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2014 which, *inter alia*, introduced a new clause (viiia) in section 2 and renumbered existing clause (viiia) relating to definition of "illicit traffic" as clause (viiib) thereof, but due to oversight the reference of the said clause could not be corrected in section 27A of the said Act, which provides for punishment for financing "illicit traffic" and harbouring offenders;

AND WHEREAS the amendment does not create any new offence but contains a legislative declaration that reference of clause (viiia) always meant the corresponding

renumbered provision in clause (viii**b**) and the amendment seeks to rectify this anomaly by making changes in section 27 of the said Act in order to carry out the legislative intent of the statute, which has always been to read clause (viii**b**) in section 27, and already stood therein;

AND WHEREAS the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2014 came into force on the 1st day of May, 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;

NOW, THEREFORE, in exercise of the powers confirmed 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 Narcotic Drugs and Psychotropic Substances (Amendment) Ordinance, 2021.

(2) It shall be deemed to have come into force on the 1st day of May, 2014.

Amendment
of section
27A of Act 61
of 1985.

2. In section 27A of the Narcotic Drugs and Psychotropic Substances Act, 1985, for the words, brackets, letters and figure "clause (viii**a**) of section 2", the words, brackets, letters and figure "clause (viii**b**) of section 2" shall be substituted.

RAM NATH KOVIND,
President.

ANOOP KUMAR MENDIRATTA,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 54]

नई दिल्ली, रविवार, नवम्बर 14, 2021/ कार्तिक 23, 1943 (शक)

No. 54]

NEW DELHI, SUNDAY, NOVEMBER 14, 2021/KARTIKA 23, 1943 (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 14th November, 2021/Kartika 23, 1943 (Saka)

THE CENTRAL VIGILANCE COMMISSION (AMENDMENT) ORDINANCE, 2021

(No. 9 of 2021)

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

An Ordinance further to amend the Central Vigilance Commission Act, 2003.

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 Central Vigilance Commission (Amendment) Ordinance, 2021.

Short title and
commencement.

(2) It shall come into force at once.

Amendment
of section 25.

2. In section 25 of the Central Vigilance Commission Act, 2003, in clause (d), the following provisos shall be inserted, namely,— 45 of 2003.

“Provided that the period for which the Director of Enforcement holds the office on his initial appointment may, in public interest, on the recommendation of the Committee under clause(a) and for the reasons to be recorded in writing, be extended up to one year at a time:

Provided further that no such extension shall be granted after the completion of a period of five years in total including the period mentioned in the initial appointment;”.

RAM NATH KOVIND,
President.

DR. REETA VASISHTA,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 55] नई दिल्ली, रविवार, नवम्बर 14, 2021/ कार्तिक 23, 1943 (शक)
No. 55] NEW DELHI, SUNDAY, NOVEMBER 14, 2021/KARTIKA 23, 1943 (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 14th November, 2021/Kartika 23, 1943 (Saka)

THE DELHI SPECIAL POLICE ESTABLISHMENT (AMENDMENT) ORDINANCE, 2021

(No. 10 OF 2021)

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

An Ordinance further to amend the Delhi Special Police Establishment Act, 1946.

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 Delhi Special Police Establishment (Amendment) Ordinance, 2021. Short title and commencement.

(2) It shall come into force at once.

25 of 1946.

2. In section 4B of the Delhi Special Police Establishment Act, 1946, in sub-section (1), the following provisos shall be inserted, namely,—

Amendment of section 4.

"Provided that the period for which the Director holds the office on his initial appointment may, in public interest, on the recommendation of the Committee

under sub-section (1) of section 4A and for the reasons to be recorded in writing, be extended up to one year at a time:

Provided further that no such extension shall be granted after the completion of a period of five years in total including the period mentioned in the initial appointment;".

RAM NATH KOVIND,
President.

DR. REETA VASISHTA,
Secretary to the Govt. of India.



भारत का राजपत्र The Gazette of India

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 12]	नई दिल्ली, शुक्रवार, मई 19, 2023/वैशाख 29, 1945 (शक)
No. 12]	NEW DELHI, FRIDAY, MAY 19, 2023/VAISAKHA 29, 1945 (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 19th May, 2023/Vaisakha 29, 1945 (Saka)

THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI (AMENDMENT) ORDINANCE, 2023

NO. 1 OF 2023

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

An Ordinance further to amend the Government of National Capital Territory of Delhi Act, 1991.

WHEREAS Delhi being the Capital of India had been administered by the President of India directly. A *sui generis* status was, however, conferred upon Delhi whereby it was retained as Union territory but with legislature.

AND WHEREAS, Article 239AA came to be introduced into the Constitution of India providing for various functional-administrative networked issues balancing the legitimate participation of the Union Government while conferring democratic existence of a legislature and a Council of Ministers having curtailed powers.

AND WHEREAS, keeping in mind various reports of various Commissions and since Delhi is the capital city of the nation, the Constitution retained certain exclusive and plenary jurisdiction in the Parliament while incorporating Article 239 AA in general and Article 239AA[3][b] read with Article 239AA[7] in particular.

AND WHEREAS, several important National and international institutions and authorities like the President, the Parliament, the Supreme Court, etc. and various constitutional functionaries, etc., as well as all foreign diplomatic missions, international agencies, etc., are located in Delhi. It is also a place to which high dignitaries from other nations pay official visits frequently and it is in the national interest that the highest possible standards should be maintained in the administration and governance of the national capital.

AND WHEREAS, any decision taken or any event in the capital of the nation not only affects the residents of the national capital but also the rest of the country and at the same time has the potential of putting the national reputation, image, credibility and prestige at stake in the international global spectrum.

AND WHEREAS, the national capital belongs to the entire nation and the entire nation is vitally interested in the governance of the national capital. It is in the larger national interest that the people of entire country have some role in the administration of the national capital through the democratically elected Central Government.

AND WHEREAS, Delhi as the national capital has a unique status and certain distinguishing features. There is a need to promote the national interests without compromising on the democratic aspirations of the residents of Delhi.

AND WHEREAS, Article 1 of the Constitution declares that India, that is Bharat, shall be a Union of States and Union territories specified in the First Schedule;

AND, WHEREAS, clause (1) of article 239 empowers the President to administer every Union territory, to such extent as he thinks fit, acting through an administrator appointed by him with such designation as he may specify.

