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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.

LOK SABHA

The following Bills were introduced in Lok Sabha on 26th July, 2019:—

BILL NO. 172 OF 2019

A Bill to mandate emergency medical treatment by hospitals and medical practitioners to victims of accidents without raising any objection that the cases are medico-legal and without demanding any advance payment as a condition for providing of emergency medical treatment and to provide legal protection to good samaritan and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Good Samaritan Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "accident" means an accident including a road, rail or an air accident resulting in severe bodily pain or serious injury to human beings who are in emergency medical condition;

(*b*) "appropriate Government" means the case of State, the Government of that State and in all other cases, the Central Government;

(*c*) "emergency medical condition" means a medical condition manifesting acute symptoms or severity, a medical condition or pain and includes a medical condition where the absence of emergency medical treatment may result in—

(*i*) death of the person, or

(*ii*) serious jeopardy in the health of the person, or

(iii) serious impairment of bodily functions, or

(iv) serious dysfunction of any bodily organ or part;

(*d*) "emergency medical treatment" means an action which is required to be taken, after screening of a person injured in an accident or who is in an emergency medical condition, as to the stabilization of the person and the providing of such further treatment as may, in the opinion of the hospital or medical practitioner is necessary to arrest further deterioration of the medical condition of the victims of accident or prevention of this death;

(*e*) "good samaritan" means a person who voluntarily gives help to those in distress or need and requires emergency medical treatment;

(*f*) "hospital" includes a nursing home, clinic, medical centre, medical institution or hospital having emergency department or facilities for emergency medical treatment;

(*g*) "medical practitioner" means a medical practitioner who possesses any recognized medical qualification as defined in clause (*h*) of section 2 of the Indian Medical Council Act, 1956 and who is enrolled in a State Medical Register as defined in clause (*k*) of that section and includes a private medical practitioner; and

(*h*) "prescribed" means prescribed by rules made under this Act; and

(*i*) "stabilize" means, with respect to an emergency medical condition and the word 'stabilized' shall be understood accordingly.

Duty of doctors in hospitals and medical practitioner in emergency medical conditions.

3. (*1*) Every hospital and medical practitioner shall provide emergency medical treatment to every victim of an accident who has come his own or has been brought in an emergency medical condition to the hospital or to the medical practitioner:

Provided that if any hospital is not equipped to deal with the emergency medical treatment for any reason, it shall assist in transferring and directing the victim to the nearest hospital where such emergency medical treatment is available.

(*2*) Without prejudice to anything contained in sub-section (*1*), every hospital and medical practitioner shall, while providing emergency medical treatment to a victim of an accident shall not—

(*i*) insist that it is a medico-legal case requiring information to the police authorities;

(*ii*) insist for making any payment for the screening and emergency medical treatment;

(*iii*) inquire into facts whether victim has medical insurance or is a member of any medical scheme; and

(*iv*) raise any other unreasonable objection.

Maintenance of records.

4. Every hospital and medical practitioner shall maintain a separate register containing the following information, namely:—

(*a*) name and address of the person injured, date and place of accident as reported, nature of injuries and other relevant details and the person who brought injured person to hospital;

(*b*) name and address of the person purportedly brought in emergency medical condition, nature of emergency and nature of medical condition;

(*c*) details of the screening medical tests done and the determination of emergency condition;

(*d*) informed consent by victim, if given for emergency medical treatment including stabilization or for transfer or if he refused them;

(*e*) detail of medical treatment not given for want of facilities at hospital;

(*f*) detail of surgery conducted, alongwith time, date and hours of treatment;

(*g*) details of transfer to another hospital or medical practitioner;

(*h*) details of fee paid to consultants or for laboratories tests;

(*i*) details of expenditure incurred on emergency medical treatment; and

(*j*) other particulars a hospital or medical practitioner requires to comply under this act.

Exemption from civil or criminal liability to good samaritan and their rights.

5. (*1*) A good samaritan shall not be liable to any civil or criminal liability in respect of anything done or cause to have been done to save the life of a person in an emergency medical condition.

(*2*) Without prejudice to the generality of the foregoing provision, a good samaritan, in respect of accidents in which he helps in saving life of a person in an emergency medical condition, shall have the following rights, namely:—

(*a*) he shall be treated respectfully and without any discrimination on the ground of gender, religion, nationality and caste;

(*b*) he shall not be required or compelled to file a First Information Report unless he decides otherwise;

(*c*) he shall not be detained by the hospital or any police official for any reason including, but not limited to,—

(*i*) finding or confirming the identity of the person in an emergency medical condition;

(*ii*) any questioning unless he decides to stay and respond; and

(*iii*) standing as witness or providing evidence to the police or any other person; and

(*d*) he shall not be forced to reveal his identity address, phone number or such other details.

(*3*) where a Good Samaritan chooses to assist in the investigation of an accident,—

(*a*) the police shall act with sensitivity towards him and complete the recording of his statement and all other proceedings relating to him in a timely manner with utmost care and respect;

(*b*) his examination shall be conducted at a time and place of his convenience and the investigation officer be dressed in plain clothes;

(*c*) if he is required by the investigation officer to visit the police station, in a single examination in a reasonable and time-bound manner and the reasons for the requirement shall be recorded by the officer in writing; and

(*d*) if declares himself to be an eyewitness, he shall be allowed to give his evidence in the form of an affidavit.

Educational Institution to impart training in first-aid.

6. It shall be the duty of every educational institution to impart training to its students in first-aid for such duration as may be prescribed.

Central Government to provide adequate fund.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds for carrying out the purposes of this act.

Act to have overriding effect.

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this act.

Power to remove difficulties.

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

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

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

Power to make rules.

10. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

Albert Einstein had stated that "The world is a dangerous place, not because of those who do evil, but because of those who look on and do nothing".

In India, number of accidents and resulting deaths thereby are increasing at an alarming rate which needs to be curtailed. Most of the deaths in such road accidents took place due to lack of emergency medical treatments to the persons meeting accidents. In India more than fifteen people lose their life every hour to traffic accidents. It is required that bystanders and Police should play an active role in saving lives of the persons injured in accidents. Our criminal procedure needs to be revisited to minimise the fatalities on the road and the hospitals be put under an obligation to provide emergency medical treatment to the persons in need. The whole criminal and judicial process should be such that the name and identity of Good Samaritans be kept anonymous. In India where people believe that a pizza arrives faster than an ambulance, the need is to have a conducive legal and ethical environment for bystanders to help injured victims and a strong legal framework to encourage bystanders to step forward.

The Law Commission of India observes that fifty per cent. of those killed in road accidents could have been saved had timely assistance been rendered to them. World Health Organisation report claims that "skilled and empowered bystanders play a crucial role in saving lives" and "in order to enable bystanders to come forward and help injured persons, a supportive legal and ethical environment is needed".

The Bill aims at addressing all these crucial questions by making it a law encouraging people to help others in danger in road accidents and exempting such helping persons from criminal or civil liability for such good work.

Hence this Bill.

NEW DELHI;
June 26, 2019.

HIBI EDEN

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for imparting of training to student by every educational institution. Clause 7 of the Bill provides that the Central Government shall provide adequate funds to the State Government for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundared crore will be involved per annum.

No non-recurring expenditure is likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

BILL NO. 160 OF 2019

A Bill further to amend the Companies Act, 2013.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Companies (Amendment) Act, 2019.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 135.

18 of 2013.

2. In section 135 of the Companies Act, 2013, in sub-section (5), for the words "at least two per cent.", the words "at least five per cent." shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Corporate Social Responsibility (CSR) provision in the Companies Act, 2013 requires companies to spend at least two per cent. of their average net profit made in the preceding three years on CSR. Some Indian companies already spend more than two per cent. on CSR programmes.

The Companies Act, 2013 expects business to spend two per cent. of their three year average profits on social initiatives. Even before the Act was put in place companies recognized they need to think about more than just profits and did so. However, the need is to increase the percentage earmarked for Corporate Social Responsibility funding by the companies.

The Bill, therefore, seeks to amend section 135 of the Companies Act, 2013 with a view to increase the existing Corporate Social Responsibility funding by the Companies from two per cent. to five per cent to—

(*a*) increase the services that are made available through Corporate Social Responsibility;

(*b*) reduce the burden of Government in selected sectors; and

(*c*) manage the development needs of the rural India.

NEW DELHI;
June 26, 2019

HIBI EDEN

BILL NO. 173 OF 2019

A Bill to provide for protection of Medical and health service professionals against assault, use of criminal force and intimidation and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Protection of Medical and Health Service Professionals from Assault, Criminal Force and Intimidation Act, 2019.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires:—

(*a*) "medical and health service institution" means an institution providing medical and health services to people in the recognized system of medicine under the control of the Central Government or a State Government or an undertaking of the Central Government or a State Government or under local bodies and includes an institution or clinical establishment or hospital, maternity home, medical laboratory, nursing home and physiotherapy establishments owned by a private individual or entity or trust, or society;

(*b*) "medical and health service professional" in relation to medical and health service institution shall include:—

(*i*) registered medical practitioners;

(*ii*) qualified nurses;

(*iii*) qualified midwives;

(*iv*) medical students; and

(*v*) nursing students;

(*c*) "medical student" means a student undergoing graduate or post graduate course in the recognized system of medicine from a recognized medical and health service college or institution;

(*d*) "nursing student" means a student undergoing diploma or degree courses in nursing midwifery from a recognized medical and health service college or institution;

(*e*) "recognized system of medicine" means the following system of medicine namely:—

(*i*) modern scientific system of medicine (allopathic) within the meaning of the Indian Medical Council Act, 1956:

(*ii*) homoeopathic and biochemic system of medicine within the meaning of the Homoeopathy Central Council Act, 1973;

(*iii*) ayurvedic system, unani system and naturopathy system of medicines; and

(*iv*) any other recognized system of treatment recognized as such under any law for the time being in force;

(*f*) "recognized medical practitioner" means a medical practitioner qualified in recognized system of medicine and is duly enrolled in the State Medical Register of such system of medicine and includes provisional registered medical practitioner.

(*2*) The words and expressions used in this Act but not defined shall have the same meaning as assigned to them in the respective laws enacted by Parliament of India in that regard.

Prohibition of assault, criminal force and intimidation.

3. Any act of assault, criminal force and intimidation to a medical and health service professional during or incidental to the discharge of his lawful duties pertinent to medical and health care delivery within premises of any medical and service institution or in a mobile clinic or in an ambulance shall be deemed to be an offence punishable under this Act.

Punishment.

4. Whoever voluntarily commits any act in contravention of the provisions of section 3 shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend up to seven years and/or with fine which may extend up to fifty thousand rupees.

Offence to be non-bailable.

5. Any offence committed under this Act shall be a non-bailable offence.

Cognizance of offence.

6. No court inferior to that of a Court of Judicial Magistrate of the first class shall try any offence under this Act.

Act not in derogation to any other law.

7. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power to remove difficulties.

8. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

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

Act to have overriding. effect.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to supplement other laws.

10. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

11. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

A Doctor is considered equivalent to god as provider of second life to the dying person, but he is also a human being. Many times the relatives, attendants or friends of a patient assault and/or use criminal force against medical and health service professionals for delay in attending patient or other petty reasons intimidate medical and health service professionals to face severe consequences, if they fail in curing the patient from illness. Every day such incidents of assault, using criminal force or intimidation against medical and health service professionals take place in many Government hospitals, private hospitals, clinics and nursing homes, etc.

At present there is no legislation to curb the acts of assault, use of criminal force or intimidation against medical and health service professionals in medical or service institutions, etc.

In the wake of repetitive incidents of assault, criminal force or intimidation against medical and health service professionals, it is the need of hour to enact a specific legislation for protection of medical and other health care service persons from any form of assault, criminal force or intimidation by any person and making such acts as a punishable offence, so as to create a deterrence among offenders.

NEW DELHI;
June 19, 2019.

GAUTAM GAMBHIR

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 177 OF 2019

A Bill to provide for fixation of minimum remunerative support price of milk and milk products and for matters connected therewith.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Milk and Milk Products (Remunerative Support Price) Act, 2019.

(*2*) It extends to the whole of India.

Definitions

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

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government; and

(b) "milk product" means a product obtained by processing of milk, which may contain food additives and other ingredients functionally necessary for the milk product, and shall include the following, namely:—

(*i*) cheese;

(*ii*) *chhana,* skimmed—milk *chhana, paneer;*

(*iii*) condensed milk—sweetened and unsweetened;

(*iv*) condensed skimmed milk—sweetened and unsweetened;

(*v*) cream;

(*vi*) curd, skimmed milk curd, *dahi;*

(*vii*) *ghee,* butter oil;

(*viii*) ice-cream;

(*ix*) infant milk food;

(*x*) *khoa;*

(*xi*) *malai;*

(*xii*) milk derivatives such as whey proteins, casein, lactose etc.;

(*xiii*) milk ices, milk lollies, *kulfi;*

(*xiv*) milk powder, skimmed milk powder, partly skimmed milk powder;

(*xv*) processed cheese;

(*xvi*) table butter and white butter; and

(*xvii*) yoghurt

(*c*) "prescribed" means prescribed by rules made under this Act by the Central Government or the State Government, as the case may be.

Fixation of minimum remunerative support price of milk and milk products.

3. The appropriate Government shall announce minimum remunerative support price of milk and milk products in such manner and at such intervals, as may be prescribed.

Factors for determination of minimum remunerative support price of milk and milk products.

4. The appropriate Government shall, while announcing the minimum remunerative support price of milk and milk products, will take into account all relevant factors, which shall include,—

(*i*) interest payable to banks on loans taken for dairy;

(*ii*) electrictiy and water charges;

(*iii*) average labour charges;

(*iv*) availability of land and pasture;

(*v*) expenditure on collection, preservation and packaging of milk and milk products;

(*vi*) expenditure incurred on transportation of milk and milk products to market; and

(*vii*) expenditure incurred on ailment and care of milch animals.

Central Government to provide funds.

5. The Central Government shall, after due appropriation made by Parliament, by law in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Power to make rules.

6. (*1*) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act by the Central Government 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 the 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.

(3) Every rule made under this Act by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

India is the largest producer of milk in the world with 10.2 crore ton of annual production of milk. This production is much more than crop and it is an important source of income of the farmers. Milk production has played a remarkable role in providing security to the farmers affected by adverse weather and damage of crops. According to the report of National Sample Survey Organisation (NSSO), the incidents of suicide by farmers are less in those areas, where milk production is a source of regular income in generating employment. Approximately seven crore rural families are engaged in milk production. Approximately seventy per cent. cattle are with small, medium and marginal farmers, who get major portion of their family income through selling of milk. Mostly the small and landless farmers are engaged in milk production and women play a very important role in it. There are a few shortcomings in the milk production business which make it less attractive. The first drawback is the price of the milk and the farmers do not get the actual benefit. The milk producers get only rupees fifteen to twenty per litre, while the milk is sold at the rate of rupees thirty-eight to forty-eight per litre in the towns and metropolitan cities. Prices of milk have increased recently and cow milk is being sold at the rate of rupees thirty-eight per litre and buffalo milk is at rupees forty-eight per litre in Delhi. According to dairy officials, there has been an increase in the cost of collection, warehousing, processing, marketing, management and transportation of milk which has necessitated the increase in the prices of milk. Farmers spend more than twenty per cent. of their income from milk on fodder and cattle food, treatment of cattle diseases and rearing of cattle, etc. Co-operative Committees and dairies refuse to buy milk from farmers during the winter season due to over-production of milk. It results in decreasing of the profit of both the parties, which adversely affects dairy business. Small and medium farmers are facing a lot of difficulties due to lack of land, lack of facilities for water bodies, shade construction, processing of milk, lack of better facilities for godowns, transportation and continuous fluctuation in the prices of milk in carrying out dairy business. A large number of farmers are engaged in dairy business as also the cattle rearers are not taking interest in this business, because the pasture land is diminishing which is creating shortage of fodder and they are being forced to wind up their dairy business.

The need is, therefore, to fix minimum remunerative support prices of milk and milk products so as to ensure effective livelihood to the persons involved in dairy.

Hence this Bill.

NEW DELHI;
June 6, 2019.

DEVJI M. PATEL

FINANCIAL MEMORANDUM

Clause 5 provides for payment of adequate funds to the States for carrying out the purposes of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one thousand crore per annum.

No recurring expenditure is likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 155 OF 2019

A Bill to provide for establishment of a Fodder Warehouse Board for making available fodder and water to animals in places affected by natural calamities like famine, drought or flood and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Fodder Warehouse Board Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "animal" means domestic animals which consume fodder;

(*b*) "Board" means Fodder Warehouse Board established under section 3;

(*c*) "prescribed" means prescribed by rules made under this Act; and

(*d*) "warehouse" means any premise (including any protected place) used for storage of fodder under controlled conditions of temperature and humidity.

Establishment of Fodder Warehouse Board.

3. (*1*) The Central Government shall, within a period of three months from the date of coming into force of this Act, establish a Board to be known as the Fodder Warehouse Board with its headquarter at Jalore in the State of Rajasthan.

(*2*) The Board shall consist of a Chairperson and four other members to be appointed by the Central Government.

(*3*) The Board shall manage the affairs of the Fodder Warehouses.

(*4*) The Central Government shall establish a branch of the Board in every district of the country.

(*5*) Every branch of the Board shall consist of a General Manager and such other officers and staff as may be required.

(*6*) The terms and conditions of service and appointment, salaries and allowances of Chairperson, members and employees of the Board shall be such as may be prescribed.

Functions of Fodder Warehouse Board.

4. The Board shall—

(*i*) establish fodder warehouses in every district;

(*ii*) purchase fodder from farmers at such rate, as it may deem fit;

(*iii*) provide facility for transportation of fodder from the fodder store house to places affected by famine, drought, flood or any other natural calamities;

(*iv*) acquire land, in consultation with the State Government, for cultivation of fodder in order to enhance the availability of fodder in famine, drought or flood prone areas;

(*v*) ensure availability of fodder and drinking water for animals free of cost in places affected by famine, drought, flood or any other natural calamities;

(*vi*) encourage research in collaboration with agricultural research institutions and universities for cultivation of better quality of fodder; and

(*vii*) collect data of animals reared in every village and prepare exigency plan to supply fodder and drinking water to animals in places affected by famine, drought, flood or any other natural calamities.

Constitution of Fodder Fund.

5. (*1*) The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Fodder Fund with an initial corpus of rupees one thousand crore.

(*2*) The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.

(*3*) The Fund shall be administered by the Fodder Warehouse Board constituted under section 3.

(*4*) The Fund shall be utilized to produce, procure or collect and store fodder and to provide fodder and drinking water to animals in places affected by natural calamities.

Supply of fodder.

6. (*1*) Any person who requires fodder shall inform the branch office of the Fodder Warehouse Board in the district about the requirement of fodder, in such manner, as may be prescribed.

(*2*) The branch office concerned shall, on receipt of requirement under sub-section (*1*), supply the requisite quantity of fodder to such person within a period of two days.

7. The Central Government shall give wide publicity to the provisions of this Act in such manner as may be prescribed.

Publicity to the provisions of the Act.

8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

Natural calamities such as famine, drought and floods result in heavy loss of human lives and property including loss of livestock. Due to the priority given to save the lives of people, it becomes very difficult to save lives of animals. In such situations, to save the livestock and make available sufficient fodder for animals become the main requirements. However, the transportation of fodder and drinking water to the affected areas is not an easy task. Therefore, it is necessary to evolve a mechanism so that fodder and water is made available in places affected by natural calamities.

Due to increase in the population of the country, the area under agriculture is decreasing. The availability of fodder is also continuously decreasing due to harvesting of new varieties of crops in place of traditional crops. There is a need for intervention on the part of the State to take cognizance of shortage of fodder and drinking water for animals particularly during natural calamities and to address the problem being faced by lakhs of farmers and others in rural areas across the country on this account.

In the absence of any exigency plan to meet the demands of fodder and drinking water during natural calamities, the farmers and animal rearers are compelled to sell their livestock at throw away prices to meat-vendors which results in mental agony and heavy financial loss to them.

The Bill, therefore, seeks to provide for establishment of a Fodder Warehouse Board to produce, procure, collect and store and distribute fodder and drinking water for animals in places affected by natural calamities.

Hence this Bill.

NEW DELHI;
June 21, 2019.

DEVJI M. PATEL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of a Fodder Warehouse Board. Clause 4 provides for establishment of fodder warehouses, facilities of transportation of fodder and drinking water for animals during natural calamities, collection of data of animals and preparation of exigency plan, etc. by the Fodder Warehouse Board. Clause 5 provides for constitution of a Fodder Fund with initial corpus of rupees one thousand crore. Clause 7 provides for giving wide publicity to the provisions of the Act.

The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve recurring expenditure of rupees one thousand five hundred crore per annum.

A non-recurring expenditure of two hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 176 OF 2019

A Bill to provide for the constitution of a Board for the protection of indigenous cow and its progeny and for matters connected therewith.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indigenous Cow Protection Board Act, 2013.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise provides,—

(*a*) "Board" means the Indigenous Cow Protection Board constituted under section 3;

(*b*) "*gaushala*" means a shelter home or building with facilities of fodder, water shed and medical aid for indigenous cows;

(*c*) "indigenous cow" means cow of indigenous breeds and its progeny but does not include cows of foreign breeds; and

(*d*) "prescribed" means prescribed by the rules made under this Act.

Constitution of Indigenous Cow Protection Board.

3. (*1*) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Indigenous Cow Protection Board for protection of indigenous cow and its progeny.

(*2*) The Board shall consist of a Chairperson and such other members to be appointed by the Central Government in such manner as may be prescribed.

(*3*) The headquarter of the Board shall be at New Delhi.

(*4*) The Board shall have its offices in the capital of each State and Union territory.

(*5*) The Central Government shall appoint such number of officers and staff as may be deemed necessary for the efficient functioning of the Board.

(*6*) The salary and allowances payable to and other terms and conditions of service of the Chairperson, members and officers and staff of the Board shall be such as may be prescribed.

Function of the Board.

4. The Board shall —

***(a)* construct *gaushalas* in every village, tehsil and district for protection of indigenous cows;**

(b) promote the therapeutic use of medicines based on cow milk, *gobar* and *gomutra;*

(c) promote the manufacturing of fertilizers and insecticides with the use of *gobar* and *gomutra, aak, neem* and *tulsi;*

(d) link *gaushalas* in the villages to the mid day meal scheme for supply of milk and milk-made products to school students in order to overcome the problem of malnutrition;

(e) promote the use of *gobar* gas in generation of electricity;

(f) link the setting up of *gaushalas* with Mahatma Gandhi National Rural Employment Guarantee Act, 2005, to ensure employment in the villages;

42 of 2005.

(g) promote bullock driven agro processing industry; and

(h) undertake such other steps as may be assigned to it by the Central Government for carrying out the purposes of this Act.

Central Government to provide requisite funds.

5. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to carry out the purposes of this Act.

Power to make rules.

6. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act;

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

Inspite of being most favourite animal and having importance in our religio-cultural economy, the population of cows is decreasing day by day. Our country currently holding the distinction of being the largest producer of milk, may run the fear of importing milk in near future. The quantum of havoc and tragic effect it will wreak for the millions of people is beyond anticipation. Traditionally, India houses varied species of cows. These different species of cows like *sahiwal* breed, which gives milk even in dry days, have been the backbone of nation's rural economy. Milk of the indigenous cow has been found to be a complete diet by the scientists. Cow's milk and milk products are full of nutrients that are required for human body to have a disease free life. It has huge potential to fight chronic and incurable diseases. One pound cow's milk a day can keep one healthy and potentially sound to resist various diseases.

Cow's milk contain Vitamin A that have therapeutic value to deal with the disease of cancer. In the Ayurveda, there have been umpteen number of experiments done with *gomutra*. It has twenty-four elements that have antitoxic and preventive values to treat various diseases and it has been found that *gomutra* is therapeutic for as many as one hundred and eight diseases. Pesticides manufactured with the *gomutra, aak, neem* and *tulsi* adds to the fertility of the land. Apart from this, *gobar* is also used to manufacture bio-fertilizers. Given this, the role of indigenous cows cannot be ignored in the economy and day to day life.

The Bill, therefore, seeks to constitute a Board for the setting up of *gaushalas* and protection of indigenous cow and its progeny in the country.

Hence this Bill.

NEW DELHI;
June 21, 2019.

DEVJI M. PATEL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of a Board for the protection of indigenous cow and its progeny. Clause 4 provides that the Board shall set up *gaushalas* in every village, tehsil and district. Clause 5 provides that the Central Government shall provide requisite funds to the State Governments for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees one thousand crore per annum would be involved from the Consolidated Fund of India.

A non-recurring expenditure of rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 126 OF 2019

A Bill to provide for constitution of a Committeee to ensure that plastic wrapping or packing materials used by Fast Moving Consumer Goods (FMCG) companies are recycled with a view to reduce pollution and bring in a sense of the responsibility, accountability and awareness in the individuals and companies and for matters connected therewith or incidental thereto.

WHEREAS under article 48A of the Constitution of India, it is the duty of the State to protect and improve the environment and safeguard forests and wild life.

BE it enacted by the Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Mandatory Buyback and Recycling of Packaging Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government, may by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:—

(*a*) "Committee" means the Committee for Regulation of Recycling constituted under section 4;

(*b*) "FMCG companies" means Fast Moving Consumer Goods Companies that sell large quantities of goods at low cost;

(*c*) "packaging" means the wrap or packing material used for packaging of products manufactured by FMCG Companies;

(*d*) "prescribed" means prescribed by rules made under this Act; and

(*e*) "recycling" means the usage of a waste product in a process to make it a reusable material.

Compulsory buyback of discarded packaging by products.

3. Every FMCG company compulsorily shall buyback the discarded packaging of their products by tie-ups with retailers.

Constitution of Committee for Regulation of Recycling

4. (*1*) The Central Government shall, within six months of the coming into force of this Act, by notification in the Official Gazette, constitute a Committee to be known as the Committee for Regulation of Recycling for carrying out the purpose of this Act.

(*2*) The Committee shall consist of a Chairperson and five other members, to be appointed by the Central Government in such manner as may be prescribed:

Provided that the Chairperson shall be selected from amongst persons having special knowledge and expertise in the field of environment and recycling of waste products.

Provided further that—

(*a*) two of the members of the Committee shall have prior experience of working with FMCG companies and thorough understanding of their functioning in relation to Corporate Social Responsibility in India;

(*b*) two of the members of the Committee shall have steller reputation among environmentalists and prior experience and thorough knowledge of recycling; and

(*c*) one of the member shall have prior stellar experience in strategizing campaigns and spreading awareness.

Term of Chairperson and members of the Committee.

5. (*1*) The Chairperson and every member of the Committee shall hold office for a term of three years from the date of assuming office and shall be eligible for re-appointment:

Provided that the Chairperson and the members shall not be eligible to hold office for more than two terms.

(*2*) The Chairperson and the members of the Committee may resign by giving in writing a notice of not less than six months to such authority as the Central Government may, by notification, specify.

(*3*) The salary and allowances payable to, and the other terms and conditions of service of the Chairperson and the members of the Committee shall be such, as may prescribed.

Functions of the Committee.

6. The Committee shall,—

(*a*) publish a recycling strategy within six months of its constitution;

(*b*) after appropriate consultation,—

(*i*) set a target of recycling at least eighty per cent. of packaging of products manufactured by FMCG companies by the year 2025;

(*ii*) assist companies in spreading awareness about recycling of packaging;

(*iii*) assist companies in preparation of schemes regarding recycling of packaging;

(*iv*) encourage individuals to deposit packaging with the retailers; and

(*v*) ensure effective implementation of this Act;

(*c*) assess the positive and negative impacts of the E-waste (Management) Amendment Rules, 2018 and strive to incorporate the findings in the rules;

(*d*) in discharging its duties under this Act, consult FMCG companies, retailers, public environmental experts and such other individuals and organizations as it may deem appropriate.

(*e*) conduct periodic inspections, within such time, as may be prescribed, of FMCG companies to ensure that such companies are complying with the provisions of this Act; and

(*f*) undertake such other functions as may be assigned to it, from time to time, by the Central Government:

Provided that if, during the course of the inspection, the Committee finds that a company has failed to comply with any of the provisions of this Act, the committee shall recommend to the Central Government the penalty to be imposed on such company.

FMCG Companies to set targets for recycling of packaging material.

7. Every FMCG company shall set the targets as specified in the Schedule for recycling of packaging material:

Recycling Packaging Report.

8. (*1*) Every FMCG Company shall submit a Recycling Packaging Report to the Committee, within such time as may be prescribed.

(*2*) The Report of sub-clause (1) shall include:—

(*a*) statistics such as the number of packaging produced every year, number of packaging recycled every year and tie-ups with retailers;

(*b*) details of their schemes, success and problems being faced in the implementations; and

(*c*) other details as deemed fit by the Committee.

(*3*) The Central Government shall cause the report to be laid before each House of Parliament in such manner as may be prescribed.

Central Government to provide funds.

9. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds from time to time, for carrying out the purposes of this Act.

Act not in derogation of other laws.

10. The provisions of this Act shall be in addition and not in derogation of any other legislation, rules, orders or instructions.

Power to remove difficulty.

11. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for

removing the difficulty:

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

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

Power to make rules.

12. (*1*) The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

SCHEDULE

(*See* section 7)

Sl. No.	Year	Collection Target for Each Company
1.	2019-2020	20% of the quantity of packaging generated
2.	2020-2021	35% of the quantity of packaging generated
3.	2021-2022	50% of the quantity of packaging generated
4.	2022-2023	60% of the quantity of packaging generated
5.	2024-2025	70% of the quantity of packaging generated
6.	2025 onwards	60% of the quantity of packaging generated

STATEMENT OF OBJECTS AND REASONS

Under article 48A of the Constitution, it is the responsibility of the State to ensure the protection of our environment. Reports suggest that sixty-two million tonnes of municipal solid waste per annum is generated in urban areas of India. A majority of this waste is unsegregated and hence unfit for recycling. It is left untreated to rot in open and as such act as environmental hazard. The landfills or dumping grounds create greenhouse gases and pollute the local water, soil and air in addition to being a breeding ground for diseases.

Further, packaging of products of FMCG Companies is thrown by the public in open places. The need is to discourage such littering and instill a sense of responsibility in individuals.

Hence this Bill.

NEW DELHI;
June 6, 2019.

VISHNU DAYAL RAM

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for Constitution of a Committee for Regulation of Recycling. It is also provide for appointment of a Chairperson and members of the Committee. Clause 9 provides that the Central Government shall provide adequate funds for carrying out the purposes of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve the recurring expenditure of about rupees twenty crore per annum.

A non-recurring expenditure of rupees two crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 115 OF 2019

A Bill to provide for special financial assistance to the State of Rajasthan for the purpose of promoting the welfare of persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Section of the society and for the development, exploitation and proper utilisation of its resources.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Special Financial Assistance to the State of Rajasthan Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Special financial assistance to the State of Rajasthan.

2. There shall be paid such sums of moneys out of the Consolidated Fund of India, every year, as Parliament may by due appropriation provide, as special financial assistance to the State of Rajasthan to meet the costs of such schemes of development, as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of persons belonging to Scheduled Castes, the Scheduled Tribes and Other Backward Section of the society or for the development, proper utilisation and exploitation of the resources in the State.

Act not in derogation of other law.

3. The provisions of this Act shall be in addition to and not in derogation of any other law to be made by Parliament or for the time being in force.

STATEMENT OF OBJECTS AND REASONS

The State of Rajasthan is socially and economically backward. Problems of poverty, unemployment, illiteracy as well as measures for proper utilization of resources, welfare of weaker sections in the region are required to be addressed urgently by initiating new development schemes in a time-bound manner. Being a border State, Rajasthan is strategically located and it is in the nation's interest that its development needs are addressed. It is, therefore, necessary that the Central Government should provide special financial assistance to the State of Rajasthan for its all-round development including the welfare of weaker sections and for the development and exploitation of its vast resources. Such a step of providing financial assistance to this State would go a long way in building this nation more and more strong.

Hence this Bill.

NEW DELHI;
June 12, 2019.

MANOJ RAJORIA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that there shall be paid such sums of moneys out of the Consolidated Fund of India, every year, as Parliament may by due appropriation provide, as special financial assistance to the State of Rajasthan to meet the costs of such schemes of development, as may be undertaken by the State with the approval of the Government of India.

The Bill, therefore, on enactment, will involve expenditure out of the Consolidated Fund of India for providing special financial assistance to the State of Rajasthan. As the sums of moneys which will be given to the State of Rajasthan as special financial assistance by appropriation by law made by Parliament will be known only after the welfare schemes to be implemented by the State Government with the approval of Government of India are identified, it is not possible to give the estimates of recurring expenditure, which would be involved out of the Consolidated Fund of India at this stage.

No non-recurring expenditure is likely to be incurred from the Consolidated Fund of India.

BILL NO. 76 OF 2019

A Bill to provide for extension of Central Government Health Scheme facilities to every district headquarter in the country and linking the Central Government Health Scheme card to Aadhaar number and for matters connected therewith.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Extension of Central Government Health Scheme to Every District Headquarter Act, 2019.

Definitions.

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

(*a*) "beneficiary" shall include the beneficiaries under the Central Government Health Scheme (CGHS) as notified by Ministry of Health *vide* O.M. dated 1.5.1954 and as amended, from time to time;

(*b*) "CGHS" shall mean the Central Government Health Scheme as notified by Ministry of Health *vide* O.M. dated 1.5.1954 and as amended, from time to time for the healthcare benefits of beneficiaries; and

(*c*) "prescribed" means prescribed by rules made under this Act.