AND, WHEREAS, clause (1) of article 239AA of the Constitution, *inter alia*, mandates that the administrator of the Union territory of Delhi, shall be designated as the Lieutenant Governor of the National Capital Territory of Delhi.

AND WHEREAS, in absence of any Parliamentary legislation dealing with the subject of services as contained in Entry 41 of List II of the Seventh Schedule in the National Capital Territory of Delhi (hereinafter referred to as NCTD) either under Article 239AA[3][b] or under Article 239AA[7] of the Constitution of India, the Hon'ble Supreme Court was required to consider a reference concerning the subject of services in NCTD.

AND WHEREAS, in absence of any specific Parliamentary legislation dealing with the subject of services as contained in Entry 41 of List II of the Seventh Schedule specifically and in detail, the Hon'ble Supreme Court was pleased to pass a judgment dated 11.05.2023 in C.A. No. 2357/2017 in the matter of Govt. of NCT of Delhi Versus Union of India.

AND WHEREAS, in view of its special status as a national capital, a scheme of administration has to be formulated by Parliamentary law, to balance both local and national democratic interests which are at stake, which would reflect the aspirations of the people through joint and collective responsibility of both the Government of India and the Government of National Capital Territory of Delhi (hereinafter referred to as GNCTD).

AND WHEREAS, with a view to give effect to the intent and purpose behind the provisions of Article 239AA, a permanent authority headed by the democratically elected Chief Minister of Delhi along with Chief Secretary, GNCTD the head of the administration representing the will of the officers of GNCTD and the Principal Secretary Home, GNCTD is being introduced to make recommendations to the Lieutenant Governor regarding matters concerning transfer posting, vigilance and other incidental matters. This would statutorily balance the interest of the nation with the interest of Union Territory of Delhi in administration of the capital by giving purposeful meaning to the manifestation of democratic will of people reposed both in the Central Government as well as the GNCTD.

AND WHEREAS with a view to give effect to the very intent and purpose behind the provisions of Article 239AA and retaining the active, meaningful and effective participation of the President of India in national interest, which is also a democratic will of the nation in the matter of governance of its capital in the question of posting, transfer and other allied matters relating to the officers/employees employed in the functioning of the GNCTD and while providing for the democratic governance of the Council of Ministers of the GNCTD, provisions are required to be made.

AND WHEREAS for the purpose giving effect to Article 239(1) read with Article 239AA and in exercise of powers of Article 239(1), Article 239AA[3][b] and Article 239AA[7] of the Constitution of India, which includes the power to supplementing the provisions under Article 239AA including the power to make suitable amendments thereof, an Ordinance namely the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023 is proposed to provide for a comprehensive scheme of administration of services deployed in the functioning of NCTD and other allied issues thereby balancing the local and domestic interests of the people staying in the NCTD with the democratic will of the entire nation reflected through the President of India.

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

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

1. (1) This Ordinance may be called the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023.

Short title
and
commencement.

(2) It shall come into force at once.

1 of 1992.

2. In the Government of National Capital Territory of Delhi Act, 1991 (hereinafter referred to as the principal Act), in section 2, after clause (e), the following clauses shall be inserted, namely:—

Amendment
of section 2.

(ea) "Lieutenant Governor" means the administrator appointed under article 239 of the Constitution for the National Capital Territory of Delhi and designated as Lieutenant Governor by the President;

(eb) "Minister" means a member of the Council of Ministers referred to in clause (4) of article 239AA of the Constitution, by whatever name called and includes a Deputy Minister;'

3. After section 3, the following section shall be inserted, namely:—

Insertion of
new section 3A.

"3A. Notwithstanding anything contained in any judgement, order or decree of any Court, the Legislative Assembly shall have the power to make laws as per Article 239AA except with respect to any matter enumerated in Entry 41 of List II of the Seventh Schedule of the Constitution of India or any matter connected therewith or incidental thereto."

Additional
provisions
with regard to
Legislative
Assembly.

4. In section 41 of the principal Act,—

Amendment
of section 41.

(A) in the marginal heading for the words "act in his discretion", the words "act in his sole discretion" shall be substituted;

(B) in sub-section (1),—

(a) in the opening paragraph, for the words "act in his discretion", the words "act in his sole discretion" shall be substituted;

(b) in clause (ii), the word "; or" shall be inserted at the end;

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

"(iii) in discharge of his functions under Part IV-A of this Act."

(C) in sub-section (2), for the words "not a matter as respects", the words "not a matter in respect of" shall be substituted;

Insertion of
new Part IV-A.

5. After Part IV, the following Part shall be inserted, namely:—

PART IV-A

**PROVISIONS RELATING TO THE MAINTENANCE OF THE DEMOCRATIC
AND ADMINISTRATIVE BALANCE IN THE GOVERNANCE OF NATIONAL
CAPITAL TERRITORY OF DELHI**

Definitions.

45A. In this part, unless the context otherwise requires—

(a) "All India Services" means any service created under the All India Services Act, 1951, except the Indian Police Service;

61 of 1951.

(b) "Authority" means the National Capital Civil Service Authority constituted under sub-section (1) of section 45E;

(c) "Chairperson" means the Chairperson of the Authority appointed under sub-section (2) of section 45D;

(d) "Chief Secretary" means the Chief Secretary of the Government of National Capital Territory of Delhi appointed by the Central Government;

(e) "Council" means the Council of Ministers referred to in clause (4) of article 239AA of the Constitution;

(f) "DANICS" means the Delhi, Andaman and Nicobar, Lakshadweep, Daman and Diu and Dadra and Nagar Haveli (Civil) Services;

(g) "Delhi Subordinate Services Selection Board" means the Delhi Subordinate Services Selection Board constituted by the Government of National Capital Territory of Delhi through its Resolution No. F-3(7)/93-S. III, dated 4th October, 1996 read with Resolution F. 3(24)/DSSSB/2008-S.III/1764, dated 12th May, 2008;

(h) "Department" means a Department or office specified in the Schedule to the Business of Delhi (Allocation) Rules, 1993;

(i) "Group 'A' officers" means the officers serving in the affairs of Government of National Capital Territory of Delhi—

(a) belonging to All India Services, except the officers of the Indian Police Service;