Extension of CGHS to district headquarters.

3. It shall be the responsibility of the Central Government to extend the benefits of the CGHS to all the district headquarters in the country in such manner as may be prescribed.

Central Government to empanel Private Hospitals or Diagnostic Centres.

4. The Central Government shall, in absence of any Government Hospital or CGHS Wellness Centre, may empanel such number of Private hospitals or diagnostic centres in the district headquarter, as it may deem appropriate for carrying out the purposes of this Act.

Beneficiary to avail CGHS facilities irrespective of his place of residence.

5. Every beneficiary irrespective of his place of permanent residence shall be entitled to avail the CGHS facilities in any of the CGHS wellness centres as per his entitlement and rules prescribed in this behalf by the Central Government.

CGHS card to be linked with the Aadhaar.

6. (*1*) For the purpose of availing medical facilities and reimbursement claims under this Act, the CGHS Card of the beneficiaries shall be linked with the Aadhaar number as defined under the (Aadhaar Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 in such manner as may be prescribed. 18 of 2016.

(*2*) The reimbursement claims shall be made to the bank account of the beneficiary or in case of his death or being in comatose state to the bank account of any dependent beneficiary with the consent of all other dependent beneficiaries in such manner as may be prescribed.

Power to make rules.

7. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

The Central Government Health Scheme (CGHS) is an ideal welfare measure available to all Central Government servants, their dependents and retired personnel, etc. in CGHS covered cities. In fact the scheme is most beneficial when one is advanced in age and ailing. As of now CGHS clinics wellness centre are functioning only in the capital city of most States. Non-availability of CGHS clinics or branch offices in every district makes it impossible for beneficiaries to avail the facility. A retired or sick person cannot travel across the State in his sick condition to avail the medical facility or to claim reimbursement. His health condition may not permit such travel. Even after illness the person may not be able to afford the travel to present his bills and seek reimbursement.

It is also necessary to link CGHS cards to Aadhaar number so that beneficiaries may be assured of treatment according to their eligibility and reimbursement to their bank accounts when treatment becomes essential through private hospitals.

Hence, this Bill.

NEW DELHI;
June 12, 2019.

MANOJ RAJORIA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for extension of the benefits of CGHS to all the district headquarters in the country. Clause 4 provides that the Central Government shall, in absence of any Government Hospital or CGHS Wellness Centre, may empanel such number of Private hospitals or diagnostic centres in the district headquarter, as may be necessary, for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees one thousand crore will be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to the matters of detail only the delegation of legislative power is of a normal character.

BILL NO. 140 OF 2019

A Bill further to amend the Prevention of Insults to National Honour Act, 1971.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Prevention of Insults to National Honour (Amendment) Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

69 of 1971.

Substitution of new section for section 3.

2. In the Prevention of Insults to National Honour Act, 1971, for section 3, the following section shall be substituted, namely:—

Prevention of singing of National Anthem.

"3. Whoever intentionally prevents the singing of the Indian National Anthem or causes disturbance to any assembly engaged in such singing or intentionally causes disrespect to the National Anthem, shall be punished with imprisonment for a term, which may extend to three years, or with fine, or with both.

Explanation.—For the purposes of this section, the word "disrespect" shall include any person refusing to stand for or recite the National Anthem except when such person is suffering from any physical disability in that regard."

STATEMENT OF OBJECTS AND REASONS

National honour is embodied in various symbolic elements like National Flag, National Anthem and national symbols. Respecting them is a fundamental duty of every citizen.

National Anthem of any nation has a unique significance of its own. In the case of India, our National Anthem is not only the symbol of our national honour but it is also a memory and a tribute for our freedom struggle. Written by Shri Rabindranath Tagore, it contains flavour of unity and integrity of our nation. It keeps up reminding of our rich cultural, natural and political diversity. Thus any kind of disrespect or insult to our National Anthem is an insult to the integrity and unity of our country.

The Prevention of insults to National Honour (Amendment) Bill, 2018 is an effort to ensure full respect and honour for our National Anthem. The Bill seeks from all persons to stand and recite the National Anthem whenever it is played or sung in an assembly of people. The aim is not only to provide respect and honour for our National Anthem but also to inculcate among our citizens a feeling of belongingness for our National Anthem.

Hence this Bill.

NEW DELHI;
June 17, 2019.

PARVESH SAHIB SINGH

BILL NO. 134 OF 2019

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2019. Short title.

2. In the preamble to the Constitution, for the words "THE PEOPLE OF INDIA, having solemnly resolved to constitute India", the words "THE PEOPLE OF BHARAT, having solemnly resolved to constitute Bharat" shall be substituted. Amendment of the preamble.

3. In article 1 of the Constitution, for clause (1), the following clause shall be substituted, namely:— Amendment of article 1.

"(*1*) Bharat shall be a Union of States.".

4. Throughout the Constitution, for the word "India", wherever it occurs, the word "Bharat" shall be substituted. Substitution of reference to 'India' by 'Bharat'.

STATEMENT OF OBJECTS AND REASONS

Historically, our country was known as Bharat. Though there are indications that the name 'India' was also in use even in very ancient times, the term came more prominently in vogue with the advent of the British imperial rule. For this reason, often the use of the term 'India' is regarded an imperial legacy. The framers of our Constitution did give recognition to the name 'Bharat' and named the republic as "India, that is Bharat" in article 1 of the Constitution. However, they chose to give precedence to "India" over "Bharat". That is why, throughout the rest of the Constitution, the term "India" has been used to refer to the republic.

The Bill seeks to amend the Constitution so as to rename the republic as "Bharat" instead of "India".

Hence this Bill.

NEW DELHI;
June 17, 2019.

BHARTRUHARI MAHTAB

BILL NO. 166 OF 2019

A Bill to regulate the use of mobile electronic devices by pedestrians on road and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Use of Mobile Electronic Devices by Pedestrians on Road (Regulation) Act, 2019.

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

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*b*) "mobile electronic device" means a mobile phone, digital audio or video player or any other hand-held electronic device excluding hearing aids and other medical assistive devices as specified by the appropriate Government by rules or notification, to be considered as mobile electronic devices for the purpose of this Act; and

(*c*) "pedestrian" means a person travelling on foot, whether walking or running.

Prohibition on use of mobile electronic devices.

3. Notwithstanding anything contained in any other law for the time being in force, the use of mobile electronic devices by pedestrians while walking on roads is hereby prohibited.

Penalty.

4. Whoever uses mobile electronic devices while walking on roads shall be punishable—

(*a*) for the first offence, with a fine which may extend upto five thousand rupees; and

(*b*) for each subsequent offence, with a fine which may extend upto ten thousand rupees:

Provided that where a person convicted of an offence punishable under this section fails to pay the fine under clauses (*a*) or (*b*), as the case may be, he shall be punishable with simple imprisonment for a term not exceeding one month for the first offence and two months for each subsequent offence, respectively.

Power to remove difficulties.

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

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

Act to have overriding effect.

6. The provision of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act not in derogation of any other law.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Power to make rules.

8. (*1*) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act by the Central Government 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 the 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 previsouly done under that rule.

(*3*) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

As per an estimate, on an average four hundred persons die in road accidents in India every day. This comes to a whooping seventeen deaths every hour. Among the most vulnerable on roads are the pedestrians. While rashly driven vehicles are believed to be a primary cause of road accidents, there is clear evidence that negligent behaviour on the part of pedestrians have often been among major causes of such accidents. Use of mobile phones and other electronic devices by pedestrians is prominent example of such baheviour.

There is no dearth of incidents where pedestrians can be seen talking over mobile phone, texting or watching a video while walking or even crossing a road. Many countries have framed strict laws which contain penal provisions for using mobile electronic devices while walking on roads. With strict laws and impeccable implementation, they have been able to contain such incidents to a large extent.

In India, however, while there are express penal provisions for drivers using mobile electronic devices, there is an urgent need to have equally stringent provisions for pedestrians who use mobile electronic devices while walking on roads.

Towards this end, the Bill seeks to make use of mobile electronic devices while walking on roads an offence punishable with fine of five thousand rupees for the first offence and ten thousand rupees for subsequent offences. The Bill also provides that in case the guilty individual fails to pay the fine, he shall be punishable with simple imprisonment up to one month or two months for first offence and subsequent offence, respectively.

The Bill seeks to achieve the above objects.

NEW DELHI;
June 17, 2019.

BHARTRUHARI MAHTAB

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2(1)(b) of the Bill empowers the appropriate Government to specify, by rules or notification, the devices which shall be considered mobile electronic devices for the purposes of the Bill. As the rules or notification will relate to matters of detail only, the delegation of legislative power is, of a normal character.

BILL NO. 136 OF 2019

A Bill to regulate termination of life of persons who are in a permanent vegetative state or terminally ill and facing unbearable suffering and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Euthanasia (Regulation) Act, 2019.

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

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "active euthanasia" means termination of life of a person who is terminally ill and facing unbearable suffering by administration of lethal drugs;

(*b*) "Board" means the Evaluation and Review Board constituted under section 3;

(*c*) "Committee" means the Committee constituted by the Chief Medical Officer of a Government Hospital under section 8;

(*d*) "passive euthanasia" means termination of life of a person who is in a permanent vegetative state for not less than six months by withdrawal of life support system;

(*e*) "physician" means a medical practitioner registered with the Medical Council of India; and

(*f*) "prescribed" means prescribed by rules made under this Act.

Constitution of Evaluation and Review Board.

3. (*1*) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Evaluation and Review Board.

(*2*) The Board shall consist of—

(*a*) Director General of Health Services in the Union Ministry of Health and Family Welfare, who shall be *ex-officio* Chairperson of the Board;

(*b*) two eminent physicians;

(*c*) a jurist of repute; and

(*d*) an eminent person having experience

in ethics or social work, to be appointed by the Central Government in such manner, as may be prescribed, as members of the Board.

Officers and employees of the Board.

4. (*1*) The Board shall have such officers and employees as may be necessary for the efficient discharge of its functions.

(*2*) The term and other conditions of service of officers and employees of the Board shall be such as may be prescribed.

Examination of application of active and passive euthanasia.

5. The Board shall examine applications of active euthanasia and passive euthanasia made under sections 7 and 8, respectively and give its opinion thereon:

Provided that in examining an application of euthanasia in respect of a child below the age of eighteen years, the Board shall associate a paediatrician if neither of the physician in the Board is a paediatrician:

Provided further that in respect of an application of active euthanasia, the opinion of the Board shall be given within three weeks of the receipt of such application.

Euthanasia not to be an offence.

6. Notwithstanding anything contained in the Indian Penal Code, 1860 or any other law for the time being in force,— 45 of 1860

(*a*) a physician shall not be deemed to have committed any offence for performing an act of termination of life through active euthanasia or passive euthanasia in accordance with the provisions of this Act and the rules made thereunder;

(*b*) no person applying for termination of life through active euthanasia or passive euthanasia either for himself or for a person in respect of whom he is so authorised under this Act shall be deemed to have committed any offence.

Application of active euthanasia.

7. An application for termination of life through active euthanasia shall be made to the Board by that person himself or where that person, by reason of his illness, lack of mental faculties or age or such other reasons, as may be prescribed, is unable to express his consent, by his parents or spouse or children or siblings or legal guardian.

Application of passive euthanasia.

8. (*1*) An application for termination of life through passive euthanasia shall be made to the Chief Medical Officer of a Government hospital by the parents or spouse or children or siblings or legal guardian of that person.

(*2*) On receipt of an application under sub-section (*1*), the Chief Medical Officer shall constitute a Committee consisting of three physicians for examining the person in respect of whom an application has been made and giving its opinion thereon.

(*3*) Notwithstanding anything in sub-section (*2*), where the application made under sub-section (*1*) is in respect of a person, whose any organ is to be transplanted to another person, or a girl child, the Chief Medical Officer shall forward that application to the Board.

Issuance of certificate of euthanasia.

9. If the Board or the Committee, after examining the person in respect of whom an application has been made is of the opinion that the life of that person requires to be terminated by active euthanasia or passive euthanasia, as the case may be, it shall issue a certificate to that effect containing therein the reasons for such opinion.

Permission for euthanasia by the Court of Session.

10. No person shall be administered active euthanasia or passive euthanasia under this Act unless he makes an application in a Court of Session and such Court permits the application of euthanasia.

Investigation of application of euthanasia by the Court.

11. (*1*) On receipt of an application of euthanasia under section 10, the Court shall appoint a team of lawyers to investigate and enquire as to whether the patient, actually and without any extraneous influence of any kind, desires to terminate his life through euthanasia and make a report thereon.

(*2*) If the Court is satisfied with the report, it shall grant permission for euthanasia in the prescribed form under its seal and signature.

Euthanasia of the patient.

12. (*1*) On production of permission from the Court of Session, the Civil Surgeon or Chief Medical Officer of a Government hospital shall fix a date for euthanasia.

(*2*) On the date so fixed, steps shall be taken to put the life of the patient to a gentle and painless end in the presence of the members of the family of the patient and a representative of the Court of Session.

Power to remove difficulties.

13. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing that difficulty:

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

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

Act to have overriding effect.

14. The Provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to make rules.

15. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

There are divergent views world over whether a person has a right to end his life or not. The demands for such right are more vociferous in the case of individuals in permanent vegetative state and those with terminal illness and facing unbearable sufferings due to such illness.

The issues involved in the questions arising out of euthanasia are both ethical and legal. While there are different views on ethical questions among people of different persuasions, there is hardly any semblance of convergence on the legal aspects as well. A few countries have allowed euthanasia in some form or the other, but most of them have outlawed it. Indian law too does not permit euthanasia in any form. However, in Aruna Shanbaug's cases, Hon'ble Supreme Court laid down certain guidelines for passive euthanasia in exceptional cases. The Court left it to the Parliament to frame a comprehensive law on the subject.

The present Bill seeks to regulate euthanasia by making the following provisions—

(*i*) defining 'active euthanasia' and 'passive euthanasia';

(*ii*) allowing active euthanasia for terminally ill individuals who are facing acute suffering due to such illness;

(*iii*) allowing passive euthanasia for individuals in permanent vegetative state;

(*iv*) providing for constitution of an Evaluation and Review Board to examine patients requiring active or passive euthanasia;

(*v*) providing for constitution of a Committee of three physicians to decide whether a patient actually requires passive euthanasia; and

(*vi*) providing that application of euthanasia involving a child shall be decided by the Evaluation and Review Board in consultation with a paediatrician to prevent misuse of law in such case.

Hence this Bill.

NEW DELHI;
June 17, 2019.

BHARTRUHARI MAHTAB

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for constitution of an Evaluation and Review Board. Clause 4 provides for appointment of officers and employees of the Board. The Bill, therefore, if enacted, would involve expenditure out of the Consolidated Fund of India. It is estimated that a recurring expenditure of four crore per annum will be involved.

A non-recurring expenditure of rupees ten crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 153 OF 2019

A Bill further to amend the Insecticides Act, 1968.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Insecticides (Amendment) Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 4.

2. In section 4 of the Insecticides Act, 1968 (hereinafter referred to as the principal Act), 46 of 1968.—

(*a*) in sub-section (*3*), after clause (*xxi*), the following clause shall be inserted, namely:—

"(*xxii*) one scientist who shall be an expert in non-animal alternatives, to be nominated by the Central Government."; and

(*b*) in sub-section (*4*), for the words "under clauses (*xiv*) to (*xxi*)", the words "under clauses (*xiv*) to (*xxii*)" shall be substituted.

Amendment of section 5.

3. In section 5 of the principal Act, in sub-section (*1*), for the words "and the Plant Protection Adviser to the Government of India", the words," the Plant Protection Adviser to the Government of India and the scientist appointed under clause (*xxii*) of sub-section (*3*) of section 4" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The world, in the past ten years, has seen a paradigm shift in the way chemicals are being tested for health risk assessment. Safety testing is moving away from simply causing recognizable toxic effects in animals and moving into understanding symptoms, disorders, diseases and toxicity endpoints more holistically. This includes moving away from obsolete, time consuming, painful experiments on animals to swift, sustainable, superior non-animal technologies.

Europe and the United States have already begun to invest heavily in this research area, with collaborative research agreements being struck to maximize coordination, data sharing and potential synergies.

Europe, in the recent past, has made considerable progress in reducing the number of animals used to test a new active substance by an unprecedented 40% to 50% compared to previous requirements—making it one of the largest one-time regulatory animal test reduction ever achieved.

Whereas Europe was lagging behind 15-20 years in its regulation for safety assessment of pesticides, India's regulation still has elements that date back forty-five years. Obsolete, animal intensive experiments are still being mandated by the regulatory authority.

India has been a signatory to the Mutual Acceptance of Data (MAD) agreement of the Organisation for Economic Cooperation and Development (OECD) since 2011. The OECD contains a number of non-animal alternatives for any of its member countries or MAD signatory countries to uptake. However with India, the uptake and putting in practice, these alternatives have been extremely slow. This is due to the fact that neither the Central Insecticide Board nor the Registration Committee consist of any member with expertise in the non-animal alternatives. The Board heavily relies on stakeholders outside the Committee. With the advent of alternatives in a larger way in the near future owing to the development of alternatives worldwide and the requirements of Indian law, *i.e.,* section 17(2)(d) of the Prevention of Cruelty to Animals Act, 1960 requires that ''experiments on animals are avoided wherever it is possible to do so'', it is important that a scientist with knowledge and expertise on non-animal alternatives be included in the Central Insecticide Board and the Registration Committee so that redundant animal testing could be avoided thereby saving animals from unnecessary pain and suffering; and advancing India's standards in technology by bringing its regulatory requirements at par with the global leaders.

Hence this Bill.

NEW DELHI;
June 18, 2019.

MANOJ RAJORIA

BILL NO. 132 OF 2019

A Bill further to amend the Prevention of Cruelty to Animals Act, 1960.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Prevention of Cruelty to Animals (Amendment) Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 11.

59 of 1960.

2. In section 11 of the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as the principal Act), in sub-section (*1*), for the words "he shall be punishable, in the case

of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees, and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.", the words "he shall be punishable, in the case of a first offence, with fine which shall not be less than three thousand rupees but which may extend to five thousand rupees, and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than five thousand rupees but which may extend upto ten thousand rupees or with imprisonment for a term which may extend to six months, or with both."shall be substituted.

Substitution of new section for section 12.

3. For section 12 of the principal Act, the following section shall be substituted, namely:—

Penalty of practising *phooka, doom dev* or use of oxytocin.

"12. If any person performs upon any cow or other milch animal the operation called *phooka or doom dev* or any other operation (including injection of any substance or oxytocin) to improve lacation which is injurious to the health of the animal or permits such operation being performed upon any such animal in his possession or under his control, he shall be punishable with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with imprisonment for a term which may extend to four years, or with both, and the animal on which the operation was performed shall be forfeited to the Government.".

Amendment of section 20.

4. In section 20 of the principal Act, for the words, "which may extend to two hundred rupees", the words "which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees" shall be substituted.

Amendment of section 26.

5. In section 26 of the principal Act, for the words "he shall be punishable on conviction with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both", the words "he shall be punishable on conviction with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with imprisonment which may extend to six months, or with both" shall be substituted.

Substitution of new section for section 31.

6. For section 31 of the principal Act, the following section shall be substituted, namely:—

Cognizability of offences.

"31. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act shall be a cognizable offence within the meaning of that Code.**"**

Amendment of section 38.

7. In section 38 of the principal Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) If any person contravenes, or abets the contravention of, any rules made under this section, he shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees, or with imprisonment for a term which may extend to six months, or with both.".

STATEMENT OF OBJECTS AND REASONS

The Prevention of Cruelty to Animals Act, 1960 was enacted to prevent animal cruelty and suffering. However, the purpose of the Act is not achieved due to the inadequate penalties prescribed under it.

For decades, the Act has failed to deter animal abusers from committing acts of animal cruelty, neglect and abuse. The penal provisions under the Act have not been revised since enactment and in the present day, do not act as a deterrent to animal cruelty. The fine for animal cruelty is a maximum of rupees fifty. While the PCA Act was a strongly worded law for 1960 when it was drafted, it has not been able to protect animals for a long time due to this negligible fine.

The Hon'ble Supreme Court in *Animal Welfare Board of India Vs. A Nagaraja, case, vide* its order dated 7.5.2014 held—

Parliament is expected to make proper amendment of the Prevention of Cruelty to Animals Act to provide an effective deterrent to achieve the object and purpose of the Act and for violation of section 11, adequate penalties and punishments should be imposed.

Parliament, it is expected, would elevate rights of animals to that of constitutional rights, as done by many of the countries around the world, so as to protect their dignity and honour.

The then Hon'ble Minister of Food and Agriculture, Shri S.K. Patil, while moving the Prevention of Cruelty to Animals Bill on 12th December, 1960 in the Parliament stated as *"At the outset, I may say I do not claim that this is an ideal Bill. After 70 years, we are making an attempt for the first time to put on the statute at least something that will ultimately lead us on to the ideal Bill, after some years of experience."*.

Though the Animal Welfare Board of India has submitted a Draft Animal Welfare Bill, 2014 to the Ministry of Environment, Forest and Climate Change, the need of the hour is evident. At the very least, we must amend the Act to enhance the penalties.

Hence this Bill.

NEW DELHI;
June 18, 2019.

MANOJ RAJORIA

BILL NO. 135 OF 2019

A Bill further to amend the Juvenile Justice (Care and Protection of Childern) Act, 2015.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (1*) This Act may be called the Juvenile Justice (Care and Protection of Children) Act, 2019.*

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 56.

2. In section 56 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the principal Act), in sub-section (*2*), the words ", irrespective of their religion," shall be omitted. 2 of 2016.

Amendment of section 58.

3. In section 58 of the principal Act,—

(*a*) in sub-section (*1*), the words "irrespective of their religion," shall be omitted; and

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

Provided that where the identity of the orphan or abandoned or surrendered child is known, he shall be adopted by prospective adoptive parents belonging to similar religious or spiritual (Scheduled Tribe) ethnic group matching with the identity of such child.".

Amendment of section 59.

4. In section 59 of the principal Act, for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) A foreigner, who is a prospective adoptive parent living abroad, if interested to adopt an orphan or abandoned or surrendered child from India, irrespective of his religion, may apply for the same to an authorised foreign adoption agency or Central Authority or a concerned Government department in their country of habitual residence, as the case may be, in the manner as provided in the adoption regulations framed by the Authority.

(*3A*) A non-resident Indian or overseas citizen of India, or person of Indian origin, who are prospective adoptive parents living abroad, if interested to adopt an orphan or abandoned or surrendered child from India, may apply for the same to an authorised foreign adoption agency, or Central Authority or a concerned Government department in their country of habitual residence, as the case may be, in the manner as provided in the adoption regulations framed by the Authority:

Provided that where the identity of the orphan or abandoned or surrendered child is known, he shall be adopted by prospective adoptive parents belonging to similar religious or spiritual (Scheduled Tribe) ethnic group matching with the identity of such child.".

Amendment of section 69.

5. In section 69 of the principal Act, in sub-section (*5*), for the words "regional offices", the words "provincial Steering Committee for each State or province, as the case may be" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

India is a signatory to the United Nations Convention on the Rights of the Child (1992) and the Hague Convention (1993) on inter-country adoption of child. In consonance with the commitment towards these conventions, the Juvenile Justice (Care and Protection of Children) Act was enacted in the year 2000 which was consolidated and amended in the year 2015. Para (1) of Article 14 of Resolution 44/25 of the United Nations General Assembly dated 20 November, 1989 clearly expects the State parties to respect the "right of the child to freedom of thought, conscience and religion". The Government of India did not give due respect to the said resolution and without carrying out a thorough study of article 25 of the Constitution of India, enacted the Juvenile Justice (Care and Protection of Children) Act in the year 2015 and made a mistake by way of insertion of provisions related to inter-country adoption. To address the discrepancies in the Act of 2000, the amendment Act of 2015 [Act No. 2 of 2016] was enacted. However, the discrepancies could not be removed. Therefore, the amendment of the present Act of 2015 has become necessary for adoption of Hindu children.

As per sections 2(1), 2(42) and 2(60) of the Juvenile Justice (Care and Protection of Children) Act, 2015, abandoned or orphan or surrendered child may be categorised into following two categories of child whose:—

(1) identity is not known to the Committee; and

(2) identity is known to the Committee including sections of society, religion and spiritual ethnic group to whom the child belongs to.

The present Bill is intended for the welfare of the children coming under second category where the identity of the child is known to the Committee. The words "irrespective of their religion" as mentioned in sections 56(2), 58(1), 59(3) of Chapter VIII of the Act implies that the children whose identity is known are still being adopted by the prospective parents belonging to different religion. Such provisions cannot be justified as it leads to forced conversions.

Though the best interests of the child are mentioned in the Juvenile Justice (Care and Protection of Children) Act, 2015 and are also defined in section 2(9), there are still many ways to serve further. The present Act seems to be more inclined to give the Hindu Children to followers of other religions for adoption. Though at present no major movement is being noticed at social level, in coming days it may possibly lead to agitation by followers of Hindu religion. The Hon'ble Supreme Court also does not support such type and inappropriate attempts and in 1977 had clearly stated that "..... if a thing disturbs the current of the life of the community and does not merely effect an individual. It would amount to disturbance....".

It is an indisputable that the number of followers of Hinduism is greater than that of other prominent religions like Christianity and Islam. Out of which the Hindus are considerably poor and the followers of Christianity and Islam used to get substantial foreign financial assistance. Therefore, the children of the followers of Christianity and Islam religions are available for adoption in meager numbers and the number of children born in Hindu families is comparatively higher under the present Act. There is a provision in the Act which clarifies the religious and socio-economic background of children available for adoption. If the Government of India reveals its related records such as Form 43 Rule 69 (H) 3 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 pertaining to Case History of the Child for Child Care Institutions; Schedule II of the Adoptive Regulation, 2017 pertaining to Child Study Report and Schedule VII pertaining to Home Study Report of Resident Indian Parent/ Overseas Citizen of India/Foreigner Living in India, the actual position may be placed before the House.

The Bill, therefore, seeks to amend the Juvenile Justice (Care and Protection of Children)

Act, 2015 with a view to:—

(*a*) ensure that injustice is not meted out to the abandoned Hindu children; and

(*b*) provide that the orphan or abandoned or surrendered child whose identity is known to the Committee be adopted by prospective adoptive parents belonging to similar religious or spiritual (Scheduled Tribe) ethnic group matching with the identity of such child.

(*c*) establish Provincial Steering Committee for each State or Province, as the case may be.

Hence this Bill.

NEW DELHI;
June 19, 2019.

BHANU PRATAP SINGH VERMA

BILL NO. 178 OF 2019

A Bill to provide for compulsory teaching of legal education in educational institutions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Compulsory Teaching of Legal Education in Educational Institutions Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Difinitions.

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

(*a*) "Advisory Council" means the Advisory Council for Law Education constituted under section 6;

(*b*) "Appropriate Government" means in the case of a State, the Government of State and in all other cases, the Central Government;

(*c*) "educational Institutions" means a primary or a middle or a secondary or a senior secondary level school imparting education to children, by whatever name such institution is called, but does not include a minority educational institution;

(*d*) "legal education" means teaching of law; and

(*e*) "prescribed" means prescribed by rules made under this act.

Compulsory teaching of legal education in Educational Institutions.

3. From such date, as the Central Government may, by notification in the Official Gazette specify, the legal education shall be taught as a compulsory subject in all educational institutions from such class onwards as may be determined by the Central Government on the recommendation of Advisory Council constituted under section 6.

Appropriate Government to issue directions for compulsory teaching of legal education in educational institutions.

4. The appropriate Government shall immediately after issuance of the notification under section 3, issue directions for compulsory teaching of legal education in all educational institutions within its jurisdiction.

Appointment of Law Teachers.

5. Subject to such rules, as may be prescribed, the appropriate Government shall ensure appointment of such number of teachers with such qualifications, as may be specified, for teaching legal education in educational institutions.

Constitution of Advisory Council.

6. (*1*) The Central Government shall, within three months of the coming into force of the Compulsory Teaching of Legal Education in Educational Institutions Act, 2019, by notification in the Official Gazette, constitute an Advisory Council for law education.

(*2*) The Advisory council shall consist of such numbers of persons, having special knowledge or practical experience in the field of law, as the Central Government may deem fit.

Functions of Advisory Council for Law Education.

7. The Advisory Council shall perform the following functions, namely:—

(*a*) recommend to the Central Government the syllabus of legal education for each class upto senior secondary level;

(*b*) recommend to the Central Government the class from which onwards the legal education is to be taught in educational institutions;

(*c*) recommend to the appropriate Government the qualifications of teachers to be appointed in educational institutions for teaching legal education;

(*d*) recommend to the appropriate Government the institutions which may be given recognition for training teachers in legal education for the purpose of their appointment in educational institutions; and

(*e*) co-ordinate with the appropriate Government and the school authorities with a view to ensuring effective implementation of the provisions of this Act.

Derecognition of schools for non-compliance of the provisions of the Act.

8. The appropriate Government shall derecognize such schools, which do not comply with the provisions of section 4, after giving such institutions a reasonable opportunity of being heard.

Central Government to provide funds.

9. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide adequate funds to the States for carrying out the purpose of this act.

Overriding effects of the Act.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

11. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

It has been generally believed among different sections and groups of the society that legal education is only for the law students, lawyers etc. But no one ever thought that how important role can basic legal education plays in our daily life. It is very necessary for every person to have certain basic knowledge of law, otherwise it would become very difficult for him to tackle several problems, from consumer protection to fundamental rights. There are certain laws and regulation, basic knowledge of which is very necessary for a person, even if doesn't belong to a group which is related to legal field. Lack of knowledge is the main reason that certain rights of a person get violated so easily.

The main reason why a normal person do not take the violation of his rights seriously, is that he lives under a belief that he would have to pay certain amount to the concerned lawyer. Moreover, he is scared of the legal process and the judicial system of the country. And, indeed he is not wrong. But there is another way which can be used to know how your rights can be protected from getting violated.

It has been said that "Knowledge is the Power", and indeed it is not wrong. It is responsibility of education system to make a common man aware of his legal rights and how these legal rights can be saved. Current education system in schools lays emphasis on imparting quality education. However, it is missing out on legal education and is, therefore, complete without it.

The Bill, therefore, seeks to provide for making legal education compulsory in all educational institutions right from primary school level to senior secondary level in order to make it a part of school curriculum.

Hence, this Bill.

NEW DELHI;
June 20, 2019.

SUDHEER GUPTA

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for appointment of law education teachers in all schools. Clause 6 provides for constitution of advisory Council for Legal Education by the Central Government. Clause 9 provides for payment of adequate funds to the State for carrying out the purposes of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give exact estimate of expenditure, both recurring and non-recurring, which will be involved from the Consolidated Fund of India, if the Bill is enacted into a law. However, it is estimated that a recurring expenditure of about rupees one hundred crores will be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crores is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 174 OF 2019

A Bill to provide for prohibition of defecation and urinating in open places in order to keep open places clean and disease free.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Prohibition of Defecation in Open Places Act, 2019.

(*2*) It extends to the Union territories only.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "local authority" includes a municipal committee, corporation and council, by whatever name called, district board, cantonment board or any authority for the time being authorised by or under any law with the control and administration of any matter within a specified local area; and

(*b*) "defecation in open places" refer to the practice whereby people go out for defecation or urinating in fields, bushes, forests, open bodies of water or other open places instead of using toilets.

Prohibition of defecation in open places.

3. Notwithstanding anything containing in any other law for the time being in force, defecation in open places, in case of urinating in open, is hereby prohibited.

Penalty.

4. (*1*) Whoever violates the provisions of section 3 shall be liable to pay a fine of not less than five hundred rupees and, in case of defecation in open, a fine of not less than one thousand rupees.

(*2*) Notwithstanding the punishment provided in sub-section (*1*), a person violating the provisions of section 3 shall also be liable to perform for one day such community service, as may be decided by the local authority.

Overriding effects of the Act.

5. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

6. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

In India, defecation in open places is a well-established traditional practice deeply ingrained from early childhoold. Sanitation is not a socially acceptable topic, and as a result, people do not discuss it. Consequently, open defecation has persisted as a norm for many Indians. In addition to tradition and the communication taboo, the practice still exists due to poverty; many of the poorest people will not prioritise use of toilets and besides, many are living in rented homes without toilets.

A significant gap also exists between knowledge and practice. Even when people are aware of the health risks related to poor sanitation (Specifically of not using a toilet and practicing good hygiene), they continue with unhealthy practices.

The practice of defecation in open areas is rampant in India and the country is home to the world's largest population of people who defecate in the open and excrete close to 65,000 tonnes of faeces into the environment each day. Around 524 million people, which is nearly half the population of India, defecate in the open. India accounts for 90 per cent of the people in south Asia and 59 per cent of the 1.1 billion people in the world who practice defecation in open areas.

Defecation in open areas poses a serious threat to the health of children in India and is the main reason of highest number of diarrhoeal deaths among children under five in our country. Every year, diarrhoea kills 1,17,285 children under five years in India. Children weakened by frequent diarrhoea episodes are more vulnerable to malnutrition, stunting and opportunistic infections such as pneumonia. About 38 per cent of children in India suffer from some degree of malnutrition. Diarrhoea and worm infection are two major health conditions that affect school-age children impacting their learning abilities. Defecation in open areas also puts at risk the dignity of women in India. Women feel constrained to relieve themselves only under the cover of darkness for reasons of privacy to protect their dignity.

Defecation in open areas exposes women to the danger of physical attacks and encounters such as snake bites. Poor sanitation also cripples national development *i.e.* workers produce less, live shorter lives, save and invest less and are less able to send their childen to school.

Keeping in mind, the Swachh Bharat Mission, it is pivotal that we bring change in our daily lives and manners to make sure that the country could progress in the right direction. It is therefore, proposed to prohibit defection and urinating in open places and making its violation an offence.

Hence this Bill.

NEW DELHI;
June 20, 2019.

NARANBHAI KACHHADIYA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative powers is of a normal character.

BILL NO. 165 OF 2019

A Bill to provide for the establishment of a Bureau of Accountability to suggest measures for rooting out corruption; making the administration efficient and for matters connected therewith.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bureau of Accountability Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "Bureau" means the Bureau of Accountability established under section 3; and

(*b*) "prescribed" means prescribed by rules made under this Act.

Establishment of a Bureau of Accountability.

3. (*1*) The Central Government shall by notification in the Official Gazette, establish a Bureau to be known as the Bureau of Accountability for carrying out the purposes of this Act.

(*2*) The Bureau shall consist of—

(*i*) **three serving or retired Judges of the Supreme Court of India;**

(*ii*) the Cabinet Secretary to the Central Government;

(*iii*) the Home Secretary to the Central Government;

(*iv*) Director of the Intelligence Bureau;

(*v*) Director of the Central Bureau of Investigation;

(*vi*) one retired General of the Army to be nominated by the Central Government;

(*vii*) an eminent social worker to be nominated by the Central Government;

(*viii*) an eminent political worker to be nominated by the Central Government;

(*ix*) two Members of Parliament one each from the House of the People and the Council of States, to be nominated by the Presiding Officers of the respective Houses; and

(*x*) three serving or retired Chairpersons of Public Sector Undertakings to be nominated by the Central Government.

(*3*) The members of the Bureau shall have such tenure from the date of their appointment or nomination, as may be prescribed.

(*4*) The Bureau shall have its head office located at New Delhi.

(*5*) The Bureau shall have its offices in every State and Union territory.

(*6*) The Central Government shall appoint such number of Officers and staff as it considers necessary for the efficient functioning of the Bureau.

(*7*) The salary and allowances payable to and other terms and conditions of service of members and officers and staff of the Bureau shall be such as may be prescribed.

Chairperson of the Bureau.

4. The Chairperson of the Bureau shall be appointed by the Central Government from amongst the three serving or retired Judges of the Bureau to preside over the meetings of the Bureau.

Functions of the Bureau.

5. The Bureau shall take steps and suggest measures to the Central Government to—

(*i*) accelerate the pace of working in the Ministries of Government of India;

(*ii*) make the administration corruption free; and

(*iii*) implement the policies framed by the Central Government within the prescribed time period.

Powers of Bureau.

6. The members of the Bureau shall carry out surprise inspections of various Ministries and Departments of the Central Government and the Public Sector Undertakings from time to time and suggest measures for carrying out administrative reforms in the functioning of the Ministries, Departments and Public Sector Undertakings.

Procedure to be followed by the Bureau in its functioning.

7. (*1*) The Bureau shall formulate rules for its internal working and the rules so made shall be laid on the Table of each House of Parliament.

(*2*) If any amendment is made to the rules frame under sub-section (*1*), the amendment so made shall also be laid on the Table of each House of Parliament.

Power to make rules.

8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

It has been emphasized time and again that low performing and inefficient bureaucracy is big hurdle in the development of the country. Some senior officers and their subordinates working in Government offices do not dispose of their official works within the prescribed or reasonable time period. Many important files remain pending for months in Government Offices and offices of Public Sector Undertakings which in turn leads to corruption. It is, therefore, necessary that a high powered permanent Bureau should be set up to accelerate the pace of work of bureaucracy and ensure timely completion of work. This will also help in rooting out corruption.

Hence this Bill.

NEW DELHI;
June 20, 2019.

NARANBHAI KACHHADIYA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall establish a Bureau of Accountability. It further provides that the Central Government shall appoint such number of officers and staff as it considers necessary for the efficient functioning of the Bureau. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees one hundred crore per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 175 OF 2019

A Bill to provide for compulsory teaching of disaster management education in all educational institutions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Compulsory Teaching of Disaster Management Education in Educational Institutions Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "Advisory Council" means the Advisory Council for Disaster Management Education constituted under section 6;

(*b*) "appropriate Government" means in the case of a State, the Government of State and in all other cases, the Central Government;

(*c*) "disaster" means any occurrence that cause damage, ecological disruption, loss of human life deterioration of health and health services on a scale sufficient to warrant an extraordinary response from outside the affected community or area;

(*d*) "Disaster Management" means discipline dealing with and avoiding risks that involves preparing for disaster before it occurs, disaster response including emergency evacuation, quarantine and mass decontamination as well as supporting and rebuilding society after occurrence of natural or human-made disasters;

(*e*) "educational institution" means a primary or a middle or a secondary or a senior secondary level school imparting education to children, by whatever name such institution is called but does not include a minority educational institution; and

(*f*) "prescribed" means prescribed by rules made under this Act.

Compulsory teaching of Disaster Management in educational institutions.

3. From such date, as the Central Government may, by notification in the Official Gazette specify, the disaster management shall be taught as a compulsory subject in all educational institutions from such class onwards as may be determined by the Central Government on the recommendation of the Advisory Council.

Appropriate Government to issue directions for compulsory teaching of Disaster Management in educational institutions.

4. The appropriate Government shall, immediately after issuance of the notification under section 3, issue directions for compulsory teaching of disaster management in all educational institutions within its jurisdiction.

Appointment of Disaster Management Teachers.

5. Subject to such matters as may be prescribed, the appropriate Government shall ensure appointment of such number of teachers with such qualifications, as may be specified, for teaching disaster management in educational institutions.

Constitution of Advisory Council for Disaster Management.

6. (*1*) The Central Government shall, within three months of the coming into force of the Compulsory Teaching of Disaster Management in Educational Institutions Act, 2019, by notification in the Official Gazette, constitute an Advisory Council for Disaster Management Education.

(*2*) The Advisory Council shall consist of such number of persons, having special knowledge or practical experience in the field of Disaster Management, as the Central Government may deem fit.

Functions of Advisory Council for Disaster Management Education.

7. The Advisory Council shall perform the following functions, namely:—

(*a*) recommend to the Central Government the syllabus of disaster management education for each class upto senior secondary level;

(*b*) recommend to the Central Government the class from which onwards the disaster management shall be taught in educational institutions;

(*c*) recommend to the appropriate Government the qualifications of teachers to be appointed in educational institutions for teaching disaster management;

(*d*) recommend to the appropriate Government the institutions which may be given recognition for training teachers in disaster management for the purpose of their appointment in educational institutions;

(*e*) co-ordinate with the appropriate Government and the school authorities with a view to ensuring effective implementation of the provisions of this Act.

Derecognition of educational institutions for non-compliance of the provisions of the Act.

8. The appropriate Government shall derecognize educational institutions, which does not comply with the provisions of section 4, after giving such institution a reasonable opportunity of being heard.

Central Government to provide funds.

9. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Overriding effects of the Act.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

11. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

We are not able to prevent the earth from shaking, the wind from blowing or the rain from falling. However, with assessment and planning, physical and environmental protection and response preparedness, we can prevent these events from becoming disasters. Since schools are our universal institutions for sharing knowledge and skills, the expectations for schools to be role models in disaster prevention and management is high. Successful disaster mitigation is one of the ultimate tests of the success of the education we provide our generations.

Enthusiasm in disaster management preparedness generally fades once an emergency phase is past. Schools offers a good entry point for keeping communities alert and making disaster risk more sustainable. Highly educated teachers, trained students and well informed parents and family members can play an important role in disseminating knowledge and keeping their communities well-prepared. Teachers, students and their family members being responsible citizens of our country should be a part and parcel of disaster preparedness drive taken up in. It is not possible to plan for every eventuality that might occur; however, preparation is key to saving lives if a disaster strikes.

Current education system in schools lays emphasis on imparting quality education. However, our current education is missing out on disaster management education and is, therefore, incomplete without it.

The Bill, therefore, seeks to provide for making disaster management education compulsory in all educational institutions right from primary school level to senior secondary level in order to make it a part of school curriculum.

Hence this Bill.

NEW DELHI;
June 20, 2019.

NARANBHAI KACHHADIYA

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for appointment of disaster management education teachers in all schools. Clause 6 provides for constitution of Advisory Council for disaster management education by the Central Government. Clause 9 provides for payment of adequate funds to the States for carrying out the purpose of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give exact estimate of expenditure, both recurring and non-recurring, which will be involved from the consolidated Fund of India, if the Bill is enacted into a law. However, it is estimated that a recurring expenditure of about rupees one hundred crore will be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 164 OF 2019

A Bill to provide for compulsory teaching of psychology in all educational institutions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Compulsory Teaching of Psychology in Educational Institutions Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "Advisory Council" means the Advisory Council for Psychology Education constituted under section 6;

(*b*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*c*) "educational institution" means a primary or a middle or a secondary or a senior secondary level school imparting education to children, by whatever name such institution is called but does not include a minority educational institution;

(*d*) "prescribed" means prescribed by rules made under this Act; and

(*e*) "psychology" means study of behaviour and mind, especially those affecting mental characteristic or behaviour of a person or group.

Compulsory teaching of psychology in educational Institutions.

3. From such date, as the Central Government may, by notification in the Official Gazette specify, the psychology shall be taught as a compulsory subject in all educational institutions from such class onwards as may be determined by the Central Government on the recommendation of the Advisory Council.

Appropriate Government to issue directions for compulsory teaching of psychology in educational Institutions.

4. The appropriate Government shall, immediately after issuance of the notification under section 3, issue directions for compulsory teaching of psychology in all educational institutions within its jurisdiction.

Appointment of Psychology Teachers.

5. Subject to such matters, as may be prescribed, the appropriate Government shall ensure appointment of such number of teachers with such qualifications, as may be specified, for teaching psychology in educational Institutions.

Constitution of Advisory Council for Psychology Education.

6. (*1*) The Central Government shall, within three months of the coming into force of the Compulsory Teaching of Psychology in Educational Institutions Act, 2016, by notification in the Official Gazette, constitute an Advisory Council for Psychology Education.

(*2*) The Advisory Council shall consist of such number of persons, having education, special knowledge or practical experience in the field of psychology, as the Central Government may deem fit.

Functions of Advisory Council.

7. The Advisory Council shall perform the following functions, namely:—

(*a*) recommend to the Central Government the syllabus of psychology education for each class upto senior secondary level;

(*b*) recommend to the Central Government the class from which onwards the psychology shall be taught in educational institutions;

(*c*) recommend to the appropriate Government the qualifications of teachers to be appointed in educational institutions for teaching psychology;

(*d*) recommend to the appropriate Government the institutions which may be given recognition for training teachers in psychology education for the purpose of their appointment in educational institutions; and

(*e*) co-ordinate with the appropriate Government and the school authorities with a view to ensuring effective implementation of the provisions of this Act.

Derecognition of educational institution for non-compliance of the provisions of the Act.

8. The appropriate Government shall derecognize an educational institution which do not comply with the provisions of section 4, after giving such institution a reasonable opportunity of being heard.

9. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Central Government to provide funds.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Overriding effects of the Act.

11. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

Psychology is the science of behaviour and cognitive processes. It is a field that seeks to obtain scientific information on everything humans think, feel or do. The human mind is not static. It is always changing. Psychology is not merely study of common sense, it provides sophisticated answers to complex questions about behaviour.

To understand human mind and behaviour, every person must have to know how human mind functions in everyday life. Through the study of psychology, students work to understand the complex mental processes that dictate human actions. Along with presenting an interesting academic challenge, psychology has a host of applicable uses. Those who dedicate themselves to the study of this discipline will find that they are able to apply their understanding of human behaviour to numerous situations and use their knowledge in their everyday life.

Current education system in schools lay emphasis on imparting quality education. However, our current education is missing out on psychology education and is, therefore, incomplete without it.

The Bill, therefore, seeks to provide for making psychology education compulsory in all educational institutions right from primary school level to senior secondary level in order to make it a part of school curriculum.

Hence this Bill.

NEW DELHI;
June 20, 2019.

NARANBHAI KACHHADIYA

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for appointment of psychology education teachers in all schools. Clause 6 provides for constitution of Advisory Council for psychology education by the Central Government. Clause 9 provides for payment of adequate funds to the State for carrying out the purposes of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give exact estimate of expenditure, both recurring and non-recurring, which will be involved from the Consolidated Fund of India, if the Bill is enacted into a law. However, it is estimated that a recurring expenditure of about rupees one hundred crore will be involved per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 152 OF 2019

A Bill to provide for special financial assistance to the State of Bihar for the purpose of promoting the welfare of Scheduled Castes, Scheduled Tribes and Other Backward Sections of people and for the development, exploitation and proper utilization of its resources.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Special Financial Assistance to the State of Bihar Act, 2019.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. There shall be paid such sums of moneys out of the Consolidated Fund of India, every year, as Parliament may by due appropriation provide, as special financial assistance to the State of Bihar to meet the costs of such schemes of development, as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of Scheduled Castes, Scheduled Tribes and Other Backward Sections of people or for the development, proper utilization and exploitation of the resources in the State.

Special financial assistance to the State of Bihar.

3. The provisions of this Act shall be in addition to and not in derogation of any other law to be made by Parliament or for the time being in force.

Act not in derogation of other laws.

STATEMENT OF OBJECTS AND REASONS

The State of Bihar is socially and economically backward. The low pace of development in the State has resulted in the impoverishment of the State and its people. The development of Bihar is the need not only of that State but of the entire country as a whole.

The development of the State can be ensured only with the active involvement of the Central Government. For this, it is necessary that the Central Government provides special financial assistance to the State for its all round development including the welfare of weaker sections and for the development and exploitation of its vast resources. Such a step would go a long way in building our nation more and more strong.

Hence this Bill.

NEW DELHI;
June 20, 2019

ALOK KUMAR SUMAN

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that there shall be paid such sums of moneys out of the Consolidated Fund of India, every year, as Parliament may by due appropriation provide, as special financial assistance to the State of Bihar to meet the costs of such schemes of development, as may be undertaken by the State with the approval of the Government of India.

The Bill, therefore, on enactment, will involve expenditure out of the Consolidated Fund of India for providing special financial assistance to the State of Bihar. As the sums of moneys which will be given to the State of Bihar as special financial assistance by appropriation by law made by Parliament will be known only after the welfare schemes to be implemented by the State Government with the approval of Government of India are identified, it is not possible to give the estimates of recurring expenditure, which would be involved out of the Consolidated Fund of India at this stage.

No non-recurring expenditure is likely to be incurred from the Consolidated Fund of India.

BILL NO. 133 OF 2019

A Bill further to amend the Representation of the People (Amendment) Act, 1951.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Representation of the People (Amendment) Act, 2019.

Amendment of section 30.

2. In section 30 of Representation of the People Act, 1951,— 43 of 1951.

(*i*) in clause (*d*), for the words "fourteenth day", the words "seventh day" shall be substituted; and

(*ii*) after clause (*e*), the following proviso shall be added at the end, namely:—

"Provided that where a general election is to be held for the purpose of constituting a new Legislative Assembly of only one State, the poll shall be held on a single day.".

STATEMENT OF OBJECTS AND REASONS

At present, election to fill up a seat in Legislative Assembly or Parliament can be held only after fourteenth day from the date of withdrawal of nominations. This period appears to be a long gap and money power and muscle power could play its dirty role in the elections. Moreover, it has been seen that many a times non-serious candidates are also in the fray due to reasons best known to them. It is felt that elections should be held immediately after the last date for the withdrawal is over in order to ensure free and fair polls. Therefore, it is proposed to curtail the waiting period of fourteen days for elections to seven days.

It has been observed that elections to Parliament or Assemblies of States are held in different phases *i.e.* scattered and not held on a single date. This results in channelization of energy of bureaucrats and others in election process leading to complete stoppage of even routine work in the State. Moreover, if enough time is given, it leads to unnecessary expenditure, irregularities, hatred and tension. If the poll is held on a single date, all these things could be avoided. Intention behind holding of polls in different phases may be deployment of security forces in order to ensure peaceful election. However, to start with, if general election is held to fill up seats in the Legislative Assembly of only one State, poll must be held on a single day by deploying adequate security forces.

This Bill seeks to achieve the above objective.

NEW DELHI;
June 20, 2019.

RAHUL SHEWALE

BILL NO. 141 OF 2019

A Bill further to amend the Right of Children to Free and Compulsory Education Act, 2009.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), 35 of 2009.—

(*i*) clause (*f*) shall be omitted; and

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

'(*oa*) "secondary education" means the education from first class to tenth class;'.

Substitution of references to certain expressions by certain other expressions.

3. In the principal Act,—

(*i*) for the words "fourteen years" wherever they occur, the words "sixteen years" shall be substituted; and

(*ii*) for the words "elementary education" wherever they occur, the words "secondary education" shall be substituted.

Amendment of the Schedule.

4. In the Schedule to the principal Act,—

(*i*) in entry 1, in column (*2*), under the heading 'Item', for the words "eighth class", the words "tenth class" shall be substituted; and

(*ii*) in entry 3, in column (*3*), under the heading 'Norms and Standards' after "(*iv*) one thousand instructional hours per academic year for sixth class to eighth class." the figures and words "(*v*) one thousand and two hundred instructional hours per academic year for ninth and tenth class." shall be inserted.

STATEMENT OF OBJECTS AND REASONS

After our independence, Right of Children to Free and Compulsory Education Act, 2009 is one of the most important legislation. The Act was enacted considering a heavy drop out of children from school due to various reasons. One of the reasons that was attributed is the financial condition of the parents and another was that the parents were not willing to send their children to schools but instead engage them in gainful employment in order to meet both ends. After enactment of the Act there has been a considerable decrease in the drop out of children from the schools. The Act is achieving its purpose very well and is high time that the ambit of the Act be extended upto secondary education. Since almost every school has necessary infrastructure to impart education upto tenth class, or even twelfth class, there is no reason why children are not given free education upto secondary education.

This Bill seeks to achieve the above objective.

NEW DELHI;
June 21, 2019.

RAHUL SHEWALE

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to extend the free and compulsory education from elementary education to secondary education. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees ten thousand crore may be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

BILL NO. 163 OF 2019

A Bill to provide for nationalisation of inter-State rivers for the purpose of equitable distribution of river water amongst the States and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Nationalisation of Inter-State Rivers Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "inter-State river" means a river which has its source in one State and passes through two or more States including the State in which the river has its origin before it submerges into the sea and also includes a lake, tank or rivulet, which has its source from an inter-State river; and

(*b*) "prescribed" means prescribed by rules made under this Act.

No State to have exclusive right over an inter-State river.

3. Notwithstanding anything contained in any other law for the time being in force, no State shall have exclusive right over an inter-State river or to its use.

Central Government to have right and control over inter-State rivers.

4. On and from the date of commencement of this Act, the Central Government shall have exclusive right and control over all inter-State rivers.

State Governments to forward requirements of water/ electricity.

5. (*1*) Every State Government and Union Territory Administration shall forward its requirement of water for all purposes, including requirement for irrigation and drinking purposes, to the Central Government and also its requirement for electricity.

(*2*) While forwarding its requirement, every State Government and Union Territory Administration shall indicate the rivers, which are not inter-State rivers, and their status and any dam constructed within the State on any river, including an inter-State river, and its capacity for storage of water and electricity generated from each of such rivers.

(*3*) Every State Government shall also indicate the average rainfall in the State during the last three years in different seasons and the amount of rainfall during the current year.

Central Government to distribute inter-State river water.

6. (*1*) It shall be the duty of the Central Government to distribute river water of every inter-State river to the States within which such river pass through.

(*2*) While distributing river water, the Central Government shall take into consideration the following factors:—

(a) population and area of each interested State;

(b) land available for farming in each State;

(c) requirement of water for drinking, agricultural and other purposes in each State;

(d) length of inter-State river passing through each State; and

(e) requirement and availability of electricity in each State.

Steps to check flood and soil erosion.

7. The Central Government shall take such steps as it may consider necessary for checking floods and soil erosion caused by inter-State rivers.

Central Government to construct hydro-electrical plants on inter-State rivers.

8. (*1*) On and from the date of commencement of this Act, no State Government shall construct any hydro-electrical plant or project on any inter-State river.

(*2*) **The Central Government shall have exclusive right and control to construct any power plant meant for power generation on any inter-State river and shall distribute electricity in such ratio, among the State through which the inter-State rivers pass, as may be prescribed.**

(*3*) Every State Government shall pay to the Central Government in such ratio as may be prescribed for the electricity it receives from any hydro-electrical plant or project constructed on an inter-State river.

Power to make rules.

9. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

India is a union of States. There are many rivers, big or small flowing through many States before they submerge into the nearest sea. Today half of our population do not have access to potable water. Water is also not available for irrigation and other purposes. As a result, production of agricultural products has been considerably reduced.

It has been observed that many States through which a river flows, fight for considerable share of river waters and try to deprive the just and due demand of other States. Consequently, many cases are pending in tribunals for settlement. It is a common knowledge that tribunals take a long time before delivering judgment. In the meantime, the affected States fight each other for their share of water from the inter-State rivers and as a result, there is always strained relation among the States.

Therefore, it is proposed that only the Central Government shall have exclusive right and control over all inter-State rivers and it shall distribute river water according to pre-determined formula for allocation of waters. It is also proposed that the Central Government shall have exclusive right over electricity projects constructed on inter-State rivers and also have the responsibility to check erosion and floods caused by these rivers. This measure will not only enable distribution of river water among the different States without affecting the interests of the concerned States but also enable proper utilisation of available resources.

Hence this Bill.

NEW DELHI;
June 26, 2019.

K. NAVASKANI

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides that the Central Government shall take such steps as it may consider necessary for checking floods and soil erosion caused by inter-State rivers. Clause 8 provides that the Central Government shall construct hydro-electrical plants or projects on inter-State rivers. Though there is a provision that every State Government shall pay to the Central Government in such ratio as may be prescribed for the electricity it received, yet some expenditure will be incurred from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees seven hundred crore will be involved.

A non-recurring expenditure of about rupees seven hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 143 OF 2019

A Bill to provide for the establishment of a National Agriculture and Farmers Commission for welfare of farmers and comprehensive development of agriculture and for matters connected therewith.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the National Agriculture and Farmers Commission Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "agriculture" includes horticulture, animal husbandry, Forestry, dairy and poultry farming, pisciculture, and other allied activities, whether or not undertaken jointly with agriculture;

(*b*) "agricultural produce" includes paddy, wheat, coarse cereals, pulses, sugarcane, gram, cotton, oilseeds, vegetables, fruits, jute, coconut, tobacco, areca nuts and such other agricultural produce as may be notified by the Central Government, from time to time;

(*c*) "Commission" means National Agriculture and Farmers Commission established under section 3;

(*d*) "farmer" means any person who cultivates land or causes it to be cultivated for agricultural or horticultural purposes;

(*e*) "Fund" means the Agriculture and Farmers Development Fund constituted under section 5; and

(*f*) "prescribed" means prescribed by rules made under this Act.

Establishment of National Agriculture and Farmers Commission.

3. (*1*) The Central Government may, by notification in the Official Gazette, establish a Commission to be known as the National Agriculture and Farmers Commission for carrying out the purposes of this Act.

(*2*) The Commission shall consist of—

(*a*) a Chairperson, having special knowledge in the field of agriculture; and

(*b*) such number of members including agricultural economist, agriculture scientist and experts in matters related to the farmers, to be appointed by the Central Government in such manner as may be prescribed.

(*3*) The Central Government shall provide such number of experts, officers and staff to Commission, as may be required for its efficient functioning.

(*4*) The salary and allowances payable to and other terms and conditions of service of the Chairperson, members, experts and officers and staff of the Commission shall be such as may be prescribed.

Functions of the Commission.

4. The Commission shall—

(*a*) determine the minimum support price of agricultural produce;

(*b*) maintain the price of agricultural produce at appropriate levels;

(*c*) issue the executive instructions to various agencies;

(*d*) monitor the import and export of agricultural produce;

(*e*) formulate measures for the welfare of farmers from the adverse effects on agriculture;

(*f*) prepare the national policy, from time to time, to increase the productivity of agriculture produce;

(*g*) investigate into the incidents of suicide by the farmers;

(*h*) frame the rules to carry out the provisions of this Act for the welfare of agriculture and farmers;

(*i*) protect the agricultural bio-diversity;

(*j*) protect the farmers from the fluctuations in prices of agricultural produce in market;

(*k*) advice the Central Government in matters related to the farmers and agriculture; and

(*l*) undertake such other functions as may be assigned to it, from time to time, by the Central Government.

Constitution of the Agriculture and Farmers Development Fund.

5. (*1*) **The Central Government shall, by notification in the Official Gazette, constitute a Fund to be known as the Agriculture and Farmers Development Fund for carrying out the purposes of this Act.**

(*2*) **The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.**

Central Government to provide requisite funds.

6. The Central Government shall provide after due appropriation made by Parliament by law in this behalf, necessary requisite funds, from time to time, for carrying out the purposes of this Act.

Act to have overriding effect.

7. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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 the rule.

STATEMENT OF OBJECTS AND REASONS

In the absence of any firm principle regarding intervention in the market by Government to solve the problems faced by the agricultural sector and the farmers, problems are remaining unchanged as ever. In the current scenario, an autonomous, powerful intervention by Government institutions for the protection of interests of farmers and the agriculture bio-diversity is very essential. Developed countries like European Union, United States of America, Japan etc. provide production subsidy so that innovative domestic initiatives may be taken to protect the farmers from the adverse effects of agriculture related problems. Different Commissions have been set up for different categories in our country, but there is no autonomous, empowered and dedicated Commission for the welfare of the agricultural sector till now despite the fact that half of our population is dependent on agriculture which could protect the rights of farmers. The dedicated Commission for agriculture sector welfare of farmers is needed.

Efforts are required to be made to increase the income of farmers. Monitoring in right way is needed to be done by bringing the implementation of crop insurance scheme into the purview of the Commission and farmers be protected from speculative forces like share market and future market. On the lines of SEBI like institution which works for more than three crore share holders, an agriculture regulatory institution is needed for twenty seven crore farmers which may look into the problem of farmers and present their view point before Government effectively.

The Bill, therefore, seeks to establish a National Agriculture and Farmer's Commission to introduce new dimensions in the field of agriculture and to work for protection, benefit and welfare of the farmers to bring positive bearing on economic progress of country.

Hence this Bill.

NEW DELHI;
June 26, 2019.

K. NAVASKANI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a National Commission for Agriculture and Farmers. It also provides that the Central Government shall make available necessary experts, officers and staff for the efficient functioning of the Commission. Clause 5 provides for the constitution of an Agriculture and Farmers Development Fund. Clause 6 provides that the Central Government shall provide requisite funds to the Commission for carrying out the provisions of this Act. The Bill, therefore, if enacted, is likely to involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees five hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 168 OF 2019

A Bill to abolish death penalty in the country.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Death Penalty (Abolition) Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Abolition of death penalty.

2. (*1*) Notwithstanding anything in any other law for the time being in force, death penalty is hereby abolished.

(*2*) On and from the commencement of this Act, provision of punishment of death in any enactment shall be deemed to have been substituted by penalty of imprisonment for life.

(*3*) The provisions of this Act shall apply in relation to offences being tried at the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

The Indian Criminal Laws retain capital punishment for a number of serious offences, However, death penalty is not only unjust and inhuman but also inconsistent with the fundamental rights and the dignity and worth of the human being.

The opposition to the continuation of capital punishment has been from as early as the 1950s. Many of the founding fathers of India were firmly opposed to the death penalty. The architect of the Constitution, Babasaheb Ambedkar, himself admitted in the Constituent Assembly that people may not follow non-violence in practice but "they certainly adhere to the principle of non-violence as a moral mandate which they ought to observe as far as they possibly can". With this in mind, he said, "the proper thing for this country to do is to abolish the death sentence altogether".

Miscarriage of justice is one of the biggest concerns about death penalty. There have been cases of executions of innocent people. No matter how developed a justice system is, it will always remain susceptible to human failure. Unlike prison sentences, the death penalty is irreversible and irreparable. The Supreme Court has itself admitted on several occasions that there is confusion and contradiction in the application of the death penalty. Last year, fourteen eminent retired judges wrote to the President, pointing out that the Supreme Court had erroneously given the death penalty to fifteen persons since 1996, of whom two were hanged. The judges called this "the gravest known miscarriage of justice in the history of crime and punishment in independent India".

The death penalty lacks the deterrent effect. As recently stated by the General Assembly of the United Nations, "there is no conclusive evidence of the deterrent value of the death penalty" (UNGA Resolution 65/206). Capital punishment is merely revenge masquerading as justice. When the Government is trying to create a just society where there is less violence and murder, it cannot be allowed to commit the same crime against its citizens in the name of justice.

The world is moving away from using the death penalty. The European Union has made "abolition of death penalty" a pre-requisite for membership. In November 2012, the United Nations adopted a resolution to establish a moratorium on executions and abolition of death penalty for the fourth time. Amnesty International reports that about one hundred and forty countries have abolished death penalty either in law or in practice. This accounts for more than two thirds of the countries of the world.

The Law Commission of India, in its 243rd Report, has recommended the abolition of death panalty in all but two instances—crimes of terrorism and waging was against the State. However, the Parliament should go one step further by passing a legislation to abolish death penalty once and for all.

The continuation of death penalty is a stain on our society built on the values of non-violence, love and justice. Hence, in this land of Mahatma Gandhi and Gautama Buddha it is necessary to abolish this barbaric punishment in order to be in consonance with our own inherent morals and the global trend.

Hence this Bill.

NEW DELHI;
June 24, 2019.

KANIMOZHI KARUNANIDHI

BILL NO. 179 OF 2019

A Bill further to amend the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called Criminal Law (Amendment) Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO THE INDIAN PENAL CODE, 1860

Amendment of section 228A.

2. In section 228A of Indian Penal Code, 1860 (hereinafter in this Chapter referred to as the Penal code), after sub-section (1), the following proviso shall be inserted, namely:—

Provided that if the victim is the wife of the accused, the provisions of this sub-section shall also apply to such accused against whom the allegation or accusation of the offence of rape has been made and prohibition on disclosure of his identity shall remain in force during the life time of the victim.

Amendment of section 375.

3. In section 375 of the Penal Code after the proviso to *Explanation 2,* the following proviso shall be inserted, namely:—

"Provided further that a woman who is in a relationship, marital or otherwise, with the accused, shall not by the reason of being in relationship only, be regarded as consenting to the sexual activity.".

Amendment of section 376.

4. In section 376 of the Penal Code, after sub-section (2) and before the *Explanation,* the following proviso shall be inserted, namely:—

"Provided that while imposing punishment for the offence of rape, the existing or past marital relationship between the accused and the complainant shall not be considered as a ground for imposition of lesser punishment.".

CHAPTER III

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

Omission of section 198B.

5. Section 198B of the Code of Criminal Procedure, 1973, (hereinafter referred to in this Chapter as the Code of Criminal Procedure) shall be omitted.

Amendment of First Schedule.

6. In the First Schedule to the Code of Criminal Procedure, under the heading "OFFENCES UNDER THE INDIAN PENAL CODE", the entries relating to section 376B shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Section 375 of the Indian Penal Code, 1860 states that sexual intercourse by a man with his own wife who is not less than fifteen years of age is not considered as rape. Section 376B provides for a lesser punishment for the perpetrator for committing a sexual offence if the victim is his own wife, living separately, under a decree or otherwise. These provisions are based on the archaic notion of marriage which regards wives as no more than the property of their husbands. Specifically, section 375 leaves child brides, already vulnerable, open to sanctioned marital rape.

The Prohibition of Child Marriage Act, 2006, prohibits the marriage of a girl less than the age of eighteen years and according to the Criminal law Amendment Act, 2013, the age of sexual consent is recognised as eighteen years. This being the case, the exception given in section 375 to marital rape is contradicting other laws. While one set of laws prohibit marriage of girls below the age of eighteen years, the Indian Penal Code, 1860 allows for sexual intercourse in marriage above the age of fifteen years. For the law to be applied in a equitable manner, it is necessary to extent protection to minor girls under section 375 of the Indian Penal Code, 1860.

The Beijing Declaration and Platform for Action recognises marital rape as a form of violence against women. The Justice Verma Committee had recommended that a marital relationship between the perpetrator and the victim should not be considered as valid defence against the crime of rape and sexual assault. The report said that 'a rapist remains a rapist regardless of his relationship with the victim'. The UN Committee on Elimination of Discrimination of Women had also recommended that India should remove the exception of marital rape from the definition of rape. At least fifty-two countries had explicitly outlawed marital rape in their criminal codes by April 2011.

In view of the need to ensure equal protection to minor girls, protect the dignity of women in a marital relationship and in order to eliminate the notion of treating wives as the property of men, it is essential to repeal exception under section 375 and 376B of the Indian Penal Code, 1860.

Hence this Bill.

NEW DELHI;
June 25, 2019.

KANIMOZHI KARUNANIDHI

BILL NO. 158 OF 2019

A Bill to provide for the setting up of a Council to be called the Central Himalayan States Development Council to formulate development plans and schemes and also to monitor their implementation for the balanced and all-round development of the hilly States comprising the Central Himalayan region and for matters connected therewith.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Central Himalayan States Development Council Act, 2019.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint :

Provided that such date shall not be later than six months from the date of assent of this Act.

Definitions.

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

(*a*) "Council" means the Central Himalayan States Development Council set up under section 3;

(*b*) "Himalayan States" means the States of Himachal Pradesh, Jammu and Kashmir and Uttarakhand; and

(*c*) "prescribed" means prescribed by rules made under this Act.