(b) who are classified as Group 'A' officers, under rule 4 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965,

but shall not include the officers who are serving in connection with any subject matter, whether fully or in part connected with Entries 1, 2 and 18 of List II of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II of the Seventh Schedule to the Constitution, insofar as they relate to the Entries 1, 2 and 18, or any other subject matter which is connected therewith or incidental thereto;

(j) "Group 'B' officials" means the Group 'B' officials, as classified under rule 4 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, but shall not include the officials who are serving in connection with any subject matter, whether fully or in part connected with Entries 1, 2 and 18 of List II--State List of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II--State List of the Seventh Schedule to the Constitution in so far as they relate to the Entries 1, 2 and 18, or any other subject matter which is connected therewith or incidental thereto;

(k) "Group 'C' officials" means Group 'C' officials as such classified under rule 4 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, but shall not include the officials who are serving in connection with any

subject matter, whether fully or in part connected with Entries 1, 2 and 18 of List II--State List of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II--State List of the Seventh Schedule to the Constitution insofar as they relate to the Entries 1, 2 and 18, or any other subject matter which is connected therewith or incidental thereto;

(l) "National Capital Territory of Delhi" means the Union Territory of Delhi as defined in clause (1) of article 239AA of the Constitution;

(m) "Member" means a member of the Authority and includes the Chairperson;

(n) "Principal Home Secretary" means the Principal Home Secretary of the Government of National Capital Territory of Delhi appointed by the Central Government;

(o) "Secretary" means a Secretary of the Department to the Government of National Capital Territory of Delhi.

45B. (1) The following shall be the Public Service Commissions for National Capital Territory of Delhi, namely:—

Public Service Commissions for National Capital Territory of Delhi.

(i) the Union Public Service Commission for appointment to the posts in Group 'A' and Group 'B' gazetted posts; and

(ii) The Delhi Subordinate Services Selection Board for appointment to the Group 'B' non-gazetted and Group 'C' non-gazetted posts.

45C. The Central Government may make rules to provide for any one or more of the following matters, in connection with the affairs of the Government of National Capital Territory of Delhi under this Part, namely:—

Power of Central Government to make rules under this Part.

(a) the tenure of office, salaries and allowances, provident funds, pensions, gratuities, leave of absence and other conditions of service of officers and other employees appointed or posted;

(b) the powers, duties and functions of officers and other employees appointed or posted;

(c) the qualifications of candidates for appointment to the posts and the manner of selection for the appointments;

(d) transfer or posting of the officers and other employees posted;

(e) the procedure to be followed in imposing any penalty, suspension pending departmental inquiries before the imposition of such penalty and the authority by whom such suspension or penalty may be ordered; and the officer or authority to whom an appeal or revision shall lie;

(f) any other matter which is incidental to or necessary for the purpose of regulating the appointment and conditions of service of persons appointed to services and posts; and

(g) any other matter for which, in the opinion of the Central Government, provisions to be made by rules.

45D. Notwithstanding anything contained in any other law for the time being in force, any authority, board, commission or any statutory body, by whatever name it may be called, or any office bearer or member thereof, constituted or appointed by or under any law for the time being in force, in and for the National Capital Territory of Delhi, shall be constituted or appointed or nominated by the President.

Constitution of authorities, boards, commissions or statutory bodies.

45E. (1) There shall be an Authority to be known as the National Capital Civil Service Authority to exercise the powers conferred on, and discharge the functions assigned to it under this Part.

Constitution of National Capital Civil Service Authority.

(2) The Authority, referred to in sub-section (1), shall consist of the following Members, namely:—

(a) the Chief Minister of Government of National Capital Territory of Delhi, who shall be the Chairperson of the Authority, *ex officio*;

(b) the Chief Secretary of Government of National Capital Territory of Delhi, Member, *ex officio*.

(c) the Principal Home Secretary, Government of National Capital Territory of Delhi, who shall be the Member Secretary to the Authority, *ex officio*.

(3) All matters required to be decided by the Authority shall be decided by majority of votes of the members present and voting.

(4) All recommendations of the Authority shall be authenticated by the Member Secretary.

(5) The head office of the Authority shall be at Delhi.

Meetings of
National
Capital Civil
Service
Authority.

45F. (1) The National Capital Civil Service Authority shall meet at such time and place as the Member Secretary may decide with approval of the Chairperson of the Authority, as and when so required.

(2) The Chairperson of the Authority shall preside over the meetings of the Authority.

(3) The quorum for the meeting of the Authority shall be of two members.

Appointment
of officers
and other
staff of
National
Capital Civil
Service
Authority.

45G. (1) The Central Government, in consultation with the Authority, shall determine the nature and the categories of officers and other employees required to assist the Authority in the discharge of its functions and provide the Authority with such officers and employees, as it may deem fit.

(2) The officers and other employees of the Authority shall discharge their duties and functions under the general superintendence and control of the Authority.

(3) The salaries, allowances and conditions of service of the officers and other employees appointed under sub-section (1) shall be by rules made by the Central Government.

Powers and
functions of
National
Capital Civil
Service
Authority.

45H. (1) Notwithstanding anything contained in any law for the time being in force, the National Capital Civil Service Authority shall have the responsibility to recommend the transfers and postings of all the Group 'A' officers and officers of DANICS serving in the affairs of the Government of National Capital Territory of Delhi but not officers serving in connection with any subject matter, either fully or in part, connected with Entries 1, 2, and 18 of List II- State List of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II- State List of the Seventh Schedule to the Constitution in so far as they relate to the entries 1, 2, and 18, or any other subject matter which is connected therewith or incidental thereto, to the Lieutenant Governor:

Provided that Authority may, if it deems appropriate, by way of a recommendation, delegate the responsibility to any other authority or department of the Government of National Capital Territory of Delhi.

(2) The National Capital Civil Service Authority shall have the responsibility to recommend for all matters connected with and falling under the subject of vigilance and non-vigilance matters for the purpose of disciplinary proceedings and prosecution sanctions against all the Group 'A' officers, including the officers of the All India Services and DANICS, serving in the affairs of the Government of National Capital Territory of Delhi but not officers serving in connection with any subject matter,

either fully or in part, connected with Entries 1, 2, and 18 of List II-State List of the Seventh Schedule to the Constitution, and Entries 64, 65 and 66 of List II-State List of the Seventh Schedule to the Constitution in so far as they relate to the entries 1, 2, and 18, or any other subject matter which is connected therewith or incidental thereto, to the Lieutenant Governor:

Provided that the Authority may, if it deems appropriate, by way of a recommendation, delegate the responsibility in respect to such officers serving in the affairs of the Government of National Capital Territory of Delhi to an officer of All India Services.

(3) The Lieutenant Governor, after the receipt of such recommendation under sub-section (1) or sub-section (2) of this section, may pass appropriate orders giving effect to the recommendation made:

Provided that the Lieutenant Governor, before passing appropriate orders on such recommendation, may ask for any relevant material regarding the Group 'A' officers, including the officers of the All India Services and DANICS, serving in the affairs of the Government of National Capital Territory of Delhi:

Provided further that in case the Lieutenant Governor differs with the recommendation made, whether based upon the material so called for or otherwise, the Lieutenant Governor may, for reasons to be recorded in writing, return the recommendation to the Authority for reconsideration by the Authority:

Provided also that in case of difference of opinion, the decision of the Lieutenant Governor shall be final.

(4) Without prejudice to generality of the provisions contained in sub-section (1), the National Capital Civil Service Authority shall—

(a) make recommendations for—

- (i) stability of tenure of posting of officers and other employees;
- (ii) rotational transfers and postings from sensitive to non-sensitive posts and *vice-versa*;
- (iii) determining suitability of officer for posting as Head of the Department;
- (iv) transfers and postings of all officers and other employees serving in the affairs of the Government of National Capital Territory of Delhi;

(b) make policy insofar as it relates to—

- (i) the capacity building of the officers and other employees serving in the affairs of the Government of National Capital Territory of Delhi;
- (ii) ensuring effectiveness in public services delivery in the Government of National Capital Territory of Delhi;
- (iii) ensuring good governance and e-governance in public administration in the Government of National Capital Territory of Delhi;
- (iv) ensuring greater transparency in the administration of the Government of National Capital Territory of Delhi;
- (v) ensuring the presence of a citizen centric administration in the Government of National Capital Territory of Delhi; and
- (vi) any other matter connected therewith or incidental thereto.

45-I. (1) The Authority shall furnish to the Central Government and the Government of the National Capital Territory of Delhi an annual report containing such details of the steps taken, proposals made and other measures undertaken by it in pursuance of its functions, in such form and manner as may be prescribed.

Annual report.

(2) The Central Government shall cause the annual report furnished under sub-section (1) to be laid, as soon as may be after it is received, 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.

(3) The Government of National Capital Territory of Delhi shall cause the annual report furnished under sub-section (1) to be laid, as soon as may be after it is received, before the Legislative Assembly of National Capital Territory of Delhi within a total period of thirty days while it is in session, or in its forthcoming session.

Disposal of
matters by
Minister.

45J. (1) The Minister in-charge may, by means of standing orders, give such directions as deems thinks fit for the disposal of proposals or matters in his Department:

Provided that no such standing order shall be issued in contravention of the provisions of the Constitution or any other law for the time being in force including the provisions of this Act or Rules made thereunder or the statutory powers conferred under any law upon the officials, and financial powers delegated under the Delegation of the Financial Powers Rules, 1978.

(2) The Minister, in consultation with the Secretary concerned, may issue standing orders, concerning the matters or classes of matters which are to be brought to the personal notice of the Minister:

Provided that no such standing order shall be issued in contravention of the provisions of the Constitution or any other law for the time being in force including the provisions of this Act or Rules made thereunder or the statutory powers conferred under any law upon the officials, and financial powers delegated under the Delegation of the Financial Powers Rules, 1978.

(3) The copies of directions and standing orders shall be forwarded to the Lieutenant Governor and the Chief Minister.

(4) Notwithstanding anything contained in sub-sections (1) and (2), in addition to the proposals or matters required to be placed before the Lieutenant Governor under any law for the time being in force, the following proposals or matters shall be submitted to the Lieutenant Governor and the Chief Minister through the Chief Secretary for their opinion, before issuing any orders thereon, namely:—

(i) matters which affect or are likely to affect the peace and tranquility of the National Capital Territory of Delhi;

(ii) matters which affect or are likely to affect the interest of any particular community, the Scheduled Castes, the Scheduled Tribes and the socially and educationally backward classes or any other class of persons;

(iii) matters which affect the relations of the Government of National Capital Territory of Delhi with the Central Government, or any State Government, the Supreme Court of India or the High Court of Delhi and such other authorities as may be determined;

(iv) proposals or matters required to be referred to the Central Government under this Act;

(v) matters pertaining to the Secretariat of the Lieutenant Governor and personnel establishment and other matters relating to his office;

(vi) matters on which Lieutenant Governor is required to make an order under any law or instrument in force in his sole discretion;

(vii) matters specified under general or special order issued by the Lieutenant Governor under proviso to sub-section (2) of section 44;

(viii) petitions for mercy from persons under sentence for death and other important cases in which it is proposed to recommend any revision of a judicial sentence;

(ix) matters relating to summoning, prorogation and dissolution of the Legislative Assembly, removal of disqualification of voters at elections to the Legislative Assembly, Local Self Government Institutions and other matters connected therewith; and

(x) any other matter of administrative importance which the President of India or the Chief Minister may consider necessary.

45K. (1) The Secretary of the Department concerned shall be responsible for preparing and authenticating every memorandum including the Cabinet Notes, for consideration of the Council of Ministers and for obtaining approval of the Minister in-charge and the Chief Minister.

Duties of Secretaries.

(2) In case of proposals involving more than one Department, the views of all concerned Secretaries and the Ministers of all Departments consulted on the proposal shall be clearly and separately reflected in writing and signed by the Minister and the Secretary in the memorandum so as to ensure that in case of disagreement, the Council of Ministers shall take a decision.

(3) In case the Secretary to the Council of Ministers is of the opinion that the proposal considered and decided by the Council of Ministers is not in accordance with the provisions of the law for the time being in force or any rules of procedure made under section 44, it shall be the duty of the Secretary to the Council of Ministers to bring it to the notice of Lieutenant Governor for taking a decision thereon.

(4) Any matter which is likely to bring the Government of the National Capital Territory of Delhi into controversy with the Central Government or with any State Government, the Supreme Court of India or the High Court of Delhi and such other authorities as may be prescribed, the Secretary to the Department concerned shall, as soon as possible, bring it to the notice of the Lieutenant Governor, Chief Minister and the Chief Secretary in writing.