Setting up of the Central Himalayan States Development Council.

3. (*1*) There shall be set up a Council to be called the Central Himalayan States Development Council which shall consist of the following members, namely:—

(*i*) the Chief Minister of each of the Himalayan States:

Provided that if there is no Council of Ministers in any Himalayan State, the President of India may nominate one person to represent such State in the Council for such period as there is no Council of Ministers in such State;

(*ii*) members of the House of the People and Council of States representing the Himalayan States;

(*iii*) five persons having special knowledge of and experience in social and economic planning preferably in the hilly areas to be nominated by the President; and

(*iv*) the Union Minister holding charge of the Ministry of Planning.

(*2*) The Chairperson of the Council shall be nominated by the President from amongst the Chief Ministers of the Himalayan States in such manner as may be prescribed;

(*3*) The Chairperson of the Council shall be nominated for a period of two years:

Provided that if there is no Council of Ministers in any Himalayan State thereby causing vacancy in the Office of the Chairperson, the President of India may nominate Chief Minister of any other Himalayan State as Chairperson of the Council for such period as there is no Council of Ministers in such State.

Functions of the Council.

4. (*1*) The Council shall function as a Planning body for the balanced and all-round social and economic development of the Himalayan States.

(*2*) It shall be the responsibility of the Council to formulate development plans and schemes for each of the Himalayan States and also in which Himalayan States have common interest:

Provided that the Council may, if it considers necessary, having regard to the socio-economic backwardness of the State of Uttarakhand or any area in the State, formulate specific and time bound projects and schemes for the whole State or any area in that State and may review implementation of such projects and schemes.

(*3*) For securing the balanced development of the Himalayan States, the Council shall forward proposals for:—

(*i*) accelerating the industrial growth in one or more Himalayan States;

(*ii*) inter-linking various places by railways or roads including remote villages and hilly areas;

(*iii*) providing communication and telecommunication facilities;

(*iv*) providing electricity, drinking water and rural housing;

(*v*) providing health services including family welfare schemes;

(*vi*) providing educational facilities and gainful employment; and

(*vii*) taking preventive measures to minimize the effect of natural calamities particularly the landslides and cloudbursts,

to the Central Government and the Government of the Himalayan State concerned for their consideration.

(*4*) For the purposes of clause (*i*) of sub-section (*3*), the Council may recommend to the Central Government such concessions, including waiver of duty of excise, as it deems necessary, for a specific period for industrial units in any Himalayan State.

(*5*) The Council shall recommend to the Central Government and the Government of each of the Himalayan States the action to be taken on any matter referred to in sub-sections (*2*) and (*3*).

Central and State Government to consider the advice of the Council.

5. It shall be the duty of the Central Government and the Government of each of the Himalayan States to give due consideration to the advice of the Council and apprise the Council of its views and decisions on such advice.

Meeting of the Council.

6. (*1*) The Council shall meet at least thrice in each year.

(*2*) The proceedings of every meeting of the Council shall be forwarded to the Central Government and also to Government of each of the Himalayan States.

Officers and staff of the Council.

7. (*1*) The Council shall have a secretarial staff consisting of a Secretary, a Planning Adviser and a Financial Adviser and such other officers and employees as the Central Government may, by order, determine.

(*2*) The Secretarial staff of the Council shall function under the direction, supervision and control of the Chairperson of the Council.

(*3*) The office of the Council shall be located at such place as may be determined by the Council.

(*4*) The administrative expenses of the said office, including the salaries and allowances payable to, or in respect of, members of the secretarial staff of the Council, shall be borne by the Central Government out of the moneys provided by Parliament for the purpose.

Provision of funds to the Council.

8. The Central Government shall provide, from time to time, after due appropriation made by Parliament by law in this behalf, adequate funds to the Council for the implementation of the development plans and schemes formulated by the Council.

Power to make rules.

9. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified from 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.

STATEMENT OF OBJECTS AND REASONS

The development process in the Central Himalayan States of Uttarakhand, Himachal Pradesh and Jammu and Kashmir has been very tardy due to their extreme geographical location and social background. The people living in these States do not have adequate educational facilities and consequently, employment opportunities. The people also have to travel to other States for medical treatment as there are no well equipped hospitals and qualified doctors. There has also been negligible growth of industries. There is an urgent need for setting up of environment friendly industries in these States for the development of the States as a whole and to enable the local youth to get employment opportunities. For setting up of new industries, special concessions including waiver of excise duty for a specific period should be given to the industries in the States by the Central Government.

The problems of these Himalayan States are interlinked. All these States experience natural calamities like recurrent floods, landslides, cloudburst, etc. almost every year, thereby causing huge loss of life and property. Basic infrastructure facilities like "Pucca Roads", electricity, communication, schools, drinking water, bridges connecting remote villages with Pucca Roads, etc. are still to be made available to all the people of these regions even after sixty years of independence. As these regions share common problems, the solutions to their problems are also common. Many of the developmental works in these States can be carried out only by involvement of all the three States. The State of Uttarakhand, being created in the year 2000 only, needs special attention for its overall development.

It is, therefore, proposed to establish a Central Himalayan States Development Council to look into and accelerate the process of development in these States, particularly in Uttarakhand. A similar Council has been functioning very successfully for the North-Eastern States. The establishment of such a Council for the States of Uttarakhand, Himachal Pradesh and Jammu and Kashmir would not only help in the speedier overall development of the Himalayan States, but would also take the country high on the growth map by acting as a coordinating agency amongst the people of the States of the Himalayan region.

Hence this Bill.

NEW DELHI;
June 26, 2019.

TIRATH SINGH RAWAT

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of the Central Himalayan States Development Council consisting of persons having special knowledge of and experience in social and economic planning in the hilly areas. Clause 6 provides that the Council shall meet at least thrice each year. Clause 7 provides that the Central Government shall bear the administrative expenditure including salaries and allowances of members, officers and staff of the council. Clause 8 provides that the Central Government shall provide adequate funds to the Council for implementing the development plans and schemes by way of grants, after due appropriation made by Parliament. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees four hundred crore is likely to be involved as a recurring expenditure per annum.

A sum of rupees four hundred crore is also likely to be involved as non-recurring expenditure.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules to be made relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 150 OF 2019

A Bill to provide for compulsory teaching of yoga in all educational institutions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Compulsory Teaching of Yoga in Educational Institutions Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "Advisory Council" means the Advisory Council for Yoga Education constituted under section 6;

(*b*) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(*c*) "educational institution" means a primary or a middle or a secondary or a senior secondary level school imparting education to children, by whatever name such institution is called, but does not include a minority educational institution;

(*d*) "prescribed" means prescribed by rules made under this Act; and

(*e*) "yoga education" means teaching of yoga postures or *asanas* and such other yoga exercises as would promote the control of the body by bringing in flexibility, strength and endurance and of the mind by enhancing alertness and meditation.

Compulsory teaching of yoga education in educational institutions.

3. From such date, as the Central Government may, by notification in the Official Gazette specify, the yoga education shall be taught as a compulsory subject in all educational institutions from such class onwards as may be determined by the Central Government on the recommendation of the Advisory Council constituted under section 6.

Appropriate Government to issue directions for compulsory teaching of yoga in all educational institutions.

4. The appropriate Government shall, immediately after issuance of the notification under section 3, issue directions for compulsory teaching of yoga in all educational institutions, within its jurisdiction.

Appointment of yoga teachers for yoga education.

5. Subject to such rules, as may be prescribed, the appropriate Government shall ensure appointment of such number of teachers with such qualifications, as may be specified, for teaching yoga in educational institutions.

Constitution of Advisory Council for yoga education.

6. (*1*) The Central Government shall, within three months of the coming into force of the Compulsory Teaching of Yoga in Educational Institutions Act, 2014, by notification in the Official Gazette, constitute an Advisory Council for Yoga Education.

(*2*) The Advisory Council shall consist of such numbers of persons, having special knowledge or practical experience in the field of yoga education or school education, as the Central Government may deem fit.

Functions of the Advisory Council.

7. The Advisory Council shall perform the following functions, namely:—

(*a*) recommend to the Central Government the syllabus of yoga education for each class upto senior secondary level;

(*b*) recommend to the Central Government the class from which onwards the yoga education is to be taught in educational institutions;

(*c*) recommend to the appropriate Government the qualifications of teachers to be appointed in educational institutions for teaching yoga;

(*d*) recommend to the appropriate Government the institutions which may be given recognition for training teachers in yoga education for the purpose of their appointment in educational institutions; and

(*e*) co-ordinate with the appropriate Government and school authorities with a view to ensuring effective implementation of the provisions of this Act.

Act to apply to minority educational institutions in certain situation.

8. Notwithstanding anything contained in this Act, the provisions of this Act shall apply to minority institutions only if the management of such institutions convey to the appropriate Government their willingness to include the yoga education in their school curriculum.

Derecognition of educational institutions for non-compliance of the provisions of the Act.

9. The appropriate Government shall derecognize such educational institutions, which do not comply with the provisions of section 4, after giving such institution a reasonable opportunity of being heard.

Central Government to provide fund.

10. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act.

Overriding effect of the Act.

11. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make rules.

12. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

Modern education system in schools lays emphasis on imparting quality education. However, our modern education is missing out on yoga education and is, therefore, incomplete without it. Yoga education is not new to us but we are forgetting to blend it with the standard school curriculum. Yoga has been a valuable and necessary tool for education.

Yoga education is gaining popularity across the world. Considering the importance of yoga education, many western countries have already included yoga in their national school education system. It is well accepted that yoga not only improves the physical and mental health but also disciplines the mind and improves the power of concentration. Many studies show that the practice of yoga inhibits many curative qualities. Moreover, yoga education is cost-effective as it requires modest infrastructure and money. Yoga is a non-competitive activity as it enables the participants to enjoy physical workout without experiencing any pressure.

Introduction of Yoga education in schools will make positive impact on the health and psycho-social well-being of the students, enrich their thinking, understanding and imagination and improve the teaching and learning abilities. Yoga will not only enhance the ability of students to deal with the stress and pressures of daily life but also help in realizing them their full potential.

In modern fast paced times, yoga not only enable to cope up with increasing stress, depression, aggression, anger, emotional and mental exhaustion in our daily life but also teach us the art of balanced living. Therefore, yoga is considered as a way of living with health and peace of mind. It is, therefore, urgently required that yoga education is made compulsory in all educational institutions from primary to senior secondary level so that we can foster confidence and self-esteem in the minds of our upcoming generations in schools.

The Bill, therefore, seeks to provide for making yoga education compulsory in all educational institutions right from primary school level to senior secondary level in order to make it a part of school curriculum.

Hence this Bill.

NEW DELHI;
June 26, 2019.

TIRATH SINGH RAWAT

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for appointment of yoga teachers for imparting yoga education in educational institutions. Clause 6 provides for constitution of an Advisory Council for yoga education by the Central Government. Clause 10 provides for payment of adequate funds to the State Governments for carrying out the purposes of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. At this stage, it is not possible to give exact estimate of expenditure, both recurring and non-recurring, which will be incurred from the Consolidated Fund of India, if the Bill is enacted into a law. However, it is estimated that an annual recurring expenditure to the tune of rupees one hundred crore will be involved.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 161 OF 2019

A Bill to provide for the constitution of an Infrastructure Development Board for the infrastructure development of the economically backward regions of the country particularly in the State of Bihar by way of widening of National Highways, construction of ring road, bypass, doubling of single rail track line, construction of over bridge, under bridge in straight structure on railway tracks, construction of regional air strips, construction of jetties, desilting and beautification thereof and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Special Infrastructure Development in Economically Backward Regions Act, 2019. Short title, extent and commencement.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "backward region" means the economically backward regions of the country as the Central Government may, from time to time, declare;

(*b*) "Board" means Infrastructure Development Board constituted under section 3;

(*c*) "infrastructure" includes National Highways, ring roads, bypass, railway tracks, railway stations, regional air strips, under bridges and over bridges; and

(*d*) "prescribed" means prescribed by rules made under this Act.

Constitution of Infrastructure Development Board.

3. (*1*) The Central Government shall, by notification in the Official Gazette, constitute a Board to be known as the Infrastructure Development Board for carrying out the purposes of this Act.

(*2*) The headquarter of the Board shall be at Sheohar district in the State of Bihar.

(*3*) The Board shall consist of twenty-five members to be appointed by the Central Government in such manner as may be prescribed:

Provided that at least five members of the Board shall be the Members of Parliament representing backward regions to be nominated by the Central Government in such manner as may be prescribed:

Provided further that at least one member of the Board shall have minimum twenty years of experience in infrastructure development sector.

(*4*) The Chairperson of the Board shall be appointed from amongst the members of Board by consensus.

(*5*) The Board shall consist of such number of officers and employees to be appointed by the Central Government in such manner as may be prescribed.

(*6*) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson, members, officers and employees of the Board shall be such as may be prescribed.

(*7*) The Board shall meet every month to review its functions and to establish coordination between various ministries.

Functions of the Board.

4. The Board shall, for the purposes of the development of the backward regions—

(*a*) carry out annual survey of the infrastructure development work;

(*b*) fix the priority of the development work to be undertaken;

(*c*) carry out the widening of accident prone National Highways into four lane or six lane roads;

(*d*) widening of bridges over rivers and roads construct new rail and road bridges;

(*e*) carry out doubling of single rail track wherever required;

(*f*) carry out construction of rail under bridges and over bridges in straight shape;

(*g*) carry out construction of bypass and ring roads on National Highways;

(*h*) operate new trains;

(*i*) construct and upgrade railway stations with world class facilities;

(*j*) desilt large ponds, provide for beautification of jetties and operate motor boats and sea planes;

(*k*) ensure timely repair and renovation of old structures; and

(*l*) carry out other such functions as may be assigned to it, from time to time, by the Central Government.

Monitoring and assessment of development work.

5. The Central Government shall establish a separate Centralize Management Information System for monitoring development work in the backward regions including the records and the details of all works and the review of the progress of works being undertaken by the Board with the use of modern technology in such manner as may be prescribed.

Economic Incentives to the Agency.

6. The Central Government shall, in consultation with the Board, provide such economic incentives to the agency which completes the targeted works in specified time in such manner as may be prescribed.

Central Government to provide funds.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the Board for carrying out the purposes of this Act.

Power to issue directions.

8. The Central Government may give such directions to the State Government, to implement the provisions or the rules made under this Act under their jurisdiction, as it may think necessary for the purpose of this Act.

Power to make rules.

9. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

Most of the regions in the State of Bihar are economically backward regions and the Central Government has been providing economic packages for their development from time to time in the absence of any proper action plan at the States level. This amount is wasted on account of corruption and unnecessary spending and this region is still backward even after the central economic assistance. It is the responsibility of Government to take steps for the holistic development of citizens. It is very essential to quickly develop various infrastructure for the development of backward regions of the country including the State of Bihar. There is lack of regional connectivity through road, rail and air route in most parts of the Bihar State and the present system is not very convenient also.

Accidents are very common in those narrow National Highways which causes loss of life and property. This can be solved by widening the double lane highways. Traffic jams can be avoided in the cities and towns by constructing ring road, bypass and also over bridges and under bridges roads and rail lines, respectively. There are various such points on rivers where one needs to cover a long distance to cross the rivers to reach the side in this region. It can be solved by constructing bridges on such points of the river which would cut down the travel time. Distance by train can become less cumbersome if new trains are operated and doubling of single railway tracks is completed. More amenities can be provided to rail passengers by providing world class level facilities at existing railway stations.

There are several areas in economically backward regions, in particular in the State of Bihar which are naturally very scenic. Regional air facility may be augmented by establishing air connectivity which would increase the accessibility in these areas. There are many big ponds and water bodies which need repair and beautification so that tourism may be promoted in these areas. Construction of jetties around ponds and motor boats and sea planes service in these ponds may also generate more and more employment avenues. Development of the backward regions is very crucial for the development of the country.

The Bill, therefore, seeks to provide for the constitution of an Infrastructure Development Board for the infrastructure development of the economically backward regions of the country including Bihar State including the widening of National Highways, construction of ring road, bypass, doubling of single rail track line, construction of over bridge, under bridge in straight structure on railway tracks, construction of regional air strips, construction of jetties, desilting and beautification thereof to ensure accelerated development of the economically backward region in the State of Bihar.

Hence this Bill.

NEW DELHI;
June 26, 2019.

RAMA DEVI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a Infrastructure Development Board. It also provides for appointment of Chairperson, members, officers and employees to the Board. Clause 5 provides for establishment of a Centralized Management Information System for monitoring and assessment of development works of the Board. Clause 6 provides for the economic incentives to the agencies which completes the targeted works in specified time. Clause 7 provides that the Central Government shall provide requisities funds to the Board for carrying out the purposes of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five thousand crore would involve as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of rupees five hundred crore is also likely to be incurred.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is, therefore, of a normal character.

BILL NO. 137 OF 2019

A Bill to establish bribery as a criminal offence and to promote effective practices to prevent bribery in private sector and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Prevention of Bribery in Private Sector Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) "bribe" includes facilitation payments, directly or through third parties, gift, hospitality and expenses which may or perceive to affect the outcome of business transactions, which are not reasonable and *bonafide*;

Explanation.—The term 'bribe' shall become extortion when the demand of bribe is accompanied by threats that endanger the personal integrity or the life of the person involved, or forced payment of bribe to protect legitimate right or the speed money, for expediting approvals and for providing or not withholding services;

(b) "commercial entity" means—

(i) a body incorporated under the laws of India which carries on business in India or outside India; or

(ii) any other body corporate, wherever incorporated, which carries on business, or part of a business, in India; or

(iii) a partnership formed under the law in India which carries on business in India or outside India; or

(iv) any other partnership, wherever formed, which carries on business, or part of a business, in India:

Explanation.—The term 'business' includes any trade, profession, commerce or manufacture;

(c) 'confiscation' means the permanent deprivation of property by order of a court or other competent authority and also includes forfeiture;

(d) 'foreign public official' means any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected as permanent or temporary, paid or unpaid or any person performing a public function or a public service for a foreign country;

(e) 'non-governmental organisation' means a body incorporated under the laws in India or any other body corporate, wherever incorporated which carries on its charitable or religious activities in India, any society registered under the Societies Registration Act, 1860; a trust registered under the Indian Trusts Act, 1882 or association of persons which carries on its charitable or religious activities in India and includes community based organisations;

21 of 1860.
2 of 1882.

Explanation.—The term 'charitable or religious activities' means activities as defined in sub-section (15) of section 2 of the Income Tax Act, 1961:

43 of 1961.

(f) 'person' includes—

(i) an individual;

(ii) a company;

(iii) a firm;

(iv) a society;

(v) a trust;

(vi) a Hindu Undivided Family (HUF);

(vii) an association of persons or a body of individuals, whether incorporated or not;

(viii) limited liability partnership;

(ix) every artificial juridical person not falling within any of the preceding sub-clauses; and

(x) any agency, office or branch owned or controlled by such person;

(g) 'prescribed' means prescribed by rules made under this Act;

(h) 'proceeds of crime' means any property derived or obtained, directly or indirectly through the commission of offence under this Act; and

(i) 'property' means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets.

Bribery in the private sector.

3. *(1)* A person shall be guilty of committing an offence of giving bribe, when committed intentionally in the course of economic, financial or commercial activities when it is established that there is a promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a commercial entity, for the person himself or for another person, in order that he in breach of his duties, acts or refrains from acting in certain matters.

(2) A person shall be guilty of committing an offence of receiving bribe, when committed intentionally in the course of economic, financial or commercial activities when it is established that there is solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a commercial entity, for the person himself or for another person, in order that he in breach of his duties, acts or refrains from acting in certain matters.

Offence of Bribery of foreign public officials.

4. A person shall be guilty of committing an offence of bribery to a foreign public official, when committed intentionally in the conduct of international business, when it is established that there is an offer, promise or giving any undue pecuniary or other advantage, whether directly or through an intermediary, to a foreign public official, for that official or for a third party, in order that the official acts or refrains from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage.

Explanation.—For the purpose of this section, offence of bribery of foreign public officials includes complicity, incitement, aiding, abetting and authorisation of an act of bribery of a foreign public official or an attempt and conspiracy to bribe a foreign public official.

Abet, aid or instigate another person to commit an offence of bribery.

5. *(1)* Any person, who in any capacity abets or aids or instigates another person to commit an offence under sections 3 or 4 shall be deemed to be guilty of offence under that section.

(2) Any person, who attempts to commit an offence under sections 3 or 4 shall be deemed to be guilty of an offence under that section.

Offence of Bribing by commercial entity.

6. A commercial entity shall be guilty of committing an offence under this section if a person associated with it, bribes another person intending—

(i) to obtain or retain business for the commercial entity, or

(ii) to obtain or retain an advantage in the conduct of business for the commercial entity:

Provided that the commercial entity may in defence prove that it has in place adequate procedures, as may be prescribed, designed to prevent persons associated with it from undertaking such conduct.

Offence of bribery by non-governmental organisation.

7. A non-governmental organisation shall be guilty of committing an offence under this section if a person associated with it, bribes another person intending—

(i) to obtain or retain assets, grants for the non-governmental organisation; or

(ii) to obtain or retain an advantage in the conduct of its charitable activities:

Provided that the commercial entity may in defence prove that it has in place adequate procedures, as may be prescribed, designed to prevent persons associated with it from undertaking such conduct.

Offence of bribery by company.

8. *(1)* Where a company contravenes any provision of this Act, every person who, at the time when contravention was committed, was in charge of or 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 offence and be punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section *(1),* where any contravention 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 be deemed to be guilty of committing contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(i) 'company' means anybody corporate and includes a firm, society, trust, limited liability partnership or other association of persons; and

(ii) 'director' in relation to a firm means a partner of the firm and in relation to a trust means trustee of the trust.

Penalties.

9. *(1)* An individual guilty of an offence under sections 3 or 4 shall be liable on the first offence, for imprisonment for a term not exceeding five years or to a fine not exceeding rupees three lakh or both and for second or subsequent contravention, for imprisonment for a term not exceeding ten years or to a fine not less than rupees five lakh or both.

(2) any other person guilty of an offence under sections 3 or 4 shall be liable on the first offence, to a fine not exceeding rupees two lakh and for second or subsequent contravention, to a fine not less than rupees three lakh.

(3) A person guilty of an offence under section 5 is liable on conviction to a fine not more than rupees one lakh.

Confiscation of proceeds of crime.

10. *(1)* On conviction of a person the proceeds of crime derived from or involved in offences under sections 3 or 4, or the property the value of which corresponds to that of such proceeds shall be confiscated.

(2) If proceeds of crime have been transformed or converted, by the person in part or in full, into other property, such property shall be liable to be confiscated.

(3) If proceeds of crime have been intermingled by the person with property acquired from legitimate sources, such property shall be liable to be confiscated up to the assessed value of the intermingled proceeds.

(4) Income or other benefits derived by any person from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to be confiscated in the same manner and to the same extent as proceeds of crime.

(5) For the purpose of this section, notwithstanding any rights or privilege provided through any other Act or by an agreement between the parties, the adjudicating authority shall have authority to order any bank, financial institution, financial intermediary or commercial entity to provide information, seize or produce records, freeze accounts and remit the proceeds of crime to the designated account.

(6) The proceeds of crime confiscated under this Act shall vest in the Central Government.

Power to appoint Special Judges.

11. *(1)* **The Central Government shall, by notification in the Official Gazette, appoint such number of Special Judges as may be necessary to try the offences punishable under this Act.**

(2) A person shall not be qualified for appointment as a Special Judge under this Act unless he is or has been a Sessions Judge or an Additional Sessions Judge under the Code of Criminal Procedures, 1973.

2 of 1974.

(3) A Special Judge shall follow the procedure prescribed by the Code of Criminal Procedure, 1973 for the trial. 2 of 1974.

(4) A Special Judge, while trying an offence punishable under this Act shall exercise all the powers and functions exercisable by a District Judge.

Appeal and revision.

12. Subject to the provisions of this Act, the High Court may exercise, so far as applicable, all the powers of appeal and revision conferred by the Code of Criminal Procedure, 1973 on a High Court as if the Court of Special Judge was a Court of Session trying cases within the local limits of the High Court. 2 of 1974.

Protection of witnesses and reporting persons.

13. *(1)* The Central Government shall take appropriate steps to provide effective protection from potential retaliation or intimidation to witnesses, reporting persons and experts who give testimony concerning offences established under the Act and to their relatives.

(2) The Central Government shall establish procedures for the physical protection of such witnesses and reporting persons and for non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons.

(3) The provisions of the sub-sections *(1)* and *(2)* shall also apply to victims in so far as they are witnesses.

(4) In cases of extortion bribe, if the bribe giver files a complaint, he shall be protected under this clause as a whistleblower:

Provided that this protection shall not be made available in case of speed money.

Prevention of bribery by commercial entity.

14. *(1)* The commercial entities shall make adequate procedures, as may be prescribed, designed to prevent persons associated with it from undertaking bribery.

(2) The procedures shall provide for commercial entities to establish and ensure the effectiveness of internal controls, ethics and compliance measures for preventing and detecting bribery and shall *inter alia,* include,—

(i) a clearly articulated and visible policy prohibiting bribery;

(ii) instructions for strict compliance with the policy at all levels of the entity;

(iii) appropriate disciplinary procedures to address violation of the procedures at all levels of the entity;

(iv) setting up of independent monitoring body;

(v) oversight of ethics and compliance measures and reporting to the independent monitoring body;

(vi) ensuring applicability of the policy and procedures to third parties such as agents, intermediaries, consultants, representatives, distributors, partners, contractors, advisors, suppliers, associates, subsidiaries and joint venture partners and seeking commitment from such third parties to adhere to policy prohibiting bribery;

(vii) measures for periodic communication and training at all levels of the entity of laws against bribery and entity's policy against bribery; and

(viii) putting in place an appropriate whistleblower mechanism including rewards for reporting and protection of the whistleblowers.

Prevention and detection of proceeds of crime.

15. *(1)* The banks, financial institutions and other financial intermediaries shall take reasonable steps to determine the identity of beneficial owners of funds deposited into the accounts of such customers in such manner as may be prescribed.

(2) The banks, financial institutions and other financial intermediaries shall maintain record of beneficial owners under sub-section *(1)* and shall provide such information as and when required by the adjudication authorities.

16. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force in relation to any of the matters provided under this Act.

Provision of the Act not in derogation of any other law for the time being in force.

17. *(1)* The Central Government shall, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

The problem of bribery has assumed alarming proportions. It is estimated that a significant proportion of our Gross Domestic Product is lost on account of this widespread corruption in offices of public and private sector. Therefore, bribery not only hurts the psyche of the people but it also hurts the economic growth. Moreover, the problem is more hurting to the poor as they are the most vulnerable section of the society.

Bribery by the Government officials is only one part of the issue. Bribery is also rampant in private sector. There is dearth of laws to address the issue of bribery in private sector. The Bill seeks to provide a legislative framework to resolve the issue. The Bill also seeks to provide for a witness protection programme to be implemented by the Government.

Hence this Bill.

NEW DELHI;
June 26, 2019.

RAMA DEVI

FINANCIAL MEMORANDUM

Clause 11 of the Bill provides that Central Government shall appoint Special Judges to try the offences under this Act. The Bill, therefore if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees forty crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 157 OF 2019

A Bill to provide for uninterrupted power supply to the industrial units operating in the industrially backward areas of the country by the Central Government to ensure the overall industrial development of such areas and for matters connected therewith.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Provision of Uninterrupted Power Supply to Industries in Backward Areas Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires:

(*a*) "appropriate Government" means in the case of a backward State, the Government of that State and in all other cases, the Central Government;

(*b*) "backward area" means an area notified by the appropriate Government under section 3, which does not have the requisite industries proportionate to the size and population of the area;

14 of 1947.

(*c*) "industry" means an industry as defined in the Industrial Disputes Act, 1947; and

(*d*) "prescribed" means prescribed by rules made under this Act.

(*2*) Words and expressions used but not defined in this Act and defined in the 36 of 2003. Electricity Act, 2003 shall have the meaning assigned to them in that Act.

Appropriate Government to notify Backward Areas.

3. The appropriate Government shall, within six months of the commencement of this Act, notify the backward areas within its jurisdiction in such manner as may be provided.

Apppropriate Government to maintain uninterrupted power supply of Industries.

4. (*1*) The appropriate Government shall provide uninterrupted power supply to the industrial units operating within the territorial jurisdiction of a notified backward area in such manner as may be prescribed.

(*2*) For the purposes of sub-section (*1*), the Central Government may, if it deems necessary so to do invite and promote private sector in establishing power generating units exclusively for the industrial sector in the notified backward areas.

Appropriate Government to establish new generating stations exclusively for the Industries.

5. The appropriate Government shall establish such number of new electricity generating stations as it may deem necessary, from time to time, exclusively for providing uninterrupted power to the industrial units operating within its territorial jurisdiction.

Central Government to carry out investigation and collect data about the power availability to Industries in the country.

6. The Central Government shall, from time to time, carry out investigations and collect and record the data concerning the generation, distribution and utilisation of power throughout the country meant for the industrial sector and submit an annual report, in such form and in such manner as may be prescribed and cause the report to be laid before both the Houses of Parliament, as soon as may be, after it is received by him.

Central Government to provide funds.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide, from time to time, adequate funds for carrying out the purposes of this Act.

Savings.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

9. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive seesions aforesaid, both Houses agree in making any modification in the rule or both the 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 the rule.

STATEMENT OF OBJECTS AND REASONS

Industries are the backbone of every economy and the development of a country depends upon the development of its industries. A strong economy requires good industrial base. A developing country like ours needs a very solid industrial base in the modern globalisation period to face the stiff competition in the world market. Apart from the national level, industries are very vital at the State level also in a federal polity like ours to have a balance at the State and National level. But at present in our country some States are industrially backward. Take for instance the States of Bihar and Jharkhand and which having 40 per cent of the country's wealth but industrially it is the most backward area of the Union. Such backward States need rapid industrialisation but for a good industrial base one requires infrastructure like electricity, raw material, latest technology, trained technicians, cheap labour etc. apart from all round dedication for growth. But in our country unfortunately the basic requirement like power is not available in abundance which is hampering industrial growth. For instance the overall power generation is short due to poor performance of all the regions of the country during the period. The situation is more alarming in industrially backward areas like Bihar, Jharkhand and North-Eastern States. Apart from poor performance and less utilisation of installed capacity by State Electricity Boards whatever energy is generated, major share of it is consumed by domestic and agriculture sectors. The Industrial Sector is always left to end itself. So in the absence of uninterrupted electricity supply a number of industrial units have to close down in the recent past. For example hundreds of Electric Arc furnaces which require uninterrupted electricity supply have been closed down in various parts of the country. It has left thousands of workers jobless and affected the production targets. Similar was the fate of other industries also.

According to Reserve Bank of India report as at the end of March 1991 there were 223809 sick/weak industries, both SSI and non-SSI with outstanding Bank credit of Rs. 10767.82 crores and majority of them were in backward States. Shortage of power was one of the reasons for the sickness/weakness of these industries. As such we have to give top-most priority to electricity generation for the survival and development of our industries particularly in the industrially backward State like Bihar etc. Hence it is proposed that it should be made obligatory for the Central Government to maintain uninterrupted power supply to the Industrial units of the country in general and of backward areas in particular. For this purpose the Government may involve the private sector and also establish power stations exclusively for the industrial sector in such States. The Central Government should also make adequate funds available for this purpose.

Hence this Bill.

NEW DELHI;
June 26, 2019.

RAMA DEVI

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the appropriate Government shall provide uninterrupted power supply to the industrial units operating in notified backward areas. Clause 5 provides that the appropriate Government shall establish new electricity generating stations within its territorial jurisdiction. Clause 7 provides that the Central Government shall provide adequate funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore would be involved as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of rupees one thousand crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 138 OF 2019

A Bill to prohibit the creation and distribution of fake news in media and for matters connected therewith.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Fake News (Prohibition) Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "fake news" includes the following or combinations thereof:—

(*i*) misquotation or the false and/or inaccurate report of one's statement;

(*ii*) editing audio or video which results in the distortion of facts and/or the context; or

(*iii*) purely fabricated content.

(*b*) "false or inaccurate report" means to falsities and inaccuracies in reporting that are primarily geared towards:—

(*i*) undermining or benefiting a person, agency, entity or event; or

(*ii*) luring advertisers based on number of "clicks" or "visits" for pecuniary or commercial gain; or

(*iii*) imperiling national security or disturbing public order; or

(*iv*) sowing enmity, hatred or ill towards certain political, cultural, gender groups or other minorities; or

(*v*) in broadcast, printed or web-published material disguised as news or without any factual claims.

(*c*) "mass media outlet" means:—

(*i*) any entity incorporated to carry on the business of radio and/or television broadcasting and granted a valid Government franchise to operate such business; or

(*ii*) any entity that publishes newspapers with regular public circulation and uses print, online publication, microwave, satellite or whatever means to disseminate content for commercial purposes.

(*d*) "Social media platform" means any user-specific web-based technology intended to create virtual connection through the internet such as social networking sites, blog sites, video-sharing sites and the like;

(*e*) "social media user" includes any person or group of persons, natural or juridical, organized or unorganized, that utilizes social media platforms to send messages and/or information across through any social media account, verified or under a pseudonym, fictitious or false account/page name for whatever purposes it may serve;

(*f*) "create" means the positive act of bringing into existence whether in written, audio or video format fake news guised as factual, true and verified news stories, and the initial dissemination, publication or broadcast of the same through broadcast media, print and social media platforms;

(*g*) "disseminate" means the act of deliberately and maliciously sharing, forwarding, republishing or re-broadcasting fake news through broadcast media, print, and social media platforms despite the knowledge or reasonable grounds to believe that such news story is false, fictitious and misleading;

(*h*) "aid or abet" means the act of conniving or assisting in the creation and/or dissemination of fake news through advice, financial support, or other positive acts without which the fake news may not have come into being; and

(*i*) "retract" means the withdrawal and deletion of fake news broadcast or published when applicable.