(5) The Chief Secretary and the Secretary to the Department concerned shall be responsible for compliance with the provisions of this Act and the rules framed under section 44, and when either of them considers that there has been any material departure from the same, instead of giving effect to such departure, he or they shall personally bring it to the notice of the Minister-in-charge, Chief Minister and the Lieutenant Governor immediately in writing.

45L. (1) The Central Government may, by notification published in the Official Gazette, make rules for carrying out the provisions of this Part.

Power to make rules.

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

45M. (1) If any difficulty arises in giving effect to the provisions of this Part, the President may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Part as may appear to him to be necessary or expedient for the purposes of removing the difficulty:

Power to remove difficulties.

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

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

DROUPADI MURMU,
President.

DR. REETA VASISHTA,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 22] नई दिल्ली, सोमवार, जून 9, 2025/ज्येष्ठ 19, 1947 (शक)

No. 22] NEW DELHI, MONDAY, JUNE 9, 2025/JYAISTHA 19, 1947 (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 9th June, 2025/Jyaistha 19, 1947 (Saka)

THE MANIPUR GOODS AND SERVICES TAX
(AMENDMENT) ORDINANCE, 2025

No. 1 OF 2025

Promulgated by the President in the Seventy-sixth year of the Republic of India.

An Ordinance further to amend the Manipur Goods and Services Tax Act, 2017.

WHEREAS the provisions of the Central Goods and Services Tax Act, 2017 were amended through sections 114 to 150 of the Finance (No.2) Act, 2024;

AND WHEREAS similar amendments were required to be made in the Manipur Goods and Services Tax Act, 2017 to avoid repugnancy with the Central Act;

AND WHEREAS the respective amendments were to be carried out at the earliest in the Manipur Goods and Services Tax Act, 2017 so as to bring them into effect from the 1st November, 2024, as per the decision of the 54th GST Council;

AND WHEREAS the Legislative Assembly of Manipur was prorogued by the Governor of Manipur on the 29th August, 2024;

AND WHEREAS the Legislative Assembly of Manipur was not in session and the Manipur Goods and Services Tax (Eighth Amendment) Ordinance, 2024 was promulgated by the Governor of Manipur on the 30th October, 2024 to take immediate action;

AND WHEREAS the Manipur Goods and Services Tax (Eighth Amendment) Ordinance, 2024 ceased to operate on the 29th April, 2025;

AND WHEREAS by a proclamation issued on the 13th February, 2025 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Manipur have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her 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 Manipur Goods and Services Tax (Amendment) Ordinance, 2025. Short title and commencement.

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

(a) sections 34 and 36 shall be deemed to have come into force on the 30th day of October, 2024; and

(b) sections 2 to 5, 7 to 30, 32, 33 and 35 shall be deemed to have come into force on the 1st day of November, 2024.

Manipur Act
3 of 2017.

2. In the Manipur Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 9, in sub-section (1), after the words “alcoholic liquor for human consumption”, the words “and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption” shall be inserted.

Amendment of
section 9.

3. In section 10 of the principal Act, in sub-section (5), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

Amendment of
section 10.

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

Insertion of new
section 11A.

“11A. Notwithstanding anything contained in this Act, if the Government is satisfied that —

(a) a practice was, or is, generally prevalent regarding levy of State tax (including non-levy thereof) on any supply of goods or services or both; and

(b) such supplies were, or are, liable to —

(i) State tax, in cases where according to the said practice, State tax was not, or is not being, levied; or

(ii) a higher amount of State tax than what was, or is being, levied, in accordance with the said practice,

the Government may, on the recommendation of the Council, by notification, direct that the whole of the State tax payable on such supplies, or, as the case may be, the State tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the State tax was not, or is not being levied, or was, or is being, short-levied, in accordance with the said practice.”.

Power not to recover goods and services tax not levied or short-levied as a result of general practice.

5. In section 13 of the principal Act, in sub-section (3), —

Amendment of section 13.

(i) in clause (b), for the words “by the supplier:”, the words “by the supplier, in cases where invoice is required to be issued by the supplier; or” shall be substituted;

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

“(c) the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient:”;

(iii) in the first proviso, after the words, brackets and letter “or clause (b)”, the words, brackets and letter “or clause (c)” shall be inserted.

6. In section 16 of the principal Act, after sub-section (4), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2017, namely: —

Amendment of section 16.

“(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017- 18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021.

(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—

(i) filed upto the thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or

(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration,

whichever is later.”.

7. In section 17 of the principal Act, in sub-section (5), in clause (i), for the words and figures “sections 74, 129 and 130”, the words and figures “section 74 in respect of any period upto Financial Year 2023-24” shall be substituted. Amendment of section 17.

8. In section 21 of the principal Act, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted. Amendment of section 21.

9. In section 30 of the principal Act, in sub-section (2), after the proviso, the following proviso shall be inserted, namely: — Amendment of section 30.

“Provided further that such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.”.

10. In section 31 of the principal Act, —

Amendment of
section 31.

(a) in sub-section (3), in clause (f), after the words and figure “of section 9 shall”, the words “, within the period as may be prescribed,” shall be inserted;

(b) after clause (g), the following *Explanation* shall be inserted, namely: —

‘*Explanation.*— For the purposes of clause (f), the expression “supplier who is not registered” shall include the supplier who is registered solely for the purpose of deduction of tax under section 51.’.

11. In section 35 of the principal Act, in sub-section (6), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

Amendment of
section 35.

12. In section 39 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely: —

Amendment of
section 39.

“(3) Every registered person required to deduct tax at source under section 51 shall electronically furnish a return for every calendar month of the deductions made during the month in such form and manner and within such time as may be prescribed:

Provided that the said registered person shall furnish a return for every calendar month whether or not any deductions have been made during the said month.”.

13. In section 49 of the principal Act, in sub-section (8), in clause (c), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

Amendment of
section 49.

14. In section 50 of the principal Act, in sub-section (1), in the proviso, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

Amendment of
section 50

15. In section 51 of the principal Act, in sub-section (7), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

Amendment of
section 51.

- 16.** In section 54 of the principal Act, —
(a) in sub-section (3), the second proviso shall be omitted;
(b) after sub-section (14) and before the *Explanation*, the following sub-section shall be inserted, namely: —
“(15) Notwithstanding anything contained in this section, no refund of unutilised input tax credit on account of zero rated supply of goods or of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods is subjected to export duty.”.
- 17.** In section 61 of the principal Act, in sub-section (3), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.
- 18.** In section 62 of the principal Act, in sub-section (1), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.
- 19.** In section 63 of the principal Act, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.
- 20.** In section 64 of the principal Act, in sub-section (2), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.
- 21.** In section 65 of the principal Act, in sub-section (7), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.
- 22.** In section 66 of the principal Act, in sub-section (6), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.
- 23.** In section 70 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely: —
“(1A) All persons summoned under sub-section (1) shall be bound to attend, either in person or by an authorised representative, as such officer may direct, and the person so appearing shall state the truth during examination or make statements or produce such documents and other things as may be required.”.
- Amendment of section 54.
- Amendment of section 61.
- Amendment of section 62.
- Amendment of section 63.
- Amendment of section 64.
- Amendment of section 65.
- Amendment of section 66.
- Amendment of section 70.

24. In section 73 of the principal Act, —

Amendment of section 73.

(a) in the marginal heading, after the words “Determination of tax”, the words and figures “, pertaining to the period upto Financial Year 2023-24,” shall be inserted;

(b) after sub-section (11), the following sub-section shall be inserted, namely: —

“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period upto Financial Year 2023-24.”.

25. In section 74 of the principal Act, —

Amendment of section 74.

(a) in the marginal heading, after the words “Determination of tax”, the words and figures “, pertaining to the period upto Financial Year 2023-24,” shall be inserted;

(b) after sub-section (11) and before *Explanation 1*, the following sub-section shall be inserted, namely: —

“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period upto Financial Year 2023-24.”;

(c) *Explanation 2* shall be omitted.

26. After section 74 of the principal Act, the following section shall be inserted, namely: —

Insertion of new section 74A.

‘74A. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to Financial Year 2024-25 onwards.

(2) The proper officer shall issue the notice under sub-section (1) within forty-two months from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within forty-two months from the date of erroneous refund.

(3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

(5) The penalty in case where any tax which has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised,—

(i) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be equivalent to ten per cent. of tax due from such person or ten thousand rupees, whichever is higher;

(ii) for the reason of fraud or any wilful misstatement or suppression of facts to evade tax shall be equivalent to the tax due from such person.

(6) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(7) The proper officer shall issue the order under sub-section (6) within twelve months from the date of issuance of notice specified in sub-section (2):

Provided that where the proper officer is not able to issue the order within the specified period, the Commissioner, or an officer authorised by the Commissioner senior in rank to the proper officer but not below the rank of Joint Commissioner of State Tax, may, having regard to the reasons for delay in issuance of the order under sub-section (6), to be recorded in writing, before the expiry of the specified period, extend the said period further by a maximum of six months.

(8) The person chargeable with tax where any tax has not been paid or short paid or erroneously refunded, or where input

tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, may, —

(i) before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information shall not serve any notice under sub-section (1) or the statement under sub-section (3), as the case may be, in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder;

(ii) pay the said tax along with interest payable under section 50 within sixty days of issue of show cause notice, and on doing so, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The person chargeable with tax, where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful misstatement or suppression of facts to evade tax, may,—

(i) before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder;

(ii) pay the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within sixty days of issue of the notice, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded;

(iii) pay the said tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of

such tax within sixty days of communication of the order, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded.

(10) Where the proper officer is of the opinion that the amount paid under clause (i) of sub-section (8) or clause (i) of sub-section (9) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

(11) Notwithstanding anything contained in clause (i) or clause (ii) of sub-section (8), penalty under clause (i) of sub-section (5) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

(12) The provisions of this section shall be applicable for determination of tax pertaining to the Financial Year 2024-25 onwards.

Explanation 1. —For the purposes of this section, —

- (i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;
- (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under this section, the proceedings against all the persons liable to pay penalty under sections 122 and 125 are deemed to be concluded.

Explanation 2. — For the purposes of this Act, the expression “suppression” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.’.

27. In section 75 of the principal Act, —

Amendment of
section 75.

- (a) in sub-section (1), after the word and figures “section 74”, the words, brackets, figures and letter “or sub-sections (2) and (7) of section 74A” shall be inserted;

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

“(2A) Where any Appellate Authority or Appellate Tribunal or court concludes that the penalty under clause (ii) of sub-section (5) of section 74A is not sustainable for the reason that the charges of fraud or any wilful misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the penalty shall be payable by such person, under clause (i) of sub-section (5) of section 74A.”;

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

“(10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within the period specified in sub-section (10) of section 73 or in sub-section (10) of section 74 or in sub-section (7) of section 74A.”;

(d) in sub-section (11), after the word and figures “section 74”, the words, brackets, figures and letter “or sub-section (7) of section 74A” shall be inserted;

(e) in sub-section (12), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;

(f) in sub-section (13), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

28. In section 104 of the principal Act, in sub-section (1), in the *Explanation*, after the word and figures “section 74”, the words, brackets, figures and letter “or sub-sections (2) and (7) of section 74A” shall be inserted.

Amendment of
section 104.

29. In section 107 of the principal Act, —

Amendment of
section 107.

(a) in sub-section (6), in clause (b), for the word “twenty-five”, the word “twenty” shall be substituted;

(b) in sub-section (11), in the second proviso, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

30. In section 112 of the principal Act, —

Amendment of
section 112.

(a) in sub-section (1), after the words “from the date on which the order sought to be appealed against is communicated to the person preferring the appeal”, the words “; or the date, as may be notified by the Government, on the recommendations of the Council, for filing appeal before the Appellate Tribunal under this Act, whichever is later.” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of August, 2024;

(b) in sub-section (3), after the words “from the date on which the said order has been passed”, the words “; or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is later,” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of August, 2024;

(c) in sub-section (6), after the words, brackets and figure “after the expiry of the period referred to in sub-section (1)”, the words, brackets and figure “or permit the filing of an application within three months after the expiry of the period referred to in sub-section (3)” shall be inserted;

(d) in sub-section (8), in clause (b), —

(i) for the words “twenty per cent.”, the words “ten per cent.” shall be substituted;

(ii) for the words “fifty crore rupees”, the words “twenty crore rupees” shall be substituted.