Prohibited acts.

3. The following acts are hereby prohibited:—

(*a*) create through broadcast, social media platforms and/or print fake news by any mass media outlet whether or not such mass media outlet knows of its falsity and regardless of intent;

(*b*) aid or abet in the creation, distribution or circulation of fake news by any mass media outlet whether or not such mass media outlet knows of its falsity and regardless of intent;

(*c*) deliberately and maliciously create and disseminate fake news through broadcast, social media platforms and/or print by any mass media outlet or social media user;

(*d*) deliberately and maliciously aid or abetting in the creation, distribution or circulation of fake news through broadcast, social media platforms and/or print by any mass media outlet or social media user;

(*e*) defer or desist from any mass media outlet or social media user,—

(*i*) retracting any fake news; and

(*ii*) broadcasting or publishing an erratum addressing the fake news.

Prohibition on malicious creation and distribution of fake news.

4. No person shall maliciously offer, publish, distribute, circulate and spread false news or information or cause the publication, distribution, circulation or spreading of the same in print, broadcast or online media housing such false news or information cause or intend to cause panic, division, chaos, violence, hate or which exhibit or intened to exhibit a propaganda to blacken or discredit one's reputation and the person knowingly commits such act with full knowledge that such news or information is false, or with reasonable grounds to believe that the same is false.

Failure to remove false news.

5. If any mass media enterprise or social media platform fails, neglects or refuses to remove false news or information within a reasonable period after having knowledge, or having reasonable grounds to believe, of its falsity shall be deemed to be guilty of an offence punishable under this Act.

Penalties.

6. (*1*) Any mass media outlet found guilty of creating, disseminating, aiding, abetting or refuses to retract fake news shall be punished,—

(*a*) with a fine of rupees five lakh for first offence;

(*b*) rupees ten lakh and its operation suspended for one week for second offence; and

(*c*) twenty lakh and its operation suspended for a month for any subsequent violation.

(*2*) Any social media user found guilty of creating, disseminating, aiding, abetting or refusing to retract fake news shall be punished with a fine of rupees one lakh for the first offence, rupees two lakh for the second offence and rupees five lakh for any subsequent violation.

Offences by companies.

7. (*1*) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention 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 punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(*2*) Notwithstanding anything contained in sub-section (*1*), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place 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 be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—for the purpose of this section:—

(*i*) "company" means anybody corporate and include a firm or other association of individuals; and

(*ii*) "director" in relation to a firm, means a partner in the firm.

Power to remove difficulties.

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

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Overriding effect of the Act.

9. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save aforesaid the provisions of the Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

10. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

The advent of modern technology has caused a shift from traditional news reporting in print, broadcast media and the internet, especially on social media platforms. We hear and read the phrase "fake news" every day. Fake news creates impression and beliefs based on false premises leading to divison, misunderstanding and further exacerbating otherwise tenuous relations.

The distribution of false information through fake news has become easier in the age of internet, where anyone can post a report or a statement to resemble a news story and claim it as true and factual. Fake news or information cause or intend to cause panic, division, chaos, violence, hate or must exhibit or intend to exhibit a propaganda to blacken or discredit one's reputation. A large number of incidents of mob lynching have reported from various part of the country due to the spread of fake news in the social media like whatsapp, Facebook, Twitter, etc. Studies have also found evidence of political parties spreading propaganda on social networks during elections in the country.

With the India being one of the most virtually-connected countries in the world with million active social media users, we have access to platforms of media and access to any array of information available on the web, some with questionable sources. While the responsibility of discerning lie from truth falls with the person using the information, it is a moral duty of the State to protect its people from such lies in the first place. There is need to curb the existence of disreputable news sources and prevent established mass media outlets from careless publishing of unverified or false content.

At present, India does not have a specific law to deal with menace of fake news. Other countries have taken strides in preventing the spread of false information through legislations.

The need is to nip the cause of fake news in the bud by prohibiting the creation and malicious distribution of false information. It aims to ensure that the content being published and disseminated by mass media outlets and social media personalities are free from false, misleading or fictitious stories through a clear definition of what fake news is. It penalizes not only the creation of false content and the malicious distribution thereof, but also the failure to remove such content once it has been published, with verying penalties depending on the gravity of the act.

The need is also to encourage our citizens, especially public officers, to be more responsible and circumspect in creating, distributing and/or sharing news. Addressing national and global concerns should not be made more complicated by false news calculated to cause disunity, panic, chaos and/or violence.

In addition, penalizing mass media enterprise or social media platform that fails, neglects or refuses to remove false news or information within a reasonable period after having knowledge, or having reasonable grounds to believe of its falsity is also required.

The Bill aims to encourage responsible and credible journalism, as well as creating awareness of the harmful effects of spreading untruthful facts. Misleading and deceptive news may cause divisiveness, health hazards, security risks, panic and chaos to this nation, contrary to our Constitutionally enshrined principle of adhering to a policy of peace and cooperation.

The Bill seeks to achieve the above objectives.

NEW DELHI;
June 26, 2019.

RAMA DEVI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

BILL NO. 180 OF 2019

A Bill to provide for a complete ban on single-use plastic materials and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Ban on Single-Use Plastic Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "appropriate Government" in relation to a Union territory means the Central Government and (*ii*) in relation to a State, means the Government of that State;

(*b*) "exigent reasons" include reasons pertaining to medical or health concerns, for defence or military purposes, national, emergency, catastrophe or any similar situation for which no other alternative is available for the time being;

(*c*) "plastic" means a synthetic material with high polymer as an essential ingredient such as polyethylene terephthalate (PET), high density polyethylene, vinyl, low density polyethylene, polypropylene, polystryene resins or multi-materials like acrylonitrile butadiene styrene, polyephylene oxide, polycarbonate or polybutylene terephthalate;

(*d*) "prescribed" means prescribed by rules made under this Act;

(*e*) "recycle" means the process of recovering scrap or waste plastic and reprocessing the material into useful products; and

(*f*) "single-use plastic" means any disposable plastic item which is made for a single use and is either thrown out or recycled.

Ban on single use plastic.

3. Notwithstanding anything contained in any other law for the time being in force, no person shall use, stock, distribute, manufacture, sell or trade in any single-use plastic item except for such exigent reasons as may be prescribed.

Temporary Exception.

4. Notwithstanding anything contained in section 3,—

(*a*) the polyethylene PET bottles of drinking water having liquid holding capacity of one liter or more shall be allowed to be used temporarily for a period of one year from the date of commencement of this Act; and

(*b*) packaging materials for food and medicinal packaging made up of more than fifty micron thickness plastic and of twenty per cent. recyclable plastic material with manufacturer's details elaborately printed on it shall be allowed to be used for a period of one year from the date of commencement of this Act or until notified otherwise by the Central Pollution Control Board.

Appropriate Government to promoting reuse of existing plastic.

5. The appropriate Government shall take measures to ensure—

(*a*) complete ban on the production and use of plastics except for exigent reasons; and

(*b*) increase recycling and reuse of single-use plastic items already in the environment to as the possible extent.

Promotion of sustainable alternatives to plastic.

6. The appropriate Government shall take necessary measures to promote sustainable alternatives to single-use plastic by,—

(*a*) providing conducive environment for research and development of bio and renewable resources as a sustainable alternative to plastic usage; and

(*b*) organizing public awareness programs to avoid usage of single-use plastic items.

Appropriate Government to appoint manpower.

7. The appropriate Government shall appoint or hire required manpower and utilise other materials or services, from time to time, for carrying out the purposes of this Act.

Penalty.

8. Whoever violates the provisions of this Act shall be punished with a fine which shall not be less than,—

(*a*) rupees five hundred for using plastic items for the first time;

(*b*) rupees five hundred but which may extend upto rupees five thousand for littering plastic items for the first time;

(*c*) rupees ten thousand for using or littering plastic items for second time;

(*d*) rupees twenty five thousand and imprisonment for a term which may extend upto three months for third time;

(*e*) rupees five lakh but which may extend upto rupees fifty lakh for producing plastic material in addition to sealing of the manufacturing unit at once and imprisonment for a term which shall not be less than five years but which may extend upto fifteen years; and

(*f*) rupees five lakh but which may extend upto rupees fifty lakh for using plastic as a packaging or wrapping material and imprisonment for a term which shall not be less than five years but which may extend upto fifteen years.

Central Governmenet to provide funds.

9. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide, from time to time, adequate funds for carrying out the purpose of this Act.

Overriding effect of the Act.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act not in derogation of any other law for the time being in force.

11. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

12. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

A 2018 United Nation Environment Report on single-use plastics defines them as plastic "items intended to be used only once before they are thrown away or recycled". The U.N. Environment reports just nine per cent. of the world's nine *Bn tonnes* of plastic has been recycled. Most of our plastic ends up in landfills, oceans and waterways, and the environment. Plastics do not biodegrade. Instead they slowly break down into smaller pieces of plastic called micro-plastics. It can take up to thousand of years for plastic bags and styrofoam containers to decompose. In the meantime, it contaminates our soil and water. The toxic chemicals used to manufacture plastic get transferred to animal tissue, eventually entering the human food chain. Styrofoam products are toxic if ingested and can damage nervous systems, lungs and reproductive organs. For many animal species, plastic waste is simply a nightmare. Plastic items like bags and straws *choke wildlife* and block animals' stomachs. Turtles and dolphins, for example often mistake plastic bags for food. A recent video of a sea turtle with a plastic straw stuck in its nostril went viral globally drawing immediate attention of the environmentalists as well as the commoners.

According to a report by the 'Global Citizen' plastic production has more than tripled since the 90s and half the world's plastic was made after the year 2003. The World Economic Forum reports "about 150 *Mn tons* of plastic is floating in our oceans". If this continues. plastics could outweigh fish in our oceans by the year 2050. Unless we take drastic action now, it's expected that the amount of plastic littering the world's oceans will triple within a decade. India alone, currently produces 25,940 metric tonnes of plastic per day. About ninety-four per cent. of this comprises thermoplastic, such as PET (Polyethylene terephethalate) and PVC (polyvinylchloride), which is recyclable. The remaining belongs to thermoset and other categories of plastics, such as Sheet Molding Compound (SMC), Fiber Reinforced Plastic (FRP) and multi-layer thermocol, which are non-recyclable. One report says that the plastic waste generated across the country is close to 1.6 million tonnes a year, with almost half of it coming from the States of Maharashtra and Gujarat alone. According to FICCI, forty-three per cent. of India's plastics are used in packaging and are single-use plastic. While an estimate by FICCI puts the number or recycling units in the country at seven thousand and five hundred more than half of these are unorganised units. The non-profitability of single use plastics means that much of India's discarded plastics end up in landfills and drains and rivers that ultimately flow into the sea. A recent study shows over ninety per cent. of the total plastics that end up in the ocean comes from rivers in Asia and China. It identifies the Ganga and Indus river as the major sources of plastic pollution in the sea in South Asia.

The world's plastic disaster sounds downright scary, but we can still change our fate. If we simply start looking for an alternative to plastic in our neighbourhood. Some small steps like use of cloth or reusable shopping bags instead of plastic bags; avoiding using non-recycled plastic bottles and plastic straws; stop littering and instead recycling-can be start of a new beginning. Effort to reduce our dependence on single-use plastics; is the only solution.

The Bill thus aims at a complete ban on the manufacture, use, distribution, selling or trading of single use plastic items.

The Bill seeks to achieve the above-mentioned objectives.

NEW DELHI;
June 26, 2019

SHRIKANT EKNATH SHINDE

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for research and development of bio and renewable sources as a sustainable alternatives to single-use plastic. It also provides for organising public awareness and programs to avoid usage of single-use plastic items. Clause 7 provides for appointment of manpower, materials and other services for carrying out the purposes of the Act. Clause 9 provides that the Central Government shall provide requisite funds for carrying out the purposes of this Act. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is likely to involve an annual recurring expenditure of about rupees one thousand crore from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 151 OF 2019

A Bill to provide for the prevention of violence against doctors, medical professionals and medical institutions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Prevention of Violence Against Doctors, Medical Professionals and Medical Institutions Act, 2019.

(*2*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "doctor" means a person who is qualified in modern allopathic medicine and surgery or allied procedure (radiology, physiotherapy, psychology, occupational therapy, diet and nutrition) along with that of practitioners of Homocopathy, *Ayurveda, Unani* system of medicine, *Yoga* and naturopathy, *Siddha* or any other form of treatment as recognized by the Medical Council of India, Dental Council of India, Ministry of Health and Family Welfare, Ministry of AYUSH, College of Physicians and Surgeons or any other recognized body by the Government of India and also those in possession of a recognized degree or professional qualification sought overseas to Indian soil to treat people who are sick or come to him for any form of service, advice or consultation;

(*b*) "medical professionals" means all those people who practice or profess services associated to medical profession including those of nurses, radiologists, technicians, medical social workers, pharmacists, medical administrators, para-medical staff and practitioners including those seeking or imparting medical education, as the case may be;

(*c*) "medical institutions" means all institutions involved in discharge of medical or corresponding services including government or private hospitals, teaching institutes, primary health centres, dispensaries, pharmacies, radiology or imaging centres, casualty and trauma care centres, health and wellness centres, management and consulting centres, pharmacy, mobile medicare units, e-medicine and tele-medicine centres;

(*d*) "offenders" means a person who either by himself or as a member or leader of a group of persons or organization commits or attempts to commit, abet, provoke or incite the commission of violence under this Act;

(*e*) "property" means any property movable or immovable, medical equipment or machinery; owned by or in possession of or under the, control of any doctor, medical professional or medical institution;

(*f*) "violence" means an act which causes or may cause any harm, injury or endanger of the life of or intimidation, obstruction or hindrance to any doctor or medical professional in discharge of his duties, or causes to be the reason for any damage or loss to the property or reputation (inordinately) of a doctor, medical professional or a medical institution;

(*g*) "witness" means an observer, on-looker, spectator or any other person ordinarily present at *'locus-delicti'* irrespective of his affinity to the doctor, medical professional or the medical institution in question; and suffers any loss or damage by virtue of his presence at the place of offence; and

(*h*) "prescribed" means prescribed by rules made under this Act.

Prohibition of violence.

3. Any act of violence against a doctor, medical professional or medical institution shall be prohibited and mitigated at all levels.

Cognizance of offence.

4. Any offence committed under this Act shall be cognizable and non-bailable and triable by the Court of Judicial Magistrate of the First Class.

Penalty and compensation.

5. (*1*) Whoever, commits or attempts to commit or abets or incites the commission of any act of violence in infringement of the provisions of section 3, shall be punished with imprisonment which shall not be less than two years but which may extend upto five years and with fine which shall not be less than rupees five thousand but which may extend upto rupees five lakh in addendum to recovery of the entire damage to the property or belonging of all concerned including the witnesses if any; in actual.

(*2*) If the accused does not pay or is financially incompetent to pay the penalty at that time it shall be recovered as if it were an arrear of land revenue and any property belonging

45 of 1860. to his immediate relatives (as per the existing provisions of the Indian Penal Code 1860), may be attached in recovery of the said penalty.

Explanatory Note.

6. It shall be the responsibility of every doctor, medical professional or medical institutions, as the case may be, before start of any treatment or procedure to make an explanatory note containing:—

(*a*) the present medical condition of the patient;

(*b*) expected procedures and treatment;

(*c*) possible outcome;

(*d*) expected time to be taken for recovery;

(*e*) chances of failure of the prescribed procedures; and

(*f*) expected expense per unit of medication, procedure, treatment and service pertaining details as applicable, to be provided with, and categorically explained to the patient in person or his nearest kin, attendant or escort, as the case may be and a confirmation of understanding either in writing or a verbatim ascent in front of minimum two attesters shall also be obtained:

Provided that such explanatory note does not limit the doctor or the medical professional to cater to any emergency or trauma case without obtaining the patient's or his relative's ascent and the medical professional shall listen to the call of the duty first and the explanation may be made at a later stage as early as convenient to both the parties.

Cases of medical negligence.

7. (*1*) **The Central Government shall, by notification in the Official Gazette, in order to provide able and timely assistance to the victims of medical negligence or mismanagement, establish a District-Wise Committee or for the area as may be specified in such notification to hear appeals and grievances of the victims of medical negligence or mismanagement and to aid and advice such victims for taking recourse to an appropriate forum for a suitable relief and at its own cost:**

Provided that the maximum time to provide for a suitable relief to the parties shall not exceed four sittings and one month.

(*2*) Notwithstanding anything prescribed in this Act, the deliberations made hereto may be held by a court of law of competent jurisdiction within the territories of the Union of India.

(*3*) **The Committee established under sub-section** (*1*) **shall consist of experts one each from the field of medicine, law, consumer movement, health management and human rights and shall be chaired by the Member of Parliament of the respective constituency.**

(*4*) Any appeals, arguments or rebuttals presented to this effect by either of the parties shall be kept transparent and open for media and public scrutiny without any prejudices.

(*5*) The salary and allowances payable to and other terms and conditions of service of experts mentioned in the sub-section (*3*), and the procedure to be followed by the committee shall be such as may be prescribed.

Central Government to provide funds.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide, from time to time, adequate funds for carrying out the purpose of this Act.

Power to remove difficulties.

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

Provided that no order shall be made under this section after the expiry of a period to 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.

Act to have overriding effect.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to supplement other laws.

11. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

12. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

India is the second most populous country in the world with a little over 1.36 billion people. It is a home to almost eighteen per cent. of the world population with the surface area share of just two per cent. (of the world). It being a developing economy, increased urbanization rapid deforestation, little or no check on pollution levels, it's geographical position (making it more prone to tropical diseases) coupled with equally dense population; it is buy natural, that the health condition of this country could not be the best. Rising cost of health & care services and shortage of enough doctors and medical centres makes the problem all the more gruesome. On an average, this country has 1 doctor to every 1700 patients. This is a national average and the condition is even worse in rural areas. No wonder why; seldom; the sudden impulse of revenge from his miseries is outpoured on a doctor in its entirety by an ignorant common man.

Over seventy-five per cent. of doctors across country are reported to have faced atleast some form of violence. The cases of violence against doctors by kins or attendants of patients has become a serious problem off-late compelling many doctors and medical professionals to go out on stike for days seeking security of themselves and their belongings. Some studies have shown that doctors face maximum violence when providing emergency services with close to forty-nine per cent of such incidences reported from ICUs or after a patient had undergone surgery. Reasons attributed to this violence range from variety of issues including prescription of unnecessary investigations, delayed and unsatisfactory approach of a doctor in attending the patients, medical bills far higher than the estimated expense, request of advance payments to withholding a deceased body until settlement of final billing and many more. Broadly speaking a common factor attributing to strife between doctors, medical institutions and the patients in alomost all cases is the lack of transparency and trust with respect to the procedures and pricing.

Doctors are care givers, the most-noble profession and have been deemed next to God from times immemorial. It is only in recent times that the assault on doctors and vandalisation of medicals institutes has started gaining prominence. Ever increasing prices of drugs, equipments, consumables etc.; availability of substandard and unresearched information at the finger tip; declining personal connect of a doctor with his patient; would to mouth feedback platforms without enough medical justification and many more have all contributed their bit in creating a disaccord between a Doctor-Patient relationship. Absence of a stringent Union Law with appropriate provisions and punishments for the offenders has also contributed severely in furthering the number of cases of violence against doctors, medical professionals and medical institutions. Need for a harmonious, transparent and trustworthy relationship between a doctor and his patient is the most-dire need of this country more-so because of the already meager number of doctors and care givers that we have at present.

The Bill, therefore, seeks to provide for the prevention of violence against doctors, medical professionals and medical institutions in the most amicable manner.

The Bill seeks to achieve the above objectives.

NEW DELHI;
June 26, 2019.

SHRIKANT EKNATH SHINDE

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for establishment of district-wise Committee to provide timely assistance to the victims of medical negligence. Clause 8 provides that the Central Government shall, after due appropriation made by Parliament by law in this behalf, provide, from time to time, adequate funds for carrying out the purpose of this Act. The Bill, therefore, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one hundred crore of recurring expenditure per annum would involve from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 171 OF 2019

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2019. Short title .

2. After article 47 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 47A.

"47A. The State shall promote small family norm by encouraging and motivating married couples to procreate not more than two living children so as to control the rising population of the country.". No person shall Procreate more than two living children.

STATEMENT OF OBJECTS AND REASONS

A recent United Nations report projects India to overtake China as the most populous country by around the year 2027. The report projects the world population to rise to some 9.7 billion, by the year 2050. The countries expected to show the biggest increase population are India, Nigeria and Pakistan. We are today the second most populous country in the world despite the fact that we were among the first countries to have enacted a national population control policy. There have been movements of forced and compulsive sterlization in the country, creating massive public unrest and panic finally abandoning the entire movement. India's population today stands at around 1.36 billion, which is about eighteen per cent. of the world population with the land share of just two per cent. of the entire world.

The rate of growth of a country's population is directly proportional to its development. It impacts exploitation of it's natural resources including clean air, water, land, woods etc.; it's social and financial infrastructure; placing huge pressure on it's sustainability. In a relatively young and developing economy like ours where human capital is its biggest asset, it is high time that we put serious check on our ever inflating population. It is an irony to note that despite of the need of an immediate population control a central law to population control was never given due consideration. An effective law to control population, if enacted, would solve many problems faced by our country including poverty, corruption, violence against women and children and many other challenges.

The Bill, therefore, seeks to amend the Constitution with a view to put an obligation on the State to encourage and motivate married couples to opt for not more than two living children to control the rising population of the country.

Hence this Bill.

NEW DELHI;
June 26, 2019.

SHRIKANT EKNATH SHINDE

BILL NO. 170 OF 2019

A Bill to provide for free and compulsory pre-marital genetic testing for couples planning to get married or start a family in order to identify common genetic blood disorders like sickle cell, anemia and thalassemia and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Free and Compulsory Pre-Marital Genetic Testing Act, 2019.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(*b*) "couple" means a male above the age of twenty years and female above the age of eighteen years or a person belonging to the third gender having valid identity and birth certificate, planning to get married under any personal law as is applicable or willing to start a family including those persons who are in a live-in relationship;

(*c*) "health centre" includes Government or private hospitals, pathology centres, dispensaries, clinics, hospital on wheels and such other centres meant for pre-marital genetic testing established by the appropriate Government;

(*d*) "pre-marital genetic test" means tests for detecting common genetic blood disorders like sickle cell anemia and thalassemia primarily aimed at giving medical consultation on the odds of transmitting these diseases to the other partner/spouse or children including their lab investigation, consultation and counselling; and

(*e*) "prescribed" means prescribed by the rules made under this Act.

Policy for compulsory pre-marital genetic testing of couples.

3. (*1*) The appropriate Government shall, as soon as may be, after commencement of this Act, by notification in the Official Gazette, frame a policy for compulsory pre-marital genetic testing of couples intending to get married.

(*2*) The policy framed under sub-section (*1*) shall include the provision of pre-marital genetic testing free of cost at health centres specified under this Act, in such manner as may be prescribed.

Responsibility of appropriate Government.

4. The appropriate Government shall—

(*a*) appoint or hire required manpower and other materials or services, from time to time, for carrying out the purposes of this Act; and

(*b*) ensure effective and timely advertisement and due publicity to the policy framed under section 3.

Duty of couples.

5. It shall be the duty of every couple to—

(*a*) schedule a pre-marital genetic testing at least three months before the marriage date;

(*b*) produce the pre-marital compatibility certificate issued under section 5 to the Registrar of marriage before issuance of marriage certificate or such other documents.

Pre-Marital Compatibility Certificate.

6. Every health centre shall, after the pre-merital genetic test of couple, issue pre-marital compatibility certificate in such form and manner as may be prescribed, which shall be valid for only six months.

Confidentiality.

7. The medical and screening records of the couple or individuals shall be dealt with extreme confidentiality and in compliance with Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 framed under the Information Technology Act, 2000 and the Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 framed under the Indian Medical Council Act, 1956 or any other Act of privacy for the time being in force.

Central Government to provide adequate fund.

8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide, from time to time, adequate funds to the State Government for carrying out the purpose of this Act.

Power to remove difficulty.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

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

Power to make rules.

11. (*1*) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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 annulments shall be without prejudice to the validity of anything previously done under that rule.

(*3*) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Marriage is the union of two souls, a fundamental building block of our society and the cornerstone in building emotional and healthy family relationship. It is given prime importance in Indian societies and a lot of efforts are put to ensure that the marriage results in a happy and satisfactory life for the partakers. Usually in Indian circumstance, financial and social aspects are scrutinized before selecting a matrimonial partner however health scrutiny is not given as much importance, seldom-times resulting in exigent challenges for lifetime for the betrothed. Thus the need of a healthy marriage arise to ensures that no family member suffer from hereditary and infectious diseases.

India today, is confronting a unique problem of growing number of genetic blood disorder cases like that of sickle cell anemia and thalassemia. Thalassemia is a genetic blood disorder commonly characterized by the abnormal production of hemoglobin in the body. The abnormality results in improper exgen transport and destruction of red blood cells. It has wide-ranging effects on the human body like iron overload, bone deformities and in severe cases heart disease also. The disease has no cure and people living with thalassemia major require regular blood transfusions as an effective measure to prolong life. A thalassemia major child is born out of the marriage of two thalassemia minor patients. Therefore, the only way to prevent the spread of thalassemia major is to avoid the marriage of two thalassemia minor patients.

Thalassemia has one of the highest incidents rates in India, with close to ten thosuand to twelve thousand children being born with thalassemia (in India) per year. This makes India officially the thalassemia capital of the world. India is estimated to have ten thousand patients with a Beta thalassemia (ß thalassemias) syndrome and around one lakh and fifty thousand patients with sickle cell disease, but few among them are optimally managed. Allergenic stem cell transplant is unaffordable for the majority of families. Thus, feasible option for control is to intensify pre-marital screening of such diseases along with micro-mapping to assess the true burden; develop adequate facilities for such diseases along with micro-mapping to assess the true burden; adequate facilities for genetic counseling and pre-marital diagnosis in public sector Institutions. At least one lakh rupees is the cost of treatment per patient every year. The total burden of diseases born out of genetic disorder is estimated to stand at fifty thousand crore annaully. A developing country like India cannot afford this burden and thus it is the most opportune time to draft a national policy for a free and compulsory pre-marital genetic screening for all residents irrespective of their financial or social background as it cannot be left optional for long.

The Bill, therefore, seeks to:—

(*a*) mitigate the spread of genetic blood disorders like sickle cell, anemia and thalassemia by providing free and compulsory pre-marital genetic testing for couples who are planning to get married or start a family;

(*b*) promote awareness about the concept of the comprehensive healthy marriage;

(*c*) reduce pressure over health institutions and blood banks;

(*d*) aoid social and psychological problems for families whose children suffer; and

(*e*) reduce the family and nation's financial burden of treating such children.

Hence this Bill.

NEW DELHI;
June 26, 2019.

SHRIKANT EKNATH SHINDE

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for appointment of manpower, material and services for carrying out the purposes of this Act. It also provides for due publicity of pre-marital genetic testing policy by the appropriate Government. Clause 8 provides that the Central Government shall provides adequate funds for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of rupees five hundred crores will be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 148 OF 2019

A Bill to provide for regularisation and universalisation of Integrated Child Development Services in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. *(1)* This Act may be called the Integrated Child Development Services (Regularisation) Act, 2019.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) "anganwadi centre" means a centre which shall be used for providing integrated child development services by the appropriate Government and includes all the existing centres being used for providing integrated child development services in the country;

(b) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government; and

(c) "prescribed" means prescribed by rules made under this Act.

Regularisation and institutionalisation of Integrated Child Development Services.

3. On and from such date as the Central Government may, by notification in the Official Gazette appoint, the existing Integrated Child Development Services for overall development of children shall be deemed to be regularised and institutionalized under this Act in such manner as may be prescribed.

Establishment of adequate number of anganwadi centres.

4. (*1*) The appropriate Government shall establish adequate number of anganwadi centres in every settlement or village throughout the country.

(*2*) The appropriate Government shall make available land, building infrastructure and all basic facilities including nutritious meal, educational games, toys, stationery items, learning and writing material, television sets, computers and such material as required for the overall development of children and facility of pre-natal and post-natal care to infants and mothers at every anganwadi centre.

(*3*) The appropriate Government shall regulate the functioning of anganwadi centres, in such manner and through such bodies of local self government, as may be prescribed.

Redesignation of anganwadi workers and helpers.

5. The 'anganwadi workers' and 'helpers' working in the existing anganwadi centres shall hereinafter be known as 'anganwadi teachers' and 'anganwadi assistants', respectively.

Setting up of National Committee.

6. (*1*) The Central Government shall constitute a Committee to be known as the National Committee for the welfare of persons working in anganwadi centres in such manner as may be prescribed.

(*2*) The National Committee shall perform the following functions, namely:—

(*i*) suggest measures to streamline the functioning of existing anganwadi centres;

(*ii*) identify areas where cases of malnutrition of children are reported and recommend opening up of anganwadi centres in such areas;

(*iii*) monitor the functioning of anganwadi centres;

(*iv*) conduct foundation training course for anganwadi teachers and assistants;

(*v*) fix working hours for anganwadi teachers and assistants;

(*vi*) prescribe the educational qualification and other criteria for recruiting the persons as anganwadi teachers and assistants;

(*vii*) recommend salary, allowances, over-time, honorarium, leave, provident fund and other benefits, including maternity benefits, for employees of anganwadi centres from time to time;

(*viii*) provide free health care to anganwadi teachers and assistants and their minor children;

(*ix*) provide insurance cover to anganwadi teachers and assistants; and

(*x*) suggest other measures for overall development of children and efficient functioning of anganwadi centres.

Release of funds.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, release the necessary funds to the National Committee for effective implementation of the Act.

Power to remove difficulties.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order publish in the Official Gazette, make such provision, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing such difficulty:

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

Power to make rules.

9. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this section 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 the 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.

STATEMENT OF OBJECTS AND REASONS

The rights of women and children and their aspirations are of paramount importance in our march towards an inclusive and equitable society. Keeping in view the constitutional provisions and in order to give greater focus to issues relating to women and children, it is necessary to invest more in the programmes meant for eradication of malnutrition and expansion of anganwadis. It is a fact that the Integrated Child Development Services (ICDS) has grown by leaps and bounds with a wide range of activities being brought within its ambit and consequent expansion of the area of work of anganwadi workers and helpers and increase in their working hours. There is no justification for their being treated as social and honorary workers with the paltry amount doled out to them as honorarium, especially when they have put in long years of service and the success of the scheme, which has been lauded by various agencies, is due to the hard work of the anganwadi workers and helpers. These anganwadi workers are working in close relationship with the people and their services are being utilized by the respective State Governments for a whole range of activities—be it survey, promotion of small saving schemes, group insurance or non-formal education. Despite this, their demand for seeking regularisation and institutionalisation of services is being brushed aside. Therefore, in recognition of their services, they need a better lot and improvement in their service conditions and remunerations. There is also need of an effective system of supervision of anganwadi centres.

In view of the above, the Bill seeks to provide for universalisation, regularisation and institutionalisation of Integrated Child Development Services for all-round development of children and expansion of anganwadi centres for effective implementation of the scheme.

Hence this Bill.

NEW DELHI;
June 26, 2019.

VISHNU DAYAL RAM

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for regularisation and institutionalisation of the Integrated Child Development Services by the Central Government. Clause 4 provides for setting up of adequate number of anganwadi centres with basic facilities in every settlement. Clause 6 provides for setting up of a National Committee for the welfare of persons working in anganwadi centres. Clause 7 provides that the Central Government shall release necessary funds to the National Committee for effective implementation of this Bill. The State Governments will incur expenditure in respect of their States out of their respective Consolidated Funds for implementing the provisions of this Bill. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten thousand crore per annum.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

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MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 142 OF 2019

A Bill further to amend the Motor Vehicles Act, 1988.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Motor Vehicles (Amendment) Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new section 207A.

2. After section 207 of the Motor Vehicles Act, 1988, the following section shall be inserted, namely— 59 of 1988.

Release of motor vehicle seized and detained by police officer on payment of the insured value.

"207A. (*1*) Notwithstanding anything contained in this Act, every motor vehicle seized and detained by any police officer or other person authorized in this behalf shall, pending the final outcome of the Court trying the case, after verification of relevant documents, be released to the owner or person in-charge of the motor vehicle after payment of the insured value of the motor vehicle under consideration in such manner as may be prescribed:

Provided that the motor vehicle seized and detained in the case of a road accident or murder shall be released, subject to such conditions, as may be prescribed by the Court trying the case.

(*2*) The owner or person in-charge of the motor vehicle shall, prior to release of the motor vehicle under sub-section (*1*), submit an undertaking or guarantee to remit the excess proceeds, if any, from the sale or auction of the motor vehicle:

Provided that if the court adjudicating the case finds that the rightful ownership does not vest with person claiming so or person in-charge of the motor vehicle, as the case may be, such person shall be punished as per the provisions of this Act.".

STATEMENT OF OBJECTS AND REASONS

At present the huge number of motor vehicles seized and detained by the police officer are being junked and left to perish in police stations. As per the provisions of the Motor Vehicles Act, 1988, for release of the vehicle, it is required to move an application in court having proper jurisdiction which is cumbersome and takes a long period of time for its disposal.

Honb'le Supreme Court in the case of *General Insurance Council & Ors. Vs. State of Andhra Pradesh & Ors*. on 19 April, 2010 has permitted insurance companies/owners concerned to take possession of seized vehicles, used in commission of offences, after getting the release order from the competent court. The Supreme Court while making the Judgement has stated *inter alia*—

".....the following further directions with regard to seized vehicles are required to be given.

(A) Insurer may be permitted to move a separate application for release of the recovered vehicle as soon as it is informed of such recovery before the Jurisdictional Court. Ordinarily, release shall be made within a period of thirty days from the date of the application. The necessary photographs may be taken duly authenticated and certified, and a detailed *panchnama* may be prepared before such release.

(B) The photographs so taken may be used as secondary evidence during trial. Hence, physical production of the vehicle may be dispensed with.

(C) Insurer would submit an undertaking/guarantee to remit the proceeds from the sale/auction of the vehicle conducted by the Insurance Company in the event that the Magistrate finally adjudicates that the rightful ownership of the vehicle does not vest with the insurer. The undertaking/guarantee would be furnished at the time of release of the vehicle, pursuant to the application for release of the recovered vehicle. Insistence on personal bonds may be dispensed with looking to the corporate structure of the insurer....

.....It is a matter of common knowledge that as and when vehicles are seized and kept in various police stations, not only they occupy substantial space of the police stations but upon being kept in open, are also prone to fast natural decay on account of weather conditions. Even a good maintained vehicle loses its road worthiness if it is kept stationary in the police station for more than fifteen days. Apart from the above, it is also a matter of common knowledge that several valuable and costly parts of the said vehicles are either stolen or are cannibalised so that the vehicles become unworthy of being driven on road."

The Bill, therefore, seeks to amend the Motor Vehicles Act, 1988 with a view to enable the owner or person in-charge of the motor vehicle to get the motor vehicle under consideration of the Court released after payment of the insured value of the motor vehicle.

Hence this Bill.

NEW DELHI;
June 26, 2019.

VINOD KUMAR SONKAR

BILL NO. 159 OF 2019

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2019.

Amendment of the Seventh Schedule.

2. In the Seventh Schedule to the Constitution,—

(*i*) in List I-Union List, Entry 56 shall be omitted;

(*ii*) in List II-State List, entry 17 shall be omitted; and

(*iii*) in List III-Concurrent List, after entry 32, the following entry shall be inserted namely:—

"32A. Regulation and development of inter-State rivers and river valleys.

32B. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power.".

STATEMENT OF OBJECTS AND REASONS

Life is impossible without water. All living beings including human, animals and plants need water for their survival. Therefore, it is desirable that requisite amount of water is available without any hindrance for drinking and irrigation.

Around ninety-seven per cent. of water on the Earth is salty water and only three per cent. is fresh water; slightly over two thirds of this fresh water is frozen in the form of glaciers and polar ice caps. The remaining unfrozen fresh water is found mainly as ground water.

Ground water is a renewable resource, yet the world's supply of ground water is steadily decreasing with the depletion of water table, most prominently in Asia and North America. It is still not clear that how much natural renewal balance of fresh water is available or whether ecosystem will be threatened for want of fresh water in near future. The framework for allocating water resources to water users where such a framework exists is known as water rights.

At present, water is a State subject and is considered as primary responsibility of the State Governments.

The Bill seeks to amend the Seventh Schedule to the Constitution with a view to transfer entry 56 of List-I Union List and entry 17 of List-II State List pertaining to 'Regulation and Development of Inter-State Rivers and River Valleys' and 'Water', respectively, to List-III Concurrent List so that the Central Government and the State Governments concerned can also play their due role for regulation and development of inter-State rivers and conservation and sustainable use of water to meet the growing needs of the society.

Hence this Bill.

NEW DELHI;
June 26, 2019.

VINOD KUMAR SONKAR

BILL NO. 139 OF 2019

A Bill to provide for the welfare of fishermen in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Fishermen Welfare Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*i*) "Board" means the Fishermen Welfare Board established under section 3;

(*ii*) "fisherman" means a person engaged in fishing and fishing related works such as repairing, maintaining and manning boats, nets and other equipments used in

fishing or peeling, drying and selling of fish and solely dependent on the income earner from selling of fish; and

(*iii*) "prescribed" means prescribed by rules made under this Act.

Fishermen Welfare Board.

3. (*1*) The Central Government shall, by notification in the Official Gazette, establish a Board to be known as the Fishermen Welfare Board.

(*2*) The Board shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of properties, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(*3*) The Board shall consist of,—

(*i*) a Chairperson and four other members to be appointed by the Central Government in such manner as may be prescribed;

(*ii*) not more than one representative each from the Coastal States and Union territories to be nominated by the respective State Governments and Union territories Administrations;

(*4*) The Central Government shall provide to the Board such number of officers and staff as may be necessary for the efficient functioning of the Board.

(*5*) The salaries and allowances payable to and other terms and conditions of service of the Chairperson and other members, officers and staff of the Board shall be such as may be prescribed.

Board to formulate a scheme for welfare of fishermen.

4. (*1*) The Board shall formulate a scheme for the welfare of fishermen.

(*2*) Without prejudice to the generality of the foregoing provision, such a scheme shall also provide for—

(*i*) provision of boats, nets, jetties and life boats at concessional rates;

(*ii*) provision of loan facilities for purchasing of boats, nets and life boats;

(*iii*) provision of cold storage facilities for fish and other 'catches' by fishermen at subsidized rates;

(*iv*) facilitating the export of fish;

(*v*) transportation facility of processed fish to seaport or airport for the purpose of export at concessional rates;

(*vi*) insurance facilities;

(*vii*) free health care facilities to fishermen and their family members;

(*viii*) old age pension;

(*ix*) subsistence allowance during such situations as floods, storms or rains when fishermen cannot go into sea for fishing; and

(*x*) housing facilities at concessional rates.

Compensation in case of death or serious injury.

5. Notwithstanding anything in this Act or any other law for the time being in force, the Central Government shall pay compensation of—

(*i*) rupees ten lakh to the nearest kin of a fisherman in case of his death when involve in occupation which shall be in addition to any assistance extended by a State Government or;

(*ii*) rupees five lakh to the fisherman in case of a serious injury to him due to any accident while catching fish on the high seas or actions of the pirates.

Release of fishermen from imprisonment by a foreign country.

6. (*1*) Where a fisherman while fishing is imprisoned by a foreign country on account of straying into territorial waters of that country or is kidnapped by any person including pirates, the Central Government shall take all necessary measures to facilitate the early release and transportation of fisherman to his home.

(*2*) The Central Government shall pay a subsistence allowance of rupees five thousand per month in such manner as may be prescribed to the family of a fisherman imprisoned under the circumstances referred to sub-section (*1*) till the fisherman is released and brought home.

Grants by the Central Government.

7. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide to the Board by way of grants such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.

Power to make rules.

8. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

(*2*) Every rule made under this section 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.

STATEMENT OF OBJECTS AND REASONS

Fishing is an important occupation for lakhs of people in our country since ancient times. The fish is processed and exported to many countries thereby generating a considerable monetary benefit to the country. Fishing industry provides employment to lakhs of people directly or indirectly. Fish is consumed by many people and fish oil is also used in making medicines.

Lakhs of fishermen are involved in this occupation. But the difficulties the fishermen are facing are manifold. Fishing is seasonal occupation in the sense that fishermen cannot go into sea throughout the year for fishing. There is also no facility for processing, storage, marketing, transportation and export of fish. Moreover, a fisherman has to pay huge rent for boats, etc. which he has to hire during fishing and on a given day, he may not earn anything. Besides, in the recent times, fishermen are facing another grave situation of being fired upon, killed or attacked either by mistake or deliberately by defence forces of another country on the plea of intruding into the territorial waters of that country. There have been many instances when our fishermen were killed or captured or imprisoned and tortured. The chances of being kidnapped by pirates on the high seas also add to their problems.

No compensation or subsistence allowance is given by the Government in such cases. A mechanism for the welfare of fishermen is absolutely essential and the Bill aims at in that direction.

Hence this Bill.

NEW DELHI;
June 26, 2019.

H. VASANTHA KUMAR

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for setting up of a Fishermen Welfare Board. Clause 4 provides that the Board shall formulate a scheme for the welfare of fishermen. Clause 5 provides for compensation to a fisherman in case of death or serious injury. Clause 6 provides for subsistence allowance to the family of fishermen while they are imprisoned in a foreign country. Clause 7 provides for grants by the Central Government. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten thousand crore per annum.

A non-recurring expenditure of rupees five thousand crore is also likely to be involved.

———

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 162 OF 2019

A Bill to provide for free and compulsory primary, secondary, higher and technical education to every child in order to eradicate illiteracy and overall development and for deterrent punishment to those who prevent their children from going to school and pursuing their studies in any manner and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Free and Compulsory Primary, Secondary, Higher and Technical Education Act, 2019.

(*2*) It extends to the whole of India.

Definitions.

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

(*a*) "appropriate Government" means in the case of a State, the Government of that State, and in all other cases, the Central Government;

(*b*) "child" means a male or a female who has attained the age of four years but has not attained the age of twenty-five years;

(*c*) "higher and technical education" means education beyond senior secondary level and includes education in the fields of law, theology, medicine, technology, business, music or art;

(*d*) "parent" in relation to a child includes guardian and every person who has the actual custody of the child for the time being;

(*e*) "prescribed" means prescribed by rules made under this Act; and

(*f*) "primary and secondary education" means education in a school from primary to senior secondary level.

Compulsory admission of children in school and prohibition on their employment.

3. (*1*) Notwithstanding any custom, usage or belief of any section of the society, every parent shall compulsorily admit his children in a school, on completion of four years of age in order to enable them to get primary education and shall not restrain him in any manner from attending the school.

(*2*) No person including a parent shall engage a child in any household job or employ a child in a manner which prevents the child from attending the school and deprives him from primary, secondary, higher and technical education.

(*3*) Whoever contravenes the provisions of sub-section (*1*) or (*2*) shall be guilty of an offence under this Act.

Appropriate Government to provide free and compulsory primary, secondary, higher and technical education to every child.

4. (*1*) The appropriate Government shall provide free and compulsory primary, secondary, higher and technical education to every child, who is ordinarily residing within its territorial jurisdiction.

(*2*) The appropriate Government shall establish adequate number of schools within its territorial jurisdiction including special schools for physically challenged children at such places as it may deem necessary with such basic facilities, as may be prescribed.

(*3*) If any child intends to pursue higher studies beyond the primary and secondary educational levels, the appropriate Government shall provide free higher and technical education to such child with all such facilities, as may be prescribed.

(*4*) The appropriate Government shall provide the following facilities to every student enrolled in primary to secondary schools and in higher and technical educational institutions:—

(*i*) free books, note books and stationery items;

(*ii*) free school uniforms;

(*iii*) free hostel facilities and meals;

(*iv*) free vocational training wherever necessary;

(*v*) scholarships in such cases, as may be prescribed; and

(*vi*) free transportation service between institute and hostel.

Central Government to provide adequate funds.

5. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide necessary funds to the State Governments, from time to time, for carrying out the purposes of this Act.

Penalty.

6. (*1*) If any person including a parent for any reason whatsoever, prevents or restrains or in any manner obstructs the child from receiving primary, secondary, higher or technical eduation, such person shall be liable to simple imprisonment for a term which may extend upto six months and also with a fine which may extend upto fifty thousand rupees.

(*2*) Whoever employs a child resulting in obstructing him from attending the school for primary and secondary education shall be liable to imprisonment for a term which shall not be less than two years but may extend upto five years and also with fine which may extend upto one lakh rupees.

2 of 1974.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under this Act shall be cognizable.

Offences to be cognizable.

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

9. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(*2*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the 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.

STATEMENT OF OBJECTS AND REASONS

Article 21A of the Constitution provides that it is the responsibility of the State to provide free and compulsory education to all children of age six to fourteen years. Although, Government has taken many steps in this regard but they are inadequate. We have not been able to provide education to all children even after seventy-one years of independence.

The ability to read and write is an essential element of human capability. Literacy is the first step towards acquiring tools of learning and opening the doors for knowledge and information. Education expands opportunities for human beings, empowers them to resist oppression and to claim their rights.

Our education system is very expensive and all citizens cannot afford it. The poor parents with meagre incomes are unable to send their children to school for primary, secondary, higher and technical education. Therefore, it is necessary to provide textbooks, scholarships, hostel facilities, etc. to the poor students so that parents are encouraged to send their children to school to pursue higher studies thereafter. Therefore, it is necessary to provide for free and compulsory education at all levels including primary, secondary, higher and technical education with scholarships to meritorious students.

Hence this Bill.

NEW DELHI;
June 26, 2019.

H. VASANTHA KUMAR

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for free and compulsory education to children by opening adequate number of schools including special schools for physically challenged children. Clause 5 provides that Central Government shall provide necessary funds to the State Governments for carrying out the purposes of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one hundred crore will be involved as recurring expenditure per annum from the Consolidated Fund of India.

A sum of rupees fifty crore will also be involved as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the provisions of this Bill. The rules will relate to matters of detail only. The delegation of legislative power is of a normal character.

BILL NO. 183 OF 2019

A Bill to establish an effective regime to protect, promote and fulfil the fundamental right to privacy of all natural persons and protect personal data concerning them, to set out conditions upon which surveillance of natural persons and interception of communications may be carried out, to constitute a Privacy Commission, and for matters connected therewith or incidental thereto.

WHEREAS the right to privacy is an inalienable fundamental right of all natural persons indispensable to the preservation of human dignity, personal autonomy and the exercise of constitutional liberties;

AND WHEREAS the need to protect privacy has only increased in the digital age, with the emergence technologies such of big data analytics;

AND WHEREAS the delivery of goods and provision of services often entails the collection, storage, processing and disclosure, including international transfers of personal data;

AND WHEREAS good governance requires that all interception of communications and surveillance must be conducted with due process strictly in accordance with law, in consonance with the rights to freedoms and privacy under Part III of the Constitution and only upon establishing the need for the same;

AND WHEREAS it is necessary to harmonise any conflicting interests and competing legislation;

NOW, THEREFORE, it is expedient to provide for an enforceable means to protect the informational privacy of natural persons.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follow:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Personal Data and Information Privacy Code Act, 2019.

(*2*) It extends to the whole of India and, save as otherwise provided in this Act, it applies also to any offence or contravention hereunder committed outside India by any person, wherever located.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(*a*) "aggregate", with its grammatical variations and cognate expressions, in relation to personal data, means adding, removing, filtering, mixing, combining or recombining records of data;

(*b*) "anonymise" means, in relation to personal data, the irreversible removal or alteration of all data that may, whether directly or indirectly in conjunction with any other data, be used to identify a natural person or data subject;

(*c*) "appropriate Government" means, in relation to the Central Government or a Union territory Administration, the Central Government; in relation to a State Government, that State Government; and, in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly:—

(*i*) by the Central Government or a Union territory Administration, the Central Government;

(*ii*) by a State Government, that State Government;

(*d*) "authorised officer" means an officer of a competent organization, not below the rank of a Gazetted Officer of an All India Service or a Central Civil Service, as the case may be, who is empowered by the Central Government, by notification in the Official Gazette, to intercept the communications of another person or carry out any surveillance of another person under this Act;

(*e*) "biometric data" means any data relating to the physical, physiological or behavioural characteristics of a natural person which allows the verification or authentication of that person's identity including, but not restricted to, facial images, fingerprints, hand prints, foot prints, iris recognition, handwriting, typing dynamics, gait analysis and speech recognition;

(*f*) "Chief Privacy Commissioner" and "Privacy Commissioner" mean the Chief Privacy Commissioner and Privacy Commissioners appointed under section 48;

(*g*) "collect", with its grammatical variations and cognate expressions, means, in relation to personal data, any action or activity that results in a person obtaining, or coming into the knowledge or possession of, any personal data of another person, whether directly or indirectly;

(*h*) "communication" means a word, signs, gestures, spoken, written or indicated, in any form, manner or language, encrypted or unencrypted, meaningful or otherwise, and includes visual representations of words, ideas, symbols and images, and the metadata in relation whether transmitted or not transmitted and, if transmitted, irrespective of the medium of transmission;

(*i*) "competent organisation" means an organisation authorised by an Act of Parliament to carry out surveillance and/or interception, and includes a public authority as listed in the Schedule.

(*j*) "consent" means it is free, informed and unambiguous indication of a data subject's agreement;

(*k*) "data" means shall have some meaning as assigned in it section 2(*o*) of the Information Technology Act, 2000; 21 of 2000.

(*l*) "data controller" means any person including appropriate Government who, either alone, or jointly, or in concert with other persons, determines the purposes for which and the manner in which any personal data is processed;

(*m*) "data processor" means any person including appropriate Government who processes any personal data on behalf of a data controller;

(*n*) "data subject" means a natural person who is a citizen under the Citizenship Act, 1955 or who has resided in India for a period of one hundred and eighty two days or more in the twelve months preceding the previous year. 57 of 1955.

(*o*) "deoxyribonucleic acid data" means all information, of whatever type, concerning the characteristics of a natural person that are inherited or acquired during early prenatal development;

(*p*) "destroy", with its grammatical variations and cognate expressions, means, in relation to personal data, to cease the existence of, by deletion, erasure or otherwise, any personal data which becomes irretrievable in whole or in part, including information about the existence of such data itself;

(*q*) "disclose", with its grammatical variations and cognate expressions, means, in relation to personal data, any action or activity that results in a person coming into the knowledge or possession of any personal data of another person;

(*r*) "interception" or "intercept" means any activity intended to capture, read, listen to or understand the communication of a person;

(*s*) "officer-in-charge of a police station" shall have the meaning ascribed to it under clause (*o*) of section 2 of the Code of Criminal Procedure, 1973; 2 of 1974.

(*t*) "person" includes a natural person or legal person including a company, a firm, an association of persons, a public authority or a body of individuals, wherever located, whether incorporated or not;

(*u*) "personal data" means any data which relates to a natural person if that person can, whether directly or indirectly in conjunction with any other data, be identified or identifiable from it and includes sensitive personal data:

Provided that the term "personal data" shall not include data which is a matter of public record except details of victims in cases of sexual assault, kidnapping or abduction.

(*v*) "prescribed" means prescribed by rules and regulations made under this Act;

(*w*) "Privacy Commission" means the body constituted under sub-section (*1*) of section 47;

(*x*) "Privacy Officer" means the Privacy Officer designated under sub-section (*3*) of section 36 and sub-sections (*3*) and (*4*) of section 43;

(*y*) "process", with its grammatical variations and cognate expressions, means, in relation to personal data, any action or operation which is performed upon personal data of another person, whether or not by automated means including, but not restricted to, collection, aggregation, organisation, structuring, adaptation, modification, retrieval, consultation, use, alignment or destruction;

(*z*) "public authority" shall have the meaning assigned to it under clause (*h*) of section 2 of the Right to Information Act, 2005; 22 of 2005.

(*za*) "receive", with its grammatical variations and cognate expressions, means, in relation to personal data, to come into the knowledge or possession of any personal data of another person;

(*zb*) "sensitive personal data" means data or metadata as to a person's—

(*i*) biometric data;

(*ii*) deoxyribonucleic acid data;

(*iii*) identification number, or any identity attributes;

(*iv*) location data;

(*v*) sexual preferences and practices;

(*vi*) medical history and health information;

(*vii*) political affiliation or opinions;

(*viii*) present and past membership of a political, cultural, social organisations including but not limited to a trade union as defined under section 2(*h*) of the Trade Union Act, 1926; 16 of 1926.

(*ix*) ethnicity, religion, race or caste; and

(*x*) financial and credit information, including financial history and transactions except in cases of public officials or when such information is considered as a public record or its disclosure is made under any law.

(*zc*) "State Privacy Commission" means the body constituted under sub-section (*1*) of section 65;

(*zd*) "Surveillance and Interception Review Division" means the bodies constituted under sub-section (*1*) of section 70;

(*ze*) "store", with its grammatical variations and cognate expressions, means, in relation to personal data, to retain, in any form or manner and for any purpose or reason, any personal data of another person;

(*zf*) "surveillance" means any activity, directly or indirectly intended to watch, monitor, record or collect, or to enhance the ability to watch, record or collect, any information, images, signals, data, movement, behaviour or actions, of a person, a group of persons, a place or an object, for the purpose of obtaining information about a person and their private affairs, including:

(*i*) directed surveillance that is covert surveillance undertaken for a specific investigation or operation even if the person surveilled was not specifically identified in relation to the surveillance operation;

(*ii*) inclusive surveillance which is covert surveillance carried out by an individual or surveillance device in relation to anything taking place in any private premises or private vehicle;

(*ii*) covert human intelligence gathering which is information obtained by a person who establishes or maintains a personal or other relationship with a person for a covert purpose of using it to obtain access to any personal information about that individual;

(*iv*) surveillance undertaken through installation and use of CCTV and other system which capture audio-visual information to identify or monitor individuals; but does not include collection of personal data under sections 7, 11 and 12.

(*2*) All other words expressions used herein but not defined and defined in the General Clauses Act, 1897 or the Code of Criminal Procedure, 1973 as the case may be, shall have the same meanings as assigned to them in those Acts. 10 of 1897. 2 of 1974.

CHAPTER II

RIGHT TO PRIVACY

Principles applicable to protecting privacy.

3. In exercising the powers conferred by this Act, regard shall be had to the following considerations, namely:—

(*1*) that the right to privacy is a fundamental right essential to the maintenance of a democratic, open society and is recognised as a fundamental human right mentioned in Part III of the Constitution and in international treaties to which India is a party;

(*2*) that personal data with its attributes belongs solely to the natural person to whom it pertains who are referred to as the data subjects for the purposes of this Act;

(*3*) that personal data of data subjects shall be processed fairly and lawfully and in no circumstance shall be processed unless the conditions under this Act are met and subject to conditions under this Act are fulfilled;

(*4*) that intrusions into privacy shall, be for lawful purposes, measured by principles of legality, necessity and proportionality;

(*5*) that unless as otherwise expressly provided the consent of data subject for a specific purpose shall be a mandatory condition prior to storage and processing of his personal data;

(*6*) that personal data is required by data controllers, and data processors, to enable good governance and the delivery of goods and provision of services without undue delay which may be provided by a meaningful, revocable and accountable notice and consent framework;

(*7*) that the right to privacy shall not be used to limit or fetter the fundamental right to freedom of speech and expression of journalists and the press or accountability of the Government and public institutions under the Right to Information Laws;

(*8*) that privacy shall be upheld by a statutory body which is independent, impartial, well resourced and free from influence and extraneous pressure.

Right to privacy.

4. (*1*) Without prejudice to the generality of the provisions contained herein, all natural persons shall have a right to privacy which shall be implemented as per principles laid down in section 3.

(*2*) For the purpose of sub-section (*1*) no person shall collect, store, process, disclose or otherwise handle any personal data of a natural person, intercept any communication of another person or carry out surveillance of another person except in accordance with the provisions of this Act.

Exemption.

5. Nothing in this Act shall apply to —

(*1*) the collection, storage, processing or dissemination of his own personal data by a natural person; or

(*2*) surveillance by a resident of his own residential property, or

(*3*) subject to obtaining the Privacy Commission's exemption under sub-section (*3*) of section 16, the collection, storage or processing of anonymised data for non-commercial purposes or by any entity for academic, journalistic, research, statistical or archival purposes as required under the provisions of any other law for the time being in force.

Explanation.—For the purposes of this section, "non-commercial purposes" means permissible acts and omissions done in public interest which may be prescribed by the Privacy Commission through processes of public consultation with due regard to academics, civil society, experts and professional bodies.

CHAPTER III

PROTECTION OF PERSONAL DATA

PART A

NOTICE BY DATA CONTROLLERS

Transparency in form and substance in all communications by data controllers.

6. (*1*) All communications by data controllers shall be complied with in the following manner:

(*a*) in a concise, transparent, intelligible and easily accessible form, using clear and plain language, graphics and illustrations in particular for any information addressed specifically to a person below thirteen years of age;

(*b*) information shall be provided in writing, or by other means, including, where appropriate, by electronic means and when requested by the data subject, may be provided orally when deemed appropriate as per regulations that may be made by the Privacy Commission;

(*c*) requests for information by data subjects to data controllers shall be complied with promptly, ideally within a period of two working days noting acknowledgment of receipt and communicating the timelines for compliance that shall have a limit of one month from the date of receipt of the request for information:

Provided that all communications by the data controllers including but not limited to the rights of data subjects under this Part may be refused when the data controller may refuse to supply information to a data subject if he is unable to identify or has a well founded basis for reasonable doubt as to the identity of the data subject or are manifestly unfounded, excessive and repetitive, with respect to the information sought by the data subject:

Provided further that the data controller shall, while refusing to part away any information under foregoing provisions, provide reasons thereof;

(*d*) if the data controller refuses or fails to provide information, he shall specify reasons thereof along with remedies including appeal as provided under provisions of this Act.

(*e*) information shall include with a specific reference to the rights and remedies, include availability of measures for rectification, restriction and erasure as provided to data subjects under this Act.

(*2*) The Privacy Commission, shall take special measures to ensure that information to be provided by the data controllers is accessible to all data subjects, including those who -

(*a*) are illiterate;

(*b*) suffer impaired or total lack of vision or hearing; and

(*c*) fall into any other category requiring special measures, as may be prescribed by the Privacy Commission:

Provided that, in case of any dispute, ambiguities in the terms of the notice and any privacy policies that apply shall be resolved in favour of the data subject.

(*3*) The Privacy Commission may frame regulations to ensure compliance by data controllers of the rights to transparency and modalities of data subjects.

PART B

CONSENT OF DATA SUBJECTS

Prior consent necessary to the collection of data.

7. (*1*) Every Data Controller shall collect data from a data subject with his prior consent.

(*2*) The consent of a data subject under sub-section (*1*) shall be deemed to have been validly effected only if it is —

(*a*) obtained from a person competent to contract in terms of section 11 of the Indian Contract Act, 1872; 9 of 1872.

(*b*) obtained in a free manner, in the terms of section 14 of the Indian Contract Act, 1872;

(*c*) informed and made with full knowledge of risks involved and the alternatives available;

(*d*) obtained prior to all data collection, except in the cases expressly excluded by section 12;

(*e*) voluntarily given through an express and affirmative Act and is recorded in modes including writing, audio, and visual media, which may be used in isolation or in conjunction;

Provided that effective consent shall be deemed to have been obtained where the written declaration of consent was given in a manner where it also concerned other matters, the request for consent shall be presented in a manner that is clearly distinguishable from the other matters in an intelligible and easily accessible form, using clear and plain language;

(*f*) a conspicuous means for its withdrawal is made available to the data subject; and

(*g*) withdrawn by the same means which were employed to obtain consent;

(*3*) Obtaining consent of data subject for specific and limited as to purpose and duration, and;

(*4*) Obtaining consent of data Subject for collection of data in a manner as prescribed by the Privacy Commission.

Explanation 1.— Consent shall be deemed to be limited only if it is obtained in respect of the purposes and duration strictly necessary to provide the product or service in relation to which personal data is sought to be collected, processed or disclosed.

Explanation 2.— When the purposes for which personal data was collected are materially altered or expanded subsequent to its collection, consent shall be deemed to be specific only if it is obtained afresh in respect of that alteration or expansion—

(*a*) after duly informing the data subject of the alteration or expansion in purpose; and

(*b*) prior to any use of that data for such expanded purposes; and

(*c*) in a manner as prescribed by the Privacy Commission.

Special provisions in respect of data subjects lacking legal capacity to give consent.

8. (*1*) The consent in relation to personal data relating to data subject of unsound mind shall be effective only if it is obtained from a legal guardian, or such other person expressly empowered to act on behalf of such data subject under any law for the time being in force, or if it is in consonance with decision making capacity as laid down in section 4 of the Mental Healthcare Act, 2017: 10 of 2017.

Provided that where the unsoundness of mind is temporary, the data subject shall entitle to withdraw consent given on his behalf during the period of such unsoundness of mind.

(*2*) The consent in relation to personal data relating to data subjects of any other class of natural persons identified by the Privacy Commission shall be effective only if it satisfies all conditions set out in rules framed by the Privacy Commission.

(*3*) All rights and entitlements conferred on data subjects under this Act shall be deemed to accrue to data subject as per consent on behalf of such persons.

Explanation.—Where no person acting on behalf of a data subject falling into any of the classes covered by this section can be identified despite the best efforts of the data controller or data processor, the State Privacy Commission, being accountable in a fiduciary capacity to the data subject, shall Act on behalf of such data subject.

Special provisions in respect to the processing of personal data of children.

9. (*1*) The processing of personal data of a child by a data controller or data processor shall be lawful if it is in a manner that does not violate the stipulations prescribed in this section.

(*2*) In respect of minors below the age of thirteen years, consent is to be obtained from a parent, legal guardian, or such other person acting in loco parentis as the case may be, after the minor is informed by the data controller in a simple and explanatory manner of the need for care in handling data concerning himself.

(*3*) Upon attaining age of majority, the data subject shall be entitled to:—

(*a*) be duly informed of the terms upon which personal data relating to his has been collected;

(*b*) alter or rescind the terms on consent; and

(*c*) require the destruction of all personal data relating to his.

(*4*) The data controller or data processor shall make reasonable efforts, proportionate to the available technologies, to ensure that notice of the fiduciary's activities is served to the parent or legal guardian of a child of the processing of personal information of a child.

(*5*) The notice under sub-section (*4*) shall be provided in the same manner for any material changes to processing priorly consented to.

(*6*) The data controller or data processor shall make reasonable efforts, proportionate to the available technologies in obtaining verifiable parental consent.

(*7*) The Data Fiduciary shall adopt appropriate methods for verifying parental consent on the basis of the following factors:—

(*a*) volume of personal data processed;

(*b*) proportion of such personal data likely to be that of children;

(*c*) possibility of harm to children arising out of processing of personal data; and

(*d*) such other factors as may be relevant.

(*8*) The existing methods to obtain verifiable parental consent may include but not limited to—

(*a*) in making available a consent form to be signed by the parent and returned to the operator by postal mail, facsimile, electronic scan or through other means available;

(*b*) permitting the use of a credit card/debit card/other online payment means with further verification through a confirmation call/other means to a parent/legal guardian/other for the purpose of a monetary transaction;

(*c*) obtaining consent through a parent confirmation call on a toll-free telephone number staffed by trained personnel;

(*d*) obtaining consent through a parent confirmation call to a trained personnel via video-conference:

Provided that, a data controller or data processor that does not disclose a child's personal information may use email or an inbuilt messaging function with additional steps to confirm that the person providing the consent is the parent:

Provided further that the information shall be provided to the parent so that consent may be revoked by using the same or other means in the future.

(*7*) The data controllers or data processors shall ensure that there is no profiling, tracking, or behavioural monitoring of, or targeted advertising directed at children and undertaking any other processing of personal data that may cause significant harm to the child.

Special provisions in respect of data subjects unable to give consent.

10. (*1*) The consent in relation to personal data relating to data subjects who are competent but temporarily unable due to any reason or circumstances to give consent shall be effective only if such consent is obtained in relation to purposes which are strictly necessary to uphold or advance the interests of the data subject or to the interests of the public, and the following conditions are fulfilled:—

(*a*) in respect of data subjects who are declared missing under law and for the period they are missing, it is obtained from their nearest living relative, and where all reasonable means to contact their nearest living relative have been demonstrably exhausted, it is obtained from any person legally empowered to act on their behalf, or as a last resort, the appropriate State Privacy Commission in whose jurisdiction he was last resident;

(*b*) in respect of data subjects who are detained, where all reasonable means to contact them, their nearest living relative have been demonstrably exhausted, it is obtained from any person legally empowered to act on their behalf, or as a last resort, the appropriate State Privacy Commission in whose jurisdiction he was last resident;

(*c*) in respect of data subjects who are temporarily incapable for medical reasons and for the duration of their temporary incapacity, it shall be obtained from their nearest living relative, and where all reasonable means to contact their nearest living relative have been demonstrably exhausted or obtained from any person legally empowered to act in their behalf, or as a last resort, the appropriate State Privacy Commission in whose jurisdiction he was last resident:

Provided that when the inability to consent passes and where the personal data collected during the period of inability has not been anonymised, the data subject is entitled to—

(*i*) alter or rescind the consent given on his behalf in all cases, and

(*ii*) request the destruction of all records of personal data relating to him.

(*2*) The consent in relation to personal data relating to data subjects who are unable, for reasons of death, and have not named a nominee to give, shall be effective only if it is obtained from—

(*a*) the nearest living relative; or

(*b*) where all reasonable measures to identify nearest living relative fail, the State Privacy Commission of the State in which the person last resided.

Collection of personal data.

11. (*1*) No person, including a data controller and data processor, shall collect any personal data without obtaining the consent of the data subject to whom it pertains.

(*2*) Subject to sub-section (*1*), no person shall collect any personal data which is not necessary for the achievement of a purpose that is connected to a stated function of the person seeking its collection.

(*3*) A person seeking to collect any personal data shall, prior to its collection and as prescribed by the Privacy Commission, inform the data subject without any direct or indirect charges, to whom such data pertains of the following details in respect of their personal data, namely —

(*a*) when it shall be collected;

(*b*) its content and nature;

(*c*) the purpose of its collection;

(*d*) the purpose and manner in which it shall be used;

(*e*) the persons to whom it shall be made available;

(*f*) the duration for which it shall be stored;

(*g*) the manner in which it may be accessed, checked and modified;

(*h*) the security practices and other safeguards, if any, to which it shall be subject;

(*i*) the privacy policies and other policies, if any, that shall protect it;

(*j*) whether, and the conditions and procedure upon which, it may be disclosed to others;

(*k*) the criteria, time and manner under which the personal data collected from the data subject shall be destroyed;

(*l*) the time and manner under which the personal data collected from the data subject shall be destroyed on withdrawal of consent;

(*m*) the process, procedure and ability for a meaningful recourse in case of any grievance in relation to it; and

(*n*) the identity and contact details of the data controller and data processor.