31. In section 122 of the principal Act, in sub-section (1B), for the words “Any electronic commerce operator who”, the words and figures “Any electronic commerce operator, who is liable to collect tax at source under section 52,” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of October, 2023.

Amendment of
section 122.

32. In section 127 of the principal Act, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

Amendment of
section 127.

33. After section 128 of the principal Act, the following section shall be inserted, namely: —

Insertion of new
section 128A.

“128A. (1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is payable by a person chargeable with tax in accordance with, —

Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods.

(a) a notice issued under sub-section (1) of section 73 or a statement issued under sub-section (3) of section 73, and where no order under sub-section (9) of section 73 has been issued; or

(b) an order passed under sub-section (9) of section 73, and where no order under sub-section (11) of section 107 or sub-section (1) of section 108 has been passed; or

(c) an order passed under sub-section (11) of section 107 or sub-section (1) of section 108, and where no order under sub-section (1) of section 113 has been passed,

pertaining to the period from 1st July, 2017 to 31st March, 2020, or a part thereof, and the said person pays the full amount of tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c), as the case may be, on or before the date, as may be notified by the Government on the recommendations of the Council, no interest under section 50 and penalty under this Act, shall be payable and all the proceedings in respect of the said notice or order or statement, as the case may be, shall be deemed to be concluded, subject to such conditions as may be prescribed:

Provided that where a notice has been issued under sub-section (1) of section 74, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court in accordance with the provisions of sub-section (2) of section 75, the said notice or order shall be considered to be a notice or order, as the case may be, referred to in clause (a) or clause (b) of this sub-section:

Provided further that the conclusion of the proceedings under this sub-section, in cases where an application is filed under sub-section (3) of section 107 or under sub-section (3) of section 112 or an appeal is filed by an officer of central tax under sub-section (1) of section 117 or under sub-section (1) of section

118 or where any proceedings are initiated under sub-section (1) of section 108, against an order referred to in clause (b) or clause (c) or against the directions of the Appellate Authority or the Appellate Tribunal or the court referred to in the first proviso, shall be subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order:

Provided also that where such interest and penalty has already been paid, no refund of the same shall be available.

(2) Nothing contained in sub-section (1) shall be applicable in respect of any amount payable by the person on account of erroneous refund.

(3) Nothing contained in sub-section (1) shall be applicable in respect of cases where an appeal or writ petition filed by the said person is pending before Appellate Authority or Appellate Tribunal or a court, as the case may be, and has not been withdrawn by the said person on or before the date notified under sub-section (1).

(4) Notwithstanding anything contained in this Act, where any amount specified under sub-section (1) has been paid and the proceedings are deemed to be concluded under the said sub-section, no appeal under sub-section (1) of section 107 or sub-section (1) of section 112 shall lie against an order referred to in clause (b) or clause (c) of sub-section (1), as the case may be.”.

34. In section 171 of the principal Act, —

Amendment of
section 171.

(a) in sub-section (2), the following proviso and *Explanation* shall be inserted, namely: —

‘Provided that the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

Explanation.— For the purposes of this sub-section, “request for examination” shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.’;

(b) the *Explanation* shall be renumbered as *Explanation 1* thereof, and after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted, namely: —

‘*Explanation 2.*— For the purposes of this section, the expression “Authority” shall include the “Appellate Tribunal”.’.

35. In Schedule III to the principal Act, after paragraph 8 and before *Explanation 1*, the following paragraphs shall be inserted, namely:—

Amendment of
Schedule III.

“9. Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.

10. Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.”.

36. No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had section 6 been in force at all material times.

No refund of tax
paid or input tax
credit reversed.

37. Notwithstanding the cessation of the Manipur Goods and Services Tax (Eighth Amendment) Ordinance, 2024, anything done or any action taken under the said Ordinance shall always be deemed to have been done or taken under the corresponding provisions of this Ordinance as if such provisions had been in force at all material time.

Validation of actions taken under the lapsed Manipur Ordinance 1 of 2024.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.



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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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No. 41] NEW DELHI, TUESDAY, OCTOBER 7, 2025/ASVINA 15, 1947 (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 7th October, 2025/Asvina 15, 1947 (Saka)

THE MANIPUR GOODS AND SERVICES TAX
(SECOND AMENDMENT) ORDINANCE, 2025

No. 2 OF 2025

Promulgated by the President in the Seventy-sixth year of
the Republic of India.

An Ordinance further to amend the Manipur Goods and
Services Tax Act, 2017.

WHEREAS the provisions of the Central Goods and
Services Tax Act, 2017 were amended through sections 121 to
134 of the Finance Act, 2025;

AND WHEREAS similar amendments were required to be
made in the Manipur Goods and Services Tax Act, 2017 to avoid
repugnancy with the Central Act;

AND WHEREAS the respective amendments were to be carried out in the Manipur Goods and Services Tax Act, 2017 so as to bring them into effect at the earliest, as per the decision of the 56th GST Council;

AND WHEREAS by a proclamation issued on the 13th February, 2025 by the President under article 356 of the Constitution, the powers of the Legislature of the State of Manipur have been declared to be exercisable by or under the authority of Parliament;

AND WHEREAS Parliament has approved the resolution for continuance in force of the said proclamation for a further period of six months with effect from the 13th August, 2025;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her 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 Manipur Goods and Services Tax (Second Amendment) Ordinance, 2025.

Short title and commencement.

(2) Save as otherwise provided in this Ordinance, sections 2 to 5, 7 to 13 and 15 shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Manipur Act
3 of 2017.

2. In the Manipur Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 2,—

Amendment of
section 2.

13 of 2017.

(a) in clause (61), after the word and figure “section 9”, the words, brackets and figures “of this Act or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2025;

(b) in clause (69),—

(i) in sub-clause (c), for the words “management of a municipal or local fund;”, the words “management of a local fund or municipal fund.” shall be substituted;

(ii) after sub-clause (c), the following *Explanation* shall be inserted, namely:—

‘Explanation.—For the purposes of this sub-clause,—

(a) “local fund” means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Panchayat area and vested by law with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called;

(b) “municipal fund” means any fund under the control or management of an authority of a local self-government established for discharging civic functions in relation to a Metropolitan area or Municipal area and vested by law with the powers to levy, collect and appropriate any tax, duty, toll, cess or fee, by whatever name called;’;

(c) after clause (116), the following clause shall be inserted, namely:—

‘(116A) “unique identification marking” means the unique identification marking referred to in clause (b) of sub-section (2) of section 148A and includes a digital stamp, digital mark or any other similar marking, which is unique, secure and non-removable;’.