(*4*) The personal data collected in pursuance of a grant of consent by the data subject to whom it pertains shall, if that consent is subsequently withdrawn for any reason, be destroyed forthwith:

Provided that the person who collected the personal data in respect of which consent is subsequently withdrawn may, only if the personal data is necessary for the delivery of any good or the provision of any service, except where it is an essential service as provided under section 14, or the fulfillment of a lawful contract, not deliver that good or deny that service or fulfill that contract to the data subject who withdrew the grant of consent easily and at any point during the duration of a service.

Collection of personal data without prior consent.

12. (*1*) The data collector may collect or receive the personal data of a data subject from a third party without the prior consent of the data subject concerned only if it is—

(*a*) necessary for the provision of an emergency medical service or essential services as provided under section 14 to the data subject;

(*b*) strictly necessary to prevent, investigate or prosecute a cognizable offence as per process initiated, under the Code of Criminal Procedure, 1973 or by a law made through an Act of Parliament or State Legislature.

2 of 1974.

(*c*) exempted by the Privacy commission as per provisions relating to interception and surveillance under this Act:

Provided that for sub-sections (*a*) and (*b*) the data subject shall be duly informed in simple language and through a medium perfectly accessible to him, in a manner as prescribed by the Privacy Commission, at the earliest possible opportunity of the extent of personal data collected, and the processing and uses that it was put to in the course of meeting the purpose of the collection.

(*2*) All personal data collected without prior consent under this section shall be destroyed as soon as the purpose for which it was collected is over :

Provided that where effective consent is obtained in terms and as per the safeguards under the Act at the earliest possible opportunity and not later than seven days from the date of the collection of the personal data, such personal data may continue to be stored and processed.

Special provisions in respect of data collected prior to the commencement of this Act.

13. (*1*) All data collected, processed and stored by data controllers and data processors prior to coming into force of this Act shall be destroyed within a period of two years from the date of coming into force of this Act.

(*2*) Nothing in sub-section (*1*) shall apply where—

(*a*) consent in terms which satisfies all the requirements as provided for under this Act and is obtained afresh within the aforementioned period of two years; or

(*b*) The personal data collected prior to the commencement of this Act was anonymised in such a manner as to make re-identification of the data subject absolutely impossible.

Explanation.—For the purpose of this section 'consent' shall be deemed to have been obtained if the data subject does not explicitly withdraw consent, on the basis of a specific notification in this regard, issued by data controller to the data subject, in a manner as prescribed by the Privacy Commission, within the aforementioned period of two years.

PART C

FURTHER LIMITATIONS ON DATA CONTROLLERS

Bar on denial of subsidies, benefits and entitlements.

14. (*1*) No essential services, shall be withheld on the ground that consent to share personal data in a particular manner for the purpose of identification, has not been obtained or has been withheld or such data has not been collected at the time the data subject claims the service:

Provided that the data subject shall be entitled to damages where an essential service has been denied:

Provided further that the data controller or data processor shall accept any alternate means for identification, wherever available as per the choice of the data subject:

Provided also that the data subject shall be entitled to exemplary damages where an essential service has been denied despite the existence of pre-existing alternative means of identifying the data subject.

(*2*) An essential service includes the following, namely:—

(*a*) subsidies, benefits and entitlements which are provided on establishing the identity of an individual under the Aadhaar Act, 2016; 18 of 2016.

(*b*) entitlements under the Public Distribution System including but not limited to the provisions under the National Food Security Act, 2013; 20 of 2013.

(*c*) the provision of medical care to minors, expectant mothers or those requiring emergent or life-saving care;

(*d*) social security benefits, including pension, gratuity and provident fund;

(*e*) benefits under the Mahatma Gandhi National Rural Employment Guarantee Act, 2005; 42 of 2005.

(*f*) services provided to effectuate the provisions of Part III or Part IV of the Constitution;

(*g*) any other service additionally prescribed by the appropriate Government by notification in the Official Gazette or by way of a public proclamation;

(*3*) Where an essential service is provided under sub-section (*1*) and the service provider of the said service provider suffers grave and irreparable injury arising directly from the unavailability of personal data in respect of which consent was sought under this Act, such service provider may approach the Privacy Commission for relief or seeking exemption.

Storage and destruction of personal data.

15. (*1*) No person shall store any personal data for a period longer than is necessary to achieve the purpose for which it was collected or received, or, if that purpose is achieved or ceases to exist for any reason, for any period following such achievement or cessation.

(*2*) Save as provided in sub-section (*3*), any personal data collected or received in relation to the achievement of a purpose shall, if that purpose is achieved or ceases to exist for any reason, be destroyed forthwith:

Provided that where the purpose of collection is the provision of essential services under section 14 of the Banking Regulation Act, 1949 or of banking as provided under section 5 (*b*) of the Banking Regulation Act, 1949, the data subject shall be duly informed in terms to be prescribed by the Privacy Commission of the impending destruction of the data.

10 of 1949.

(*3*) Notwithstanding anything contained in this section, any personal data may be stored for a period longer than is necessary to achieve the purpose for which it was collected or received, or, if that purpose has been achieved or ceases to exist for any reason, for any period following such achievement or cessation, if—

(*a*) the data subject to whom it pertains grants their effective consent to such storage prior to the purpose for which it was collected or received being achieved or ceased to exist;

(*b*) it is adduced for an evidentiary purpose in a legal proceeding; or

(*c*) it is required to be stored for historical, statistical or research purposes under the provisions of an Act of Parliament and specified in a manner as prescribed by the Privacy Commission:

Provided that only such amount of personal data that is necessary to achieve the purpose of storage under this sub-section shall be stored and any personal data that is not required to be stored for such purpose shall be destroyed forthwith:

Provided further that any personal data stored under this sub-section shall, to the extent possible, be anonymised.

Processing of personal data.

16. (*1*) Save as provided in sub-section (*2*), no person shall process any personal data that is not necessary for the achievement of the purpose for which it was collected or received.

(*2*) Notwithstanding anything contained in this section, any personal data may be processed for a purpose other than the purpose for which it was collected or received only if —

(*a*) the data subject grants his effective consent to the processing and only that amount of personal data that is necessary to achieve such other purpose is processed;

(*b*) it is necessary to perform a contractual duty to the data subject;

(*c*) it is necessary to prevent an imminent threat to the security of the State or public order and the fact of such threat is recorded in writing by a competent organization which anticipates such a threat; or

(*d*) it is necessary to prevent, investigate or prosecute a cognizable offence.

(*3*) Notwithstanding anything contained in this section personal data may be anonymized, as a measure to enhance the security of the data and the privacy of the data subject:

Provided that anonymized data may be processed or disseminated only if the data controller has ensured the Privacy Commission that it is impossible to identify the data subject to whom it relates and sought exemption:

Provided further that where the Privacy Commission is satisfied that the personal data has been satisfactorily anonymized, the Privacy Commission may grant an extension on the permissible period of storage and disclosures for specified purposes in addition to those in respect of which effective consent was obtained.

Security of personal data and duty of confidentiality.

17. (*1*) No person shall collect, receive, store, process or otherwise handle any personal data without implementing measures, including, but not restricted to, technological, physical and administrative measures, adequate to secure its confidentiality, secrecy, integrity and safety, including from theft, loss, damage or destruction.

(*2*) Any person who collects, receives, stores, processes or otherwise handles any personal data shall maintain confidentiality and secrecy in respect of data collected, received, stored, processed or in their possession.

(*3*) It shall be the duty of the data controllers and data processors to maintain confidentiality and secrecy in respect of personal data in their possession or control.

(*4*) Without prejudice to the generality of the foregoing provisions of this section and notwithstanding any law for the time being in force, any person who collects, receives, stores, processes or otherwise handles any personal data shall, if its confidentiality, secrecy, integrity or safety is violated by theft, loss, negligence, damage or destruction, or as a result of any collection, processing or disclosure contrary to the provisions of this Act, or for any other reason whatsoever, as soon as he becomes aware of such violation, notify the person to whom it pertains, the Privacy Commission and any other agencies as may be designated for the purpose by the Central Government in such form and manner as may be prescribed.

(*5*) Any person, who collects, receives, stores, processes, or otherwise handles any personal data shall report all violations of provisions of this Chapter to the Privacy Commission, that are brought to its notice, or are reasonably expected to be known to such persons.

Transfer of personal data outside the territory of India.

18. (*1*) Subject to the provisions of this section, personal data that has been collected according to this Act may be transferred by a data controller to a data processor located in India, if the transfer is pursuant to an agreement that demonstrably and expressly binds the data processor to same or stronger conditions and measures in respect of the storage, processing, destruction, disclosure and other handling of the personal data as are contained in this Act.

(*2*) No data controller shall transfer personal data outside the territory of India or to an international organisation unless any one of the following conditions is fulfilled—

(*a*) the Central Government has issued a notification indicating it has decided that the country, territory, or international organization in question agrees to ensure an adequate level of protection of privacy and personal data in a manner which is in no way incompatible with the privacy principles contained in section 3:

Provided that any such notification of an adequacy decision shall only be issued by the Central Government after due consultation with the Privacy Commission and its Office of data protection, and after having taken inputs from such stakeholders and experts as the later may recommend; or

(*b*) The transfer by the data controller to a data processor located outside India is pursuant to an agreement that binds the recipient of the personal data to the strict conditions and measures in respect of the storage, processing, destruction, disclosure, and other handling of the personal data as contained in this Act; or

(*c*) The data controller shall assess all the circumstances relating to transfer of personal data in question to the third country, territory, or international organization and concluded that appropriate legal instruments and safeguards exist to protect the data, and inform the Office of data protection of the Privacy Commission of such transfers of data:

Provided that while informing the transfer of personal data to the Privacy Commission, the data controller shall maintain following details, namely:—

(*i*) the date and time of the transfer;

(*ii*) the name of other pertinent information about the data processor;

(*iii*) the justification for the transfer;

(*iv*) a description of the personal data transferred; and

(*v*) the existing legal instruments and safeguards for data protection by which the data processor is bound.

(*3*) No data processor shall process any personal data transferred under this section except to achieve the purpose for which it was collected.

(*4*) Any data controller who transfers personal data under this section shall be responsible to the data subject for the actions of the data processor.

(*5*) Any data controller who transfers personal data outside the territory of India shall comply with the provisions of this Act notwithstanding the fact that the personal data in question is being processed outside the country.

Explanation.—For the purpose of this section, the duties of a data collector shall include, but not be limited to:

(*a*) ensure that any recipient of such transferred personal data takes appropriate steps to ensure compliance with the provisions of this Act;

(*b*) report any breach to the Privacy Commission notwithstanding the transfer of such data outside the territory of India.

Disclosure of personal data.

19. (*1*) Save as provided in this Chapter, no person including the data controller shall disclose, or otherwise cause any other person to receive, the content or nature of any personal data, including any other details in respect thereof, except to the person to whom it pertains.

(*2*) No person including the data controller shall disclose any personal data without obtaining the prior effective consent of the data subject:

Provided that consent of a data subject obtained by way of threat, under duress or coercion or denial of service shall not be treated as a valid and effective consent.

(*3*) For the purpose of sub-section (*2*), a person including the data controller seeking to disclose any personal data shall, prior to its disclosure, inform the data subject of the following details in respect of their personal data, namely: —

(*a*) when and to whom it shall be disclosed;

(*b*) the purpose of its disclosure;

(*c*) the security practices and other safeguards, if any, to which personal data shall be subject to;

(*d*) the privacy policies and other policies, if any, that shall protect personal data;

(*e*) the procedure for recourse in case of any grievance in relation to personal data; and

(*f*) any other details prescribed by rules or by the Privacy Commission.

(*4*) Notwithstanding anything contained in this section, any person who collects, receives, stores, processes or otherwise handles any personal data may disclose it to a person other than the data subject, whether located in India or otherwise, for the purpose of only processing it to achieve the purpose for which it was collected:

Provided that in case disclosure is pursuant to an agreement that explicitly binds the person receiving it to same or stronger measures in respect of its storage, processing, destruction, disclosure or other handling as are contained in this Act.

(*5*) Any disclosure of personal data made contrary to the provisions of this Act shall be notified to the data subject and Privacy Commission.

Special provisions for sensitive personal data.

20. (*1*) Notwithstanding anything contained in this Act and any other law for the time being in force —

(*a*) no person shall collect sensitive personal data without effective consent from the data subject;

(*b*) no person shall store sensitive personal data for a period longer than is strictly necessary to the purpose for which it was collected or received, or, if that purpose has been achieved or ceases to exist for any reason, for any period following such achievement or cessation;

(*c*) no person shall process sensitive personal data for any purpose other than the purpose for which it was collected or received;

(*d*) no person shall disclose sensitive personal data to another person, or otherwise cause any other person to come into the knowledge or possession of, the content or nature of any sensitive personal data, including any other details in respect thereof, except the data subject.

(*2*) In addition to the requirements set out under sub-clause (*1*), the Privacy Commission shall set out additional protections in respect of:—

(*a*) sensitive personal data relating to data subjects who are minors;

(*b*) biometric and deoxyribonucleic acid data; and

(*c*) financial and credit data.

Special provisions for data impact assessment.

21. (*1*) Where the data controller uses, directly or indirectly any new technology, it shall be the duty of data controller to assess the risks involved in using new technology to the data protection rights under this Act.

(*2*) The data controller shall conduct an internal process of a data protection impact assessment which shall include a systematic and extensive evaluation of the personal aspects relating to data subjects especially the impact on their legal and human rights which result from use of the new technology.

(*3*) The assessment shall include—

(*a*) a systematic description of the processing operations and the purposes for such processing;

(*b*) an assessment of compliance with the principles of protecting privacy in relation to the purposes;

(*c*) an assessment of the impact on the risks to the rights and freedoms of data subjects; and

(*d*) the safeguards, security measures and mechanisms to address risks to protection of personal data.

(*4*) All data impact assessment reports shall be submitted periodically to the State Privacy Commission as per the rules and regulations made under this Act.

(*5*) The State Privacy Commission shall prepare and make public a list of the kind of processing operations which are subject to the requirement for a data protection impact assessment.

(*6*) The lists prepared under sub-section(*4*) shall be communicated to the Office for Data Protection of the Privacy Commission for approval prior to adoption.

Explanation.—The term "new technology" includes any pre-existing technology used for a new purpose through an iterative process by which any existing or pre-existing process or output is substantially changed.

PART D

RIGHTS OF A DATA SUBJECT

Right to access for data subject.

22. (*1*) The data subject shall have the right to obtain from the data controller information as to whether any personal data concerning him is collected or processed, and, where any such personal data has been collected or processed by the data controller, access to the personal data shall be granted along with the following information—

(*a*) the purposes of the storage and processing personal data;

(*b*) the categories of the personal data concerned;

(*c*) the recipients or categories of recipients to whom the personal data have been or shall be disclosed, in particular to determine that period;

(*d*) the existence of the right to request from the controller rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing;

(*e*) the right to lodge a complaint with a supervisory authority;

(*f*) where the personal data are not collected from the data subject, any available information as to their source;

(*g*) the existence of automated decision making, including profiling.

(*2*) When the personal data is transferred to a third country or to an international organisation, the data subject shall have the right to be informed of the safeguards as per provisions of this Act.

(*3*) The data controller shall provide a single copy of the personal data undergoing processing to the data subject and additional copies may be subject to additional charges on a concessional and reasonable basis.

(*4*) The right to access data by a data subject shall be in addition to the notifications and existing obligations of data controllers not limited to, but including the right to seek information of security breaches to their personal data.

Right to rectification for data subjects and obligations of Data controllers.

23. (*1*) The data subject shall have the right to obtain from the data controller promptly the rectification of inaccurate information in his personal data.

(*2*) Any data controller who collects, receives, stores, processes or otherwise handles any personal data shall, to the extent possible, ensure that it is accurate and, where necessary, is kept up to date.

(*3*) No data controller who collects, receives, stores, processes or otherwise handles any personal data shall deny, to the data subject, the opportunity to review and obtain a copy of such data and, where necessary, rectify anything that is inaccurate or not up to date.

(*4*) The data controller shall issue special notice to the data subject of any rectification of personal data pertaining to the data subject unless such a move proves impossible or involves disproportionate effort.

Right to destruction of personal data.

24. (*1*) The data subject shall have a right to request destruction of data at any time, and data controllers and processors shall comply with such requests, within a timeframe, manner and mode to be prescribed by the Privacy Commission.

(*2*) The data subject shall have the right to obtain from the data controller the erasure of his personal data without any delay and the Data Controller shall have duty to erase personal data without undue delay where one of the following grounds are applicable:

(*a*) the personal data is no longer necessary in relation to the purposes for which it was collected or processed and causes actual harm;

(*b*) the data subject withdraws consent as per the provisions of this Act and no other legal ground for processing continues to exist;

(*c*) the personal data has been unlawfully processed.

(*3*) The provisions of this section shall not apply when the storage or processing is determined by the Privacy Commission to be:

(*a*) for exercising the right of speech and freedom of expression which includes the right to receive information, especially about public personalities, officials or matters of public interest.

(*b*) for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes and the erasure is likely to be or render impossible or seriously impair such objectives.

(*c*) for the establishment, exercise or defense of any legal proceedings.

(*d*) as per the provisions of this Act including but not limited to anonymised data as contained under section 16.

(*4*) The data controller shall issue special notice to the data subject of any destruction of his personal data unless such a move proves impossible or involves disproportionate effort.

Right to restriction of processing.

25. (*1*) The data subject shall have the right to obtain from the data controller restriction of processing of personal data where one of the following applies—

(*a*) the accuracy of the personal data is contested by the data subject, for a period enabling the data controller to verify the accuracy of the personal data;

(*b*) the processing is unlawful and the data subject opposes the erasure of the personal data and requests the restriction of its use instead;

(*c*) the data controller no longer needs the personal data for the purposes of the processing, but they are required by the data subject for the establishment, exercise or defense in legal proceedings;

(*d*) the data subject has objected to processing pending verification whether the legitimate grounds of the data controller override those of the data subject.

(*2*) When the processing has been restricted under this provision, such personal data shall, with the exception of storage, only be processed with the data subject's consent or for the establishment, exercise or defense in legal proceedings or for the protection of the rights of another natural person.

(*3*) A data subject who has obtained restriction of processing pursuant to this section shall be informed by the data controller before the restriction of processing is removed.

Right to object.

26. (*1*) The data subject shall have the right to object, on grounds relating to his particular situation, at any time to processing of personal data concerning him which is based on the principles for the protection of privacy as provided under section 3 of the Act.

(*2*) The data controller shall in addition to its other obligations, for communication of notices to the data subject under this Act shall at the latest at the time of the first communication with the data subject provide notice to the data subject of its right to object, clearly and separately from other information.

Right to portability of personal data.

27. (*1*) The data subject shall have the right to receive all personal data concerning him from any data controller within a reasonable time and in a structured, commonly used and machine-readable format upon request.

(*2*) Except where it is expressly precluded by any law for the time being in force, the data subject shall have the additional right to receive the output of all processing of his personal data within a reasonable time.

(*3*) The data controller shall not hinder in any manner the transfer by the data subject, of the personal data, to any other person.

(*4*) The data subject shall have the right to request that the personal data be transmitted directly from one controller to another, in all instances where it is technically feasible, and the data subject be informed upon the completion of the such transmission:

Provided that no transmission shall be deemed to be complete until all records of the data so transmitted as per the instructions of the data subject are then destroyed by the data controller to whom request is made.

(*5*) Where the data controller claims that it is not technically feasible to transfer data in the manner provided for under sub-section (*4*) and the data subject challenges such a claim in terms of rules prescribed by the Privacy Commission in this regard, the burden to prove a lack of technical feasibility to transfer falls upon the data controller.

Right to seek exemption from automated decision making.

28. (*1*) The data subject in addition to other rights with respect to processing of personal data shall specifically have the right to seek exemption from decisions based solely on automated processing including profiling, which produces legal effects concerning or significantly affecting including but not limited to when it causes demonstrable harm or injury.

(*2*) The provisions of sub-section (*1*) shall not apply, if the automated decision:—

(*a*) is necessary for entering into, or performance of, a contract between the data subject and a data controller;

(*b*) is based on the data subject's express and explicit consent;

(*c*) is provided a case by case exemption in cases by the Privacy Commission having regard to the principles as provided under section 3.

Explanation.— The term "case by case exemption" applies to an individual person but does not include a category or a class of personal data.

(*3*) The data controller shall provide additional safeguards with specific provisions for the right of the data subject on the part of the Data controller for providing an effective process of hearing and contesting decisions.

(*4*) All decisions made by way of automated decision by data controllers shall be open to legal remedies including appeals as provided under this Act.

CHAPTER IV

INTERCEPTION AND SURVEILLANCE

Special provisions for competent organizations.

29. (*1*) All provisions of Chapter III shall apply to personal data collected, processed, stored, transferred or disclosed by competent organizations unless specifically provided or exempted under this Chapter;

(*2*) A competent organization seeking to exclude the application of provisions of Chapter III with respect to all categories of personal data collected, processed, stored, transferred or disclosed by itself, shall prefer an application with the Privacy Commission, in a manner prescribed by the Privacy Commission.

(*3*) An application under sub-section (*2*) shall specify—

(*a*) the specific personal data sought to be exempted from provisions of Chapter III of this Act;

(*b*) the reasons as to why surveillance under this provision is necessary to prevent a reasonable threat to security of the State or public order :

Provided that the reasons shall also state why the data covered under the request for exemption has a reasonable, proximity and direct nexus with the threat:

Provided further that the reasons shall specify why a lesser restrictive measure may not be taken; and

(*c*) the specific time period during which the exemption is sought.

(*4*) No competent organisation shall process or store any personal data without implementing measures to ensure that the number of persons within that intelligence organisation to whom it is made available, and the extent to which it is copied, is limited to the minimum that is necessary to fulfill the purpose for which it is processed or stored, as the case may be.

(*5*) Notwithstanding any provisions of the Indian Evidence Act, 1872 any personal data collected, processed, stored, transferred or disclosed by a competent organization in contravention of this Act shall be inadmissible in legal proceedings before any court of law. 1 of 1872.

Bar against interception of communications.

30. (*1*) Notwithstanding anything contained in any other law for the time being in force, but save as provided in this chapter, no person shall intercept, or cause to be intercepted, any communication of another person except in pursuance of an order by the appropriate Surveillance and Interception Review Division.

(*2*) No interception of any communication shall be ordered or carried out that is not necessary to achieve the purpose for which the interception is sought.

Prior authorisation by the appropriate Surveillance and Interception Review Division.

31. (*1*) An authorised officer of a competent organisation seeking to intercept any communication of another person shall prefer an application, in such form and manner as may be prescribed by the Central Government in consultation with the Privacy Commission, to the appropriate Surveillance and Interception Review Division.

(*2*) The appropriate Surveillance and Interception Review Division may, if it is satisfied that the interception is necessary to prevent a reasonable threat to security of the State or public order, or prevent, investigate or prosecute a cognisable offence, order the interception of communications by recording reasons in writing.

(*3*) The appropriate Surveillance and Interception Review Division shall, prior to issuing an order for interception of any communication, satisfy itself that all other lawful means to acquire the information sought to be intercepted have been exhausted and that the proposed interception is necessary and proportionate, reasonable and not excessive.

(*4*) Any interception of any communication ordered, authorised or carried out prior to the commencement of this Act shall, immediately upon the constitution of the Privacy Commission, be reported to the Office for Surveillance Reform of the Privacy Commission.

(*5*) Any interception involving the infringement of the privacy of individuals who are not the subject of the intended interception, or where communications relate to journalistic, activism related to fundamental and constitutional rights, parliamentary or legally privileged material is involved, it shall satisfy additional conditions including the provision of specific prior justification in writing to the Office for Surveillance Reform of the Privacy Commission as to the necessity for the interception and the safeguards providing for minimizing the material intercepted to the greatest extent possible and the destruction of all such material that is not strictly necessary for the purpose of the interception.

Authorisation by the Home Secretary in emergent circumstances.

32. (*1*) Notwithstanding anything contained in section 31, if the Home Secretary of the appropriate Government is satisfied that an imminent grave threat to the security of the State or public order exists, he may, for reasons to be recorded in writing, order the interception of any communication.

(*2*) No order for interception of any communication made under this section shall be valid upon the expiry of a period of seven days from the date of the order.

(*3*) Before the expiry of a period of seven days under this section, the person who carried out the interception of communication shall notify the appropriate Surveillance and Interception Review Division of the fact of such interception, the name and address of the person whose communication is being intercepted, and the duration of the interception and, furthermore, shall furnish a copy of the order of the Home Secretary authorising the interception.

(*4*) The surveillance and Interception Review Division may, upon receipt of notification under sub-section (*3*), recall the order on grounds of lack of an imminent and grave threat to the security of State or public order, or on absence of ground mentioned in sub-section (*2*) of section 31, and may also order for damages in case of abuse to be paid to the individual/ natural person whose communication was intercepted under the order so recalled.

Duration of interception.

33. (*1*) An order for interception of any communication shall specify the period of its validity and upon the expiry of the period of validity of all interception carried out in relation to that order shall cease forthwith:

Provided that no order for interception of any communication shall be valid upon the expiry of a period of thirty days from the date of the order.

(*2*) The appropriate Surveillance and Interception Review Division, may, upon receipt of an application from an authorised officer in such form and manner as may be prescribed by the Central Government in consultation with the Privacy Commission, renew, for a period not exceeding thirty days, any order for interception of any communication if it is satisfied that the conditions upon which the original order was issued continue to exist:

Provided that where interception of communication, under orders passed under this Chapter, including orders for renewal, has been carried out for a cumulative period of six months, whether in succession or not, any application for further renewal, shall be accepted, if in addition to the ground mentioned in this sub-section, the competent organization is able to demonstrate the need for such continued interception.

Duty to inform the person concerned.

34. (*1*) Subject to sub-section (*2*), before the expiry of a period of thirty days from the conclusion of any interception of communication ordered or carried out under this Act or any interception of communication carried out before the Act came into force, the authorised officer who carried out the interception of communication shall, in writing in such form and manner as may be prescribed by the Central Government in consultation with the Privacy Commission, notify, with reference to the relevant order of the Surveillance and Interception Review Division, each person whose communication was intercepted of the fact of such interception and duration thereof.

(*2*) The Surveillance and Interception Review Division may, on an application made by an authorised officer in such form and manner as may be prescribed, if he is satisfied that the person(s) specified in notification under sub-section (*1*) poses a reasonable threat to the security of the State or public order or adversely affect the prevention, investigation or prosecution of a cognisable offence, for reasons to be recorded in writing addressed to the authorised officer, order that such person(*s*) whose communication was intercepted not be notified of the fact of such interception or the duration thereof:

Provided that any order passed preventing disclosure of interception under section (*2*) shall not operate in infinity and shall record reasons in writing with the period till when the reasonable threat is anticipated to extend, on cessation of which the duty to inform under sub-section (*1*) shall operate.

Security and duty of data security and privacy.

35. (*1*) Any person who carries out any interception of any communication, or who obtains any information, including personal data, as a result of an interception of communication, shall have a duty of data security and privacy with respect to it.

(*2*) No person shall intercept any communication of another person without implementing measures, including, but not restricted to, technological, physical and administrative measures, to secure the data security and privacy of all information obtained as a result of an interception of communication, including from theft, negligence, loss or unauthorised disclosure.

(*3*) Every competent organisation shall, before the expiry of a period of one hundred days from the enactment of this Act, designate as many officers as it deems fit as Privacy Officers who shall be administratively responsible for ensuring that all interceptions of communications carried out by that competent organisation are in compliance with the provisions of this Chapter.

Disclosure of intercepted communications.

36. (*1*) In addition to the existing obligations and duties for lawful interception, no person shall disclose to any person, other than the person whose communication has been intercepted, or otherwise cause any other person to come into the knowledge or possession of, the content or nature of any information, including personal data, obtained as a result of

an interception of any communication including the fact that the interception of communication was carried out.

(*2*) Notwithstanding anything contained in this section, if the disclosure of any information, including personal data, obtained as a result of an interception of any communication is necessary to prevent a reasonable threat to the security of the State or public order, or prevent, investigate or prosecute a cognisable offence, an authorised officer may disclose the information, including personal data, obtained as a result of the interception of any communication to any authorised officer of any other competent organization:

Provided that no authorised officer shall disclose any information, including personal data, obtained as a result of the interception of any communication that is not necessary to achieve the purpose for which the disclosure is sought.

Storage and destruction of intercepted communications.

37. (*1*) Subject to sub-section (*2*), no person shall store any data, including personal data, obtained as a result of an interception of any communication for a period longer than one hundred and eighty days from the date on which the last order for interception of the communication to which the obtained information pertains expired and upon expiry of such period, shall destroy the data so stored.

(*2*) The Surveillance and Interception Review Division may, on an application made in such form and manner as may be prescribed by the Privacy Commission, if it is satisfied that it is necessary to—

(*a*) prevent a reasonable threat to the security of the State; or

(*b*) maintain public order; or

(*c*) prevent, investigate or prosecute a cognisable offence in an ongoing legal proceeding and is authorized by a court order to that effect;

for reasons to be recorded in writing, order that any information, including personal data, obtained as a result of an interception of any communication may be stored for a period longer than one hundred and eighty days from the date on which the last order for interception of the communication to which the obtained information pertains expired and shall not be destroyed.

(*3*) Any data obtained as a result of interception of any communication shall be stored in a manner that complies with the provisions of section 15 with respect to such data.

Bar against surveillance.

38. (*1*) Notwithstanding anything contained in any other law for the time being in force, but save as provided in this chapter, no person shall order or carry out, or cause or assist the ordering or carrying out of, any surveillance of another person.

(*2*) The appropriate Surveillance and Interception Review Division shall have the power to issue appropriate directions, including for cessation of any activity, being carried out by a person, including a statutory authority, which is in contravention of the proviso to sub-section (*1*).

Surveillance by the State.

39. (*1*) No member of a competent organization shall order or carry out, or cause to be ordered or carried out, any surveillance of another person save in pursuance of an order by the appropriate Surveillance and Interception Review Division.

(*2*) No surveillance shall be ordered or carried out that is not necessary to achieve the purpose for which the surveillance is sought.

(*3*) An authorised officer seeking to carry out any surveillance of another person shall prefer an application, in such form and manner as may be prescribed by the Central Government in consultation with the Privacy Commission, to the Surveillance and Interception Review Division.

(*4*) The Surveillance and Interception Review Division may, if it is satisfied that the surveillance is necessary to prevent a reasonable threat to the security of the State or public order, or to prevent, investigate or prosecute a cognisable offence, for reasons to be recorded in writing addressed to the authorised officer, order the surveillance.

Surveillance by private persons or entities.

40. (*1*) Notwithstanding anything contained in any other law for the time being in force, and without prejudice to the provisions of section 37 of this Act, no person other than a member of a competent organization shall carry out, or cause to be carried out, any surveillance in any public place or in any property or premises that is not in his possession.

(*2*) Without prejudice to sub-section (*1*), any person who carries out any surveillance under this section shall be subject to a duty to inform, in such manner as may be prescribed by the Central Government in consultation with the Privacy Commission, members of the public of such surveillance.

Duration of surveillance.

41. (*1*) An order for surveillance shall specify the period of its validity and, upon the expiry of the validity of the order, all surveillance carried out in relation to that order shall cease forthwith:

Provided that no order for surveillance shall be valid upon the expiry of a period of thirty days from the date of the order.

(*2*) The Surveillance and Interception Review Division, may, upon receipt of an application from an authorised officer in such form and manner as may be prescribed by the Central Government in consultation with the Privacy Commission, renew any order for surveillance if it is satisfied that the conditions upon which the original order was issued continue to exist:

Provided that where surveillance, under orders passed under this Chapter, including orders for renewal, has been carried out for a cumulative period of six months, whether in succession or not, any application for further renewal, shall be accepted, if in addition to the ground mentioned in this sub-section, the competent organization is able to demonstrate the need for such continued surveillance.

Duty to inform the person concerned.

42. (*1*) Subject to sub-section (*2*), before the expiry of a period of thirty days from the conclusion of any surveillance ordered or carried out under this Act or any surveillance carried out before this Act came into operation, the authorised officer who carried out the surveillance shall, in writing in such form and manner as may be prescribed by the Central Government in consultation with the Privacy Commission, notify, with reference to the relevant order of the Surveillance and Interception Review Division, each person in respect of whom surveillance was carried out of the fact of such surveillance and duration thereof.

(*2*) The appropriate Surveillance and Interception Review Division may, on an application made by an authorised officer in such form and manner as may be prescribed by the Central Government in consultation with the Privacy Commission, if it is satisfied that the persons notified under sub-section (*1*) presents a reasonable threat to the security of the State or public order, or adversely affect the prevention, investigation or prosecution of a cognisable offence, for reasons to be recorded in writing addressed to the authorised officer, order that such person not to be notified of the fact of such surveillance or the duration thereof:

Provided any order passed preventing disclosure of surveillance under section (*2*) shall not operate indefinitely and contain reasons in writing with the period till when the reasonable threat is anticipated to extend, on cessation of which the duty to inform under sub-section (*1*) shall operate.

Security and duty of confidentiality and secrecy.