3. In section 12 of the principal Act, —

Amendment of
section 12.

(a) sub-section (4) shall be omitted;

(b) in sub-section (5), the words, brackets and figures “, sub-section (3) or sub-section (4), the words, brackets and figure “or sub-section (3)” shall be substituted.

4. In section 13 of the principal Act,—

Amendment of
section 13.

(a) sub-section (4) shall be omitted;

(b) in sub-section (5), the words, brackets and figures “, sub-section (3) or sub-section (4), the words, brackets and figure “or sub-section (3)” shall be substituted.

5. In section 17 of the principal Act, in sub-section (5), in clause (d),—

Amendment of
section 17.

(a) for the words “plant or machinery”, the words “plant and machinery” shall be substituted and shall be deemed to

have been substituted with effect from the 1st day of July, 2017;

(b) the *Explanation* shall be numbered as *Explanation 1* thereof, and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

‘*Explanation 2.*— For the purposes of clause (d), it is hereby clarified that notwithstanding anything to the contrary contained in any judgment, decree or order of any court, tribunal, or other authority, any reference to “plant or machinery” shall be construed and shall always be deemed to have been construed as a reference to “plant and machinery”.’.

6. In section 20 of the principal Act, with effect from the 1st day of April, 2025,—

Amendment of section 20.

13 of 2017. (a) in sub-section (1), after the word and figure “section 9”, the words, brackets and figures “of this Act or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017” shall be inserted and shall be deemed to have been inserted;

13 of 2017. (b) in sub-section (2), after the word and figure “section 9”, the words, brackets and figures “of this Act or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017,” shall be inserted and shall be deemed to have been inserted.

7. In section 34 of the principal Act, in sub-section (2), for the proviso, the following proviso shall be substituted, namely:—

Amendment of section 34.

“Provided that no reduction in output tax liability of the supplier shall be permitted, if the—

(i) input tax credit as is attributable to such a credit note, if availed, has not been reversed by the recipient, where such recipient is a registered person; or

(ii) incidence of tax on such supply has been passed on to any other person, in other cases.”.

8. In section 38 of the principal Act,—

Amendment of section 38.

(a) in sub-section (1), for the words “an auto-generated statement”, the words “a statement” shall be substituted;

(b) in sub-section (2),—

(i) for the words “auto-generated statement under”, the words “statement referred in” shall be substituted;

(ii) in clause (a), the word “and” shall be omitted;

(iii) in clause (b), after the words “by the recipient,”, the word “including” shall be inserted;

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

“(c) such other details, as may be prescribed.”.

9. In section 39 of the principal Act, in sub-section (1), for the words “and within such time”, the words “within such time, and subject to such conditions and restrictions” shall be substituted. Amendment of section 39.

10. In section 107 of the principal Act, in sub-section (6), for the proviso, the following proviso shall be substituted, namely:— Amendment of section 107.

“Provided that in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order unless a sum equal to ten per cent. of the said penalty has been paid by the appellant.”.

11. In section 112 of the principal Act, in sub-section (8), the following proviso shall be inserted, namely:— Amendment of section 112.

“Provided that in case of any order demanding penalty without involving demand of any tax, no appeal shall be filed against such order unless a sum equal to ten per cent. of the said penalty, in addition to the amount payable under the proviso to sub-section (6) of section 107 has been paid by the appellant.”.

12. After section 122A of the principal Act, the following section shall be inserted, namely:— Insertion of new section 122B.

“122B. Notwithstanding anything contained in this Act, where any person referred to in clause (b) of sub-section (1) of section 148A acts in contravention of the provisions of the said section, he shall, in addition to any penalty under Chapter XV or the provisions of this Chapter, be liable to pay a penalty equal to an amount of one lakh rupees or ten per cent. of the tax payable on such goods, whichever is higher.”. Penalty for failure to comply with track and trace mechanism.

13. After section 148 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 148A.

“148A. (1) The Government may, on the recommendations of the Council, by notification, specify— Track and trace mechanism for certain goods.

(a) the goods;

(b) persons or class of persons who are in possession or deal with such goods,

to which the provisions of this section shall apply.

(2) The Government may, in respect of the goods referred to in clause (a) of sub-section (1),—

(a) provide a system for enabling affixation of unique identification marking and for electronic storage and access of information contained therein, through such persons, as may be prescribed; and

(b) prescribe the unique identification marking for such goods, including the information to be recorded therein.

(3) The persons referred to in sub-section (1) shall—

(a) affix on the said goods or packages thereof, a unique identification marking, containing such information and in such manner;

(b) furnish such information and details within such time and maintain such records or documents, in such form and manner;

(c) furnish details of the machinery installed in the place of business of manufacture of such goods, including the identification, capacity, duration of operation and such other details or information, within such time and in such form and manner;

(d) pay such amount in relation to the system referred to in sub-section (2),

as may be prescribed.”.

14. In Schedule III to the principal Act, with effect from the 1st day of July, 2017,—

Amendment of
Schedule III.

(i) in paragraph 8, after clause (a), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

“(aa) supply of goods warehoused in a Special Economic Zone or in a Free Trade Warehousing Zone to

any person before clearance for exports or to the Domestic Tariff Area;”;

(ii) in *Explanation 2*, after the words “For the purposes of”, the words, brackets and letter “clause (a) of” shall be inserted and shall be deemed to have been inserted;

(iii) after *Explanation 2*, the following *Explanation* shall be inserted and shall be deemed to have been inserted, namely:—

28 of 2005. ‘*Explanation 3*.— For the purposes of clause (aa), the expressions “Special Economic Zone”, “Free Trade Warehousing Zone” and “Domestic Tariff Area” shall have the same meanings as respectively assigned to them in section 2 of the Special Economic Zones Act, 2005.’.

15. No refund shall be made of all such tax which has been collected, but which would not have been so collected, had section 14 been in force at all material times. No refund of tax collected.

DROUPADI MURMU,
President.

DR. RAJIV MANI,
Secretary to the Govt. of India.