43. (*1*) Any person who carries out any surveillance, or who lawfully obtains any information, including personal data, as a result of surveillance, shall be subject to a duty of confidentiality and secrecy in respect of it.

(*2*) No person shall carry out any surveillance of another person without implementing measures, including, but not restricted to, technological, physical and administrative measures, to secure the confidentiality and secrecy of all information obtained as a result of surveillance, including from theft, loss or unauthorised disclosure.

(*3*) Every competent organization shall, before the expiry of a period of one hundred days from coming into force of this Act, designate as many officers as it deems fit as Privacy Officers who shall be administratively responsible for ensuring that all surveillance carried out by the Competent Organization are in compliance with the provisions of this Chapter:

Provided that a public authority that does not order or carry out surveillance shall not be required to designate any Privacy Officers under this sub-section.

(*4*) Every person who is not a member of a competent organization and who seeks to carry out any surveillance shall, at least seven days before the surveillance is first carried out, designate or appoint as many persons as it deems fit as Privacy Officers who shall be responsible for ensuring that all surveillance carried out is in compliance with the provisions of this Chapter:

Provided that where surveillance is carried out by a single person, that person shall be deemed to be a Privacy Officer.

Disclosure of surveillance.

44. (*1*) In addition to the existing obligations and duties for lawful surveillance, no person shall disclose to any person, other than the person who is being surveilled, or otherwise cause any other person to come into the knowledge or possession of, the content or nature of any information, including personal data, obtained as a result of any surveillance including the fact that the surveillance was carried out.

(*2*) Notwithstanding anything contained in this section, if the disclosure of any information, including personal data, obtained as a result of surveillance is necessary to prevent a reasonable threat to the security of the State or public order, or prevent, investigate or prosecute a cognisable offence, that information, including personal data, obtained as a result of surveillance may be disclosed to an authorized officer of a competent organization only:

Provided that no person shall disclose any information, including personal data, obtained as a result of surveillance that is not necessary to achieve the purpose for which the disclosure is sought.

Storage and destruction of surveillance.

45. (*1*) Subject to sub-section (*2*), no person shall store any information, including personal data, obtained as a result of surveillance for a period longer than one hundred and eighty' days from the date on which the surveillance to which the obtained information pertains ceased, and upon expiry of such period, shall destroy the data so stored.

(*2*) The appropriate Surveillance and Interception Review Division may, on an application made in such form and manner as may be prescribed by the Central Government in consultation with the Privacy Commission, if it is satisfied that it is necessary to—

(*a*) prevent a reasonable threat to the security of the State; or

(*b*) public order; or

(*c*) prevent, investigate or prosecute a cognisable offence in an ongoing legal proceeding and is authorized by a court order to that effect;

for reasons to be recorded in writing, order that any information, including personal data, obtained as a result of surveillance may be stored for a period longer than one hundred and eighty days from the date on which the last order for surveillance to which the obtained information pertains expired and shall not be destroyed.

(*3*) Any data obtained as a result of surveillance shall be stored in a manner that complies with the provisions of sub-section (*3*) of section 14 with respect to such data.

Exception regarding reporting of violation of provisions of this Act.

46. Any communication, complaint, or evidence thereunder alleging violation of the provisions of this Act or other applicable law, if made to the Privacy Commission, the Surveillance and Interception Review Divisions and their legal counsel, or to the Supreme Court, shall not be treated as a violation of this Act and applicable provisions of the Information Technology Act, 2000. 21 of 2000.

CHAPTER V

THE PRIVACY COMMISSION

Constitution of the Privacy Commission.

47. (*1*) **The Central Government shall, by notification, issued within six months of coming into force of this Act, constitute, with immediate effect, a body to be called the Privacy Commission, by warrant under its hand and seal, to exercise the jurisdiction and powers and discharge the functions and duties conferred or imposed upon it by or under this Act.**

(*2*) **The Privacy Commission shall be consisted of at least three Privacy Commissioners, to be appointed by the President.**

(*3*) **The Privacy Commission shall consist of two co-ordinate offices, namely the Office for data Protection and the Office for Surveillance and Interception Reform, and such officers, other employees, and experts as may be appointed in accordance with the provisions of this Act.**

(*4*) **The Privacy Commission shall be autonomous, independent, and free from external interference and shall be provided with sufficient operational resources including human, technical, and financial for the effective discharge of its duties and exercise of its powers.**

(*5*) The exercise of financial powers shall be subject to audit by the Comptroller and Auditor General of India.

Appointment and qualifications of Privacy Commissioners of Privacy Commission.

48. (*1*) **The Privacy Commission shall consist of one Chief Privacy Commissioner and two or more than two Privacy Commissioners as may be deemed necessary:**

Provided that at least one Privacy Commissioner shall be a person who has been a Judge of the Supreme Court or has been a Chief Justice or Acting Chief Justice of a High Court:

Provided further that at least one or more Privacy Commissioner shall be a woman or a member of the third gender, or a transgender:

Provided also that at least one or more Privacy Commissioner shall belong to a —

(*i*) socially or educationally backward classes; or

(*ii*) Scheduled Caste; or

(*iii*) Scheduled Tribe; or

(*iv*) minority.

(*2*) The Chief Privacy Commissioner and the Privacy Commissioners shall be persons of outstanding ability, impeccable integrity and standing and who have special knowledge of, technical expertise in, and professional or academic experience, of not less than ten years cumulatively, in any one or more of the following domains—

(*a*) privacy law and policy;

(*b*) business and human rights;

(*c*) civil liberties;

(*d*) engineering, technology, design and ethics; or

(*e*) data collection, storage and protection practices, including emerging technologies.

(*3*) **The Central Government shall issue a public advertisement inviting applications to fill all vacancies in the Privacy Commission.**

(*4*) The selection committee for the appointment of the members of the Privacy Commission, shall be constituted by the President of India and the selection panel shall consist of the following, namely :—

(*a*) collegium of the Supreme Court of India;

(*b*) the Law Minister;

(*c*) the Leader of the Opposition in Lok Sabha or of the single largest opposition party being one with the greatest numerical strength in the Lok Sabha;

(*d*) Director of Indian Institute of Science;

(*e*) Director of an Indian Institute of Technology as appointed by the IIT Council;

(*f*) **one eminent person representing the private sector; and**

(*g*) **one eminent person representing the civil society.**

Explanation.—The term 'civil society' mean non-Governmental and non-profit organisations that engage in the general upliftment and interests of the people in the field of privacy and is independent of Government funding, interference or influence.

(*5*) All proceedings of the selection committee shall be matters of public record and subject to pro-active disclosures under the Right to Information Act, 2005.

(*6*) No Members of Parliament or Members of the Legislature of any State or Union territory having Legislative Assembly or a member of any political party shall be eligible for selection or appointment as a Chief Privacy Commissioner or Privacy Commissioner:

Provided that persons holding any other office of profit or carrying on any business or practising any profession, before he enters upon this office, shall be eligible for appointment or selection as Chief Privacy Commissioner or Privacy Commissioner, as the case may be, if—

(*a*) he holds any office of trust or profit, resigns from such office; or

(*b*) he is carrying on any business, severs his connection with the conduct and management of such business; or

(*c*) she is practising any profession, ceases to practise such profession.

Composition of the Office for Data Protection of the Privacy Commission.

49. (*1*) The office for Data Protection of the Privacy Commission shall be consisted of a Director General of Data Protection, to be appointed by Privacy Commission through a notification, who shall be a person of standing, ability and integrity, qualified in the field of law and with professional experience of not less than five years, cumulatively, in one or more of the following domains:

(*a*) investigation;

(*b*) criminal procedure;

(*c*) cybercrime and cyber forensics; and

(*d*) privacy and transparency law and policy.

(*2*) The number of other Additional Director General, Joint Director- General, Deputy Director-General or Assistant Directors General or such officers or other employees in the office of Data Protection, under the Director General, and the manner of their appointments, shall be such as may be prescribed by the Privacy Commission.

(*3*) Every Additional Director General, Joint Director-General, Deputy Director-General and Assistant Directors General or such officers or other employees, shall exercise such powers, and discharge functions, subject to the general control, supervision and direction of the Director General.

(*4*) The Additional Director General, Joint Director-General, Deputy Director-General or Assistant Directors General or such officers of other employees, shall be appointed from

amongst persons of integrity, ability and standing, and who have experience in law, investigation, public administration, economics and possess such other qualifications as may be prescribed by the Privacy Commission.

Composition of the Office for Surveillance and Interception Reform of the Privacy Commission.

50. (*1*) The Office for Surveillance and Interception Reform of the Privacy Commission shall consist of a Director General of Surveillance and Interception Reform, to be appointed by the Privacy Commission through a notification, who shall be a person of ability, integrity and standing, qualified in law and with professional experience of not less than five years, cumulatively, in any or more of the following domains —

(*a*) civil liberties;

(*b*) criminal procedure;

(*c*) Governmental transparency, oversight and accountability;

(*d*) police reforms.

(*2*) The number of other Additional Director General, Joint Director General, Deputy Director General or Assistant Directors General or such officers or other employees in the Office of Data Protection, under the Director General, and the manner of their appointments, shall be such as may be prescribed by the Privacy Commission.

(*3*) Every Additional Director General, Joint Director General, Deputy Director General and Assistant Directors General or such officers or other employees, shall exercise his powers, and discharge his functions, subject to the general control, supervision and direction of the Director General.

(*4*) The Additional Director General, Joint Director General, Deputy Director General or Assistant Directors General or such officers of other employees, shall be appointed from amongst persons of integrity, ability and standing, and who have experience in law, investigation, public administration, economics and such other qualifications as may be prescribed by the Privacy Commission.

Officers and other employees of the Privacy Commission.

51. (*1*) **The Privacy Commission may appoint such officers and other employees as it considers necessary for its efficient functioning under this Act.**

(*2*) **The Privacy Commission may engage such number of experts and professionals of integrity and outstanding ability, who have special knowledge of, and experience in, data, transparency, information, law, technology, economics or such other disciplines related to privacy, as it deems necessary to assist the Commission in the discharge of its functions under this Act.**

(*3*) **The salaries and allowances payable to and other terms and conditions of service of the officers and other employees of the Commission and the number of such officers and other employees shall be such as may be prescribed by the Privacy Commission.**

Term of office, conditions of service, etc. of Privacy Commissioners and Offices constituted under the Commission.

52. (*1*) Before appointing any person as a Chief Privacy Commissioner or Privacy Commissioner, the President shall satisfy himself that the person does not, and shall not have any such financial or other interest as is likely to affect prejudicially their functions as such Chief Privacy Commissioner or Privacy Commissioner.

(*2*) The Chief Privacy Commissioner and every Privacy Commissioner shall hold office for such period, not exceeding five years, as may be specified by the President in the order of his appointment, but shall be eligible for reappointment:

Provided that no person shall hold office as a Chief Privacy Commissioner or Privacy Commissioner for more than two terms:

Provided further that no person shall hold office as a Chief Privacy Commissioner or Privacy Commissioner, as the case may be, after he has attained the age of seventy-five years.

(*3*) Notwithstanding anything contained in sub-section (*2*), a Chief Privacy Commissioner or any Privacy Commissioner may —

(*a*) by writing under his hand and addressed to the President resign his office at any time;

(*b*) be removed from office in accordance with the provisions of section 53 of this Act.

(*4*) A vacancy caused by the resignation or removal of a Chief Privacy Commissioner or Privacy Commissioner under sub-section (*3*) shall be filled by fresh appointments.

(*5*) In the event of the occurrence of a vacancy in the office of a Chief Privacy Commissioner, such one of the Privacy Commissioners as the President may, on the advice of the selection committee under section 48(*3*), by notification, authorise in this behalf, shall act as the Chief Privacy Commissioner till the date on which a new Chief Privacy Commissioner, is appointed in accordance with the provisions of this Act, to fill such vacancy, enters upon his office.

(*6*) When a Chief Privacy Commissioner is unable to discharge his functions owing to absence, illness or any other cause, such one of the Privacy Commissioners as the Chief Privacy Commissioner may authorise in writing in this behalf shall discharge the functions of the Chief Privacy Commissioner, till the date on which the Chief Privacy Commissioner resumes his duties.

(*7*) **The salaries and allowances payable to and the other terms and conditions of service of a Chief Privacy Commissioner and Privacy Commissioners shall be the same as that of the Chief Election Commissioner and Election Commissioners respectively:**

Provided that neither the salary and allowances nor the other terms and conditions of service of a Chief Privacy Commissioner or any Privacy Commissioner shall be varied to their disadvantage after their appointment.

(*8*) The salaries and allowances payable to and the other terms and conditions of service of the Director General of Data Protection, the Director General of Surveillance, any Additional Director General, Joint Director General, Deputy Director General or Assistant Director General, Secretary, officer, employee appointed or expert or professional engaged shall be such as may be prescribed by the Privacy Commission.

(*9*) The Chief Privacy Commissioners and Privacy Commissioners on ceasing to hold office as such shall not hold any appointment under the Government of India or under the Government of any State for a period of ten years from the date on which they cease to hold such office.

Removal of Chief Privacy Commissioners and Privacy Commissioners.

53. (*1*) The President may remove from office the Chief Privacy Commissioner or any Privacy Commissioner, who —

(*a*) is adjudged an insolvent; or

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

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

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

(*e*) is convicted for an offence which in the opinion of the President involves moral turpitude; or

(*f*) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Chief Privacy Commissioner or Privacy Commissioner, or cause

some conflict of interest including benefits directly or indirectly to relatives or family members, or

(*g*) has so abused his position as to render him continuance in office prejudicial to the public interest.

(*2*) Notwithstanding anything contained in sub-section (*1*), neither a Chief Privacy Commissioner nor any Privacy Commissioner shall be removed from his office on the ground specified in clause (*f*) or clause (*g*) of that sub-section unless the Supreme Court on a reference being made to it in this behalf by the President, has on an inquiry held by it in accordance with such procedure as it may specify in this behalf, reported that the Chief Privacy Commissioner or Privacy Commissioner ought, on such grounds, to be removed.

Functions of the Privacy Commission.

54. (*1*) The Privacy Commission may, through decisions arrived at by a simple majority of its members present and voting as set out in section 59(*1*) of this Act, authorize, review, investigate, make an inquiry, and/or monitor, *suo motu* or on a petition presented to it by any person, group of persons or by someone acting on his or their behalf, the implementation and application of this Act and give such directions or pass such orders as are necessary for reasons to be recorded in writing.

(*2*) Without prejudice to the generality of the foregoing provision, the Privacy Commission shall perform the following functions, namely —

(*a*) review the safeguards provided under this Act or under other laws for the time being in force for the protection of personal data and recommend measures for their effective implementation or amendment, as may be necessary from time to time;

(*b*) review and/or monitor any measures taken by any competent organization, company, person or other entity for the protection of privacy and take such further action as it deems fit;

(*c*) authorize, review and/or monitor any action, code, certification, policy or procedure of any competent organisation, company, person or other entity to ensure compliance with the provisions of this Act and rules made hereunder;

(*d*) enforce the provisions of this Act at its own or on the basis of complaints received by it or by way of issuing of appropriate orders and directions, the pursuit of binding settlements with offending persons and the levy of fines;

(*e*) formulate, through transparent, inclusive and pervasive public consultations with experts, other stakeholders, and the general public, norms and rules for the effective protection of privacy by competent organisations, companies, persons or other entities;

(*f*) promote awareness and knowledge of personal data protection through any means necessary and to all stakeholders with special attention to children, including providing information to any data subject regarding their rights under this Act as requested and undertaking training and knowledge building for data controllers, including those involved in the provision of essential services and law enforcement;

(*g*) undertake and promote research in the field of protection of personal data and privacy;

(*h*) encourage the efforts of non-Governmental organisations and institutions working in the field of personal data protection and privacy;

(*i*) ensure the speedy and efficient redressal of all complaints, whether made by a data subject or a group of data subjects or on their behalf, whose cause of action arises on implementation of this Act;

(*j*) undertake efforts to facilitate international co-operation with regards to data protection, and allied subjects, including enforcement;

(*k*) advise the Central Government on the grant of adequacy status in respect of cross border data flows;

(*l*) co-ordinate in writing across State Privacy Commissions, State Governments and regulatory bodies including the Bureau of Indian Standards which may also be concerned with data protection in order to harmonize and classify standards for data including open data sets which contain personal data;

(*m*) such other functions as it may consider necessary for the protection of privacy, personal data, the prevention of the abuse of the criminal process, both investigatory and judicial, by the State, and enforcement of this Act;

(*n*) make a public, freely available publication of annual reports providing description of performance, findings, conclusions or recommendations of any or all of the functions assigned to the Privacy Commission in this Chapter.

(*3*) Without prejudice to the generality of the foregoing provision, the Office of Data Protection within the Privacy Commission shall perform the following functions, namely:—

(*a*) investigate data controllers and processors, whether initiated on complaint of a data subject or a group of them or on their behalf or on direction of the Privacy Commission or *suo motu*, for the purpose of identifying activities which are in contravention of the provisions of this Act, either at its own instance or upon receipt of credible information or complaint;

(*b*) obtain access from data controllers and processors, to all personal data and to all information necessary for the performance of its tasks.

(*c*) publish and make publicly available periodic reports concerning the incidence of compliance including violations of this Act and data breaches as reported under this Act;

(*d*) assist the Privacy Commission in policy formulation and other activities for effective protection of privacy;

(*e*) coordinate with the office for Surveillance and Interception Reform in such manner as is necessary or may be useful to the achievement of the purposes of this Act;

(*4*) Without prejudice to the generality of the foregoing provision, the Office for Surveillance and Interception Reform in the Privacy Commission shall perform the following functions, namely:

(*a*) assist the Privacy Commission in the formulation of policy and other activities for bringing about reforms in carrying out interception and surveillance by competent organization, companies, persons or other entities;

(*b*) collection of data from competent organizations on interception and surveillance carried out by those and analyze the same for the purpose of preparing periodic reports on compliance with provisions of this Act, including comprehensive data concerning violations of the processes of interception of communications and surveillance;

(*c*) advise on appointments of Public Advocates, as provided under sub-section (*4*) of section 70, for the purpose of defending the person being surveilled or intercepted before the Surveillance and Interception Review Division;

(*d*) to appear before a Surveillance and Interception Review Divisions to provide expert evidence and testimony;

(*e*) ensure the speedy and efficient redressal of all complaints, whether made by a data subject or a group of data subjects or in their behalf, whose cause of action arises from this Act;

(*f*) co-ordinate with the office of Data Protection in such manner as is necessary or may be useful to the achievement of the purposes of this Act;

(*5*) The Periodic Reports published by the Privacy Commission, stipulated under sub-section 3(*c*) of section 54, shall be tabled before both Houses of Parliament during the Parliamentary Session that succeeds the publication of any Periodic Report and the same shall be made publicly available, immediately thereafter.

(*6*) The Chief Privacy Commissioners, Privacy Commissioners and Directors General shall appear before a special *ad hoc* Committee, constituted by the Speaker of the Lok Sabha and comprising of members from both the governing and the opposition parties from both Houses of Parliament, on a quarterly basis and the *ad hoc* Committee shall—

(*a*) be empowered to review the functioning of the Privacy Commission, and may ask the Chief Privacy Commissioners and the Privacy Commissioners any questions in this regard, as per procedure of the functioning of the Committee.

(*b*) prepare and present periodic reports to both Houses of Parliament in a manner regulated by the Committee; and

(*c*) held its sitting in public in order to ensure transparency and inclusive participation.

(*7*) Subject to the provisions of any rules prescribed in this behalf by the Central Government, the Privacy Commission shall have the power to review any decision, judgment, decree or order made by it.

(*8*) In the exercise of its functions under this Act, the Privacy Commission shall give such directions or pass such orders as are necessary for reasons to be recorded in writing.

(*9*) The Privacy Commission may, in its own name, sue or be sued.

Salaries, etc. to be defrayed out of the Consolidated Fund of India.

55. The salaries and allowances payable to the Chief Privacy Commissioners, Privacy Commissioners, Director Generals, any Additional Director General, Joint Director General, Deputy Director General or Assistant Director General, Secretary, officer, employee appointed or expert or professionals engaged and the administrative expenses of the Privacy Commission shall be defrayed out of the Consolidated Fund of India.

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

56. No Act or proceeding of the Privacy Commission shall be questioned on the ground merely of the existence of any vacancy or defect in the constitution of the Privacy Commission or any defect in the appointment of a person Acting as the Chief Privacy Commissioner or Privacy Commissioner.

Chief Privacy Commissioners, Privacy Commissioners and employees of the Privacy Commission to be public servants.

57. The Chief Privacy Commissioners and Privacy Commissioners and other employees of the Privacy Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

Location of the Privacy Commission.

58. The Privacy Commission shall be located in New Delhi or at such other places as directed by the Chief Privacy Commissioner in consultation with the Central Government.

Jurisdiction of the Privacy Commission.

59. (*1*) The Privacy Commission shall cause the investigations *suo motu* or on complaints made by any person, group of persons or anyone on their behalf or take action for enforcement in respect of cases involving—

(*a*) data collection or processing by or on behalf of the Central Government;

(*b*) a conflict between two State Privacy Commissions; or

(*c*) extra-territorial transfers of data pertaining to Indian data subjects.

(*2*) Any disputes as to jurisdiction shall be resolved in a manner that accords the data subject the most timely and cost-effective access to redress, or promote the most timely and cost effective enforcement of the provisions of this Act.

Procedure to be followed by the Privacy Commission.

60. (*1*) Subject to the provisions of this Act, the Privacy Commission, in coordination with offices constituted under it, shall have power to make rules to prescribe—

(*a*) the procedure and conduct of its business; and

(*b*) the delegation to one or more Privacy Commissioners of such powers or functions as the Privacy Commission may specify.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, the powers of the Privacy Commission shall include the power to determine the extent to which persons interested or claiming to be interested in the subject-matter of any proceeding before it may be allowed to be present or to be heard, either by themselves or by their representatives or to cross-examine witnesses or otherwise take part in the proceedings:

Provided that any such procedure as may be prescribed or followed shall be guided by the principles of natural justice.

(*3*) Nothing in this section shall prevent either office in the Privacy Commission from making rules in respect of matters of procedure exclusively concerning it.

Power relating to inquiries.

61. (*1*) The Privacy Commission, including offices constituted under it, shall, for the purposes of any inquiry or for any other purpose under this Act, have the same powers as vested in a civil court under the Code of Civil Procedure, 1908 while trying suits in respect of the following matters, namely— 5 of 1908.

(*a*) the summoning and enforcing the attendance of any person from any part of India and examining his on oath;

(*b*) the discovery and production of any document or other material object producible as evidence;

(*c*) the reception of evidence on affidavit;

(*d*) the requisitioning of any public record from any court or office;

(*e*) the issuing of any commission for the examination of witnesses; and

(*f*) any other matter which may be prescribed by the Central Government.

(*2*) The Privacy Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Privacy Commission, may be useful for, or relevant to, the subject-matter of an inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code, 1860. 45 of 1860.

(*3*) The Privacy Commission or any other officer, not below the rank of a Gazette Officer, specially authorized in this behalf by the Privacy Commission may enter any building or place where the Privacy Commission has reason to believe that any document relating to the subject-matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable. 2 of 1974.

(*4*) The Privacy Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code, 1860 is committed in the view or presence of the Privacy Commission, the Privacy Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974. 2 of 1974.

Decisions of the Privacy Commission.

62. (*1*) The decisions of the Privacy Commission shall be taken by majority and be binding and enforceable as a decree of a court as per the provisions of the Code of Civil Procedure, 1908.

5 of 1908.

(*2*) In its decisions, the Privacy Commission shall have the power to —

(*a*) require a competent organisation, company, person or other entity to take such steps as may be necessary to secure compliance with the provisions of this Act;

(*b*) require a competent organisation, company, person or other entity to compensate any person for any loss or detriment suffered; and

(*c*) impose penalties.

Proceedings before the Privacy Commission to be judicial proceedings.

63. The Privacy Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 and every proceeding before the Privacy Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 and for the purposes of section 196 of the Indian Penal Code, 1860.

2 of 1974.

45 of 1860.

Appeals.

64. Subject to any conditions prescribed by rules made in this regard by the Central Government, in consultation with the Attorney General of India and the Chief Justice of India, all appeals from Privacy Commission shall lie to a Bench of the Supreme Court, specifically designated by the Chief Justice of India for the purpose.

CHAPTER VI

STATE PRIVACY COMMISSIONS

State Privacy Commissions.

65. (*1*) **Every State Government shall, within a year of coming into force of this Act, by notification in the Official Gazette, with immediate effect, constitute a body to be known as the (name of the State) Privacy Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.**

(*2*) Every State Privacy Commission shall consist of at least one Privacy Commissioner, to be appointed by the Governor of that State.

(*3*) Every State Government shall issue a public advertisement inviting applications to fill all vacancies in the State Privacy Commission.

(*4*) The selection committee for the appointment of the members of the State Privacy Commission shall be constituted by the Governor of that State and shall comprise of the—

(*a*) the Chief Justice and two senior most judges of the State High Court;

(*b*) the Law Minister of the State Government;

(*c*) the Leader of the Opposition or the Leader of the single largest opposition party with the greatest numerical strength in the Legislative Assembly of the State;

(*d*) one eminent person with experience in technology and academic or public interest research;

(*e*) representing the private sector; and

(*f*) one eminent person representing the civil society.

(*5*) All proceedings of the selection committee shall be matters of public record.

Explanation.—The term 'Civil Society' means non-Governmental and non-profit organisations that engage in the activities for the general upliftment and interests of the people in the field of privacy and is independent of Government funding, interference or influence.

(*4*) No Members of Parliament or Members of the Legislature of any State or Union territory having Legislative Assembly or a member of any political party shall be eligible for selection or appointment as a State Privacy Commissioner and persons holding any other office of profit or carrying on any business or practicing any profession, before he enters upon this office, may be selected or appointed as State Privacy Commissioner, as the case may be, if—

(*a*) he holds any office of trust or profit, resigns from such office; or

(*b*) he is carrying on any business, severs his connection with the conduct and management of such business; or

(*c*) he is practicing any profession, ceases to practice such profession.

(*5*) 'Except as provided for expressly under this Act, a State Privacy Commission shall have powers and functions coequal and identical to those of the Privacy Commission in all respects.

(*6*) **A State Privacy Commission may appoint such officers and other employees, or engage any professional or expert, as it considers necessary for the efficient performance of its functions under this Act.**

(*7*) **Every State Privacy Commission shall be autonomous, independent, and free from external interference and shall be provided with sufficient operational resources including human, technical, and financial for the effective discharge of its duties and exercise of its powers.**

(*8*) The financial power of Privacy Commission shall be subject to audit by the Comptroller and Auditor General of India.

(*9*) **The salaries and allowances payable to and the other terms and conditions of service of State Privacy Commissioners shall be the same as that of the Chief Secretary to the State Government.**

(*10*) The salaries and allowances payable to and the other terms and conditions of service of any officer, employee appointed or expert or professional engaged shall be such as may be prescribed by the State Privacy Commission.

Jurisdiction of the State Privacy Commissions.

66. (*1*) Investigations or actions for enforcement may be instituted in the State Privacy Commission, suo motu or on complaints made by, any person, group of persons or anyone on their behalf, within the local limits of whose jurisdiction—

(*a*) the complainant or data subject Actually and voluntarily resides;

(*b*) where the data controller or data processor is physically located or principally carries out business; or

(*c*) the cause of action, wholly or in part, arises.

(*2*) Any disputes as to jurisdiction shall be resolved in a manner that accords the data subject the most timely and cost-effective access to redress, or promote the most timely and cost effective enforcement of the provisions of this Act.

Appeals.

67. (*1*) Subject to any conditions prescribed by rules made in this regard by appropriate State Government, all appeals from a State Privacy Commission shall lie to a Bench of the respective High Court, specifically designated by the Chief Justice for the purpose.

(*2*) Notwithstanding sub-section (*1*), appeals from a State Privacy Commission shall lie to the Privacy Commission where—

(*a*) there is a dispute as to jurisdiction between two or more State Privacy Commissions; or

(*b*) two or more State Privacy Commissions have passed orders or directions or otherwise taken any action in respect of the same cause of action:

Provided that in any such appeal, the Privacy Commission shall be included as a necessary party.

Procedure.

68. The State Government shall, in consultation with its Advocate General, the Chief Justice of its High Court and the Privacy Commission, prescribe rules governing the procedures to be followed:

(*a*) by and before the State Privacy Commission, and

(*b*) in respect of appeals to its High Court in terms of sub-section (*1*) of section 67.

Power to make rules.

69. Subject to the provisions of this Act, every State Government may, in consultation with the State Privacy Commission, by notification in the Official Gazette, prescribe rules in order to bring into effect any of the provisions of this Chapter of the Act.

CHAPTER VII

SURVEILLANCE AND INTERCEPTION REVIEW DIVISIONS

Surveillance and Interception Review Divisions.

70. (*1*) The Central Government shall, by notification in the Official Gazette, constitute, within a period of six months from the enactment of this Act, a division in every High Court to be known as the Surveillance and Interception Review Division, hereinafter referred to as the Division:

Provided that if the Division is not constituted within the stipulated time period, no order for interception or surveillance issued after a period of ninety days from the date of the stipulated time period for constitution of the Division gets over, shall be valid and any interception or surveillance carried out under such an order shall be a violation of the provisions of this Act:

Provided further that if the Division is not constituted within the stipulated time period and till the time it is constituted, no existing order of surveillance or interception can be renewed.

(*2*) The Central Government shall appoint, for a period of two years or till the retirement of the Judge so appointed, whichever is earlier, two or more Judges of the High Court, as publicly designated by the Chief Justice of that High Court in consultation with the appropriate State Government, as the Division.

(*3*) The Central Government shall make available to the Division such information as may be necessary for the discharge of its functions under this Act.

(*4*) Subject to the provisions of this Act, one or more Public Advocates, shall be appointed by the Chief Justice of the High Court of that State, in consultation with the Office for Surveillance and Interception Reform of the Privacy Commission, the respective State Privacy Commission, the State Legal Services Authority, and the Bar Council of that State, for the purpose of defending the interests of the person being surveilled or intercepted, ensuring compliance with the provisions of this Act, and advancing legal arguments that further the protection of privacy and other fundamental rights under the Constitution:

Provided that while in appointing one or more Public Advocates, the Chief Justice of the High Court of the State shall do so after issuing public notice inviting applications of interest and a person shall be qualified to be appointed a Public Advocate to the Division if he—

(*a*) is a citizen of India, qualified to practice law with at least seven years' experience at the bar; and

(*b*) has experience with litigation on fundamental rights, criminal law and procedure, military and policing powers and oversight, and communications and information technology laws;

(*5*) The Public Advocate appointed, sub-section (*4*), shall—

(*a*) be provided copies of all ordinary applications made to and Government orders shared with the Division under this Act, including their supporting documents and filings;

(*b*) have a right to attend, be heard, and to file briefs and other filings before all proceedings of the Division; and

(*c*) be empowered to file appeals with respect to orders of the Division to the Supreme Court as provided for under this Act:

Provided that any decision not to file an appeal shall be made only after a legal opinion on the merits of the case and the decision for reasons recorded in writing which shall be made available along with the complete case files including all pleadings and materials when the disclosure of the orders of the Surveillance and Interception Review Division are made as per the provisions under the Act.

(*6*) All expenses incurred in connection with the Division shall be defrayed out of the Consolidated Fund of India.

(*7*) Subject to any rules made in this regard by the Central Government, in consultation with the Privacy Commission, the Division shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including.

(*8*) The rules framed under sub-section (*7*), may provide for inner-camera proceedings of the Division, the manner in which third parties interested in the matter may make application for attending the hearings before the Division, for making the decisions of the Division public after a stipulated time period not exceeding one year since the date of the order and other incidental matters.

(*9*) The Division shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure,1908 while trying a suit, in respect of the following matters, namely:— 5 of 1908.

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

(*b*) the discovery and production of any document or other material object producible as evidence;

(*c*) the reception of evidence on affidavits;

(*d*) the requisitioning of any public record from any court or office;

(*e*) the issuing of any commission for the examination of witnesses.

(*10*) Any proceeding before the Division shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, 1860 and the Division shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code. 45 of 1860.

(*11*) Subject to provisions of this Act, the Director General of Surveillance and Interception Reform constituted under the Privacy Commission, shall have access to the proceedings of the Division in order to assist the Division by providing expert evidence, legal arguments, and testimony.

Appointment, terms of service, etc.

71. The terms of service, removal and allied matters relating to persons appointed to the Division shall be governed by rules made in this regard by the Central Government, in consultation with the Privacy Commission and appropriate State Government:

Provided that no terms and conditions of service of persons appointed to the Division shall be varied to their disadvantage after their appointment.

Jurisdiction of the Surveillance and Interception Divisions.

72. Subject to the provisions of Chapter IV of this Act, the Divisions, shall review, renew or take any other action with respect to orders of surveillance or interception, within the local limits of whose jurisdiction—

(*a*) the person to be surveilled or intercepted actually and voluntarily resides;

(*b*) where the competent organization seeking to undertake surveillance or interception is physically located; or

(*c*) where the actual Act of interception or surveillance is to be carried out.

Appeals.

73. Subject to such conditions as may be prescribed by rules made in this regard by the Central Government, in consultation with the Privacy Commission, and the appropriate State Governments, all appeals from any of the Divisions shall lie to a Bench of the Supreme Court, specifically designated by the Chief Justice of India in that regard.

CHAPTER VIII

OFFENCES AND PENALTIES

Punishment for offences related to personal data.

74. (*1*) Whoever, except in conformity with the provisions of this Act, collects, receives, stores, processes, discloses or otherwise handles any personal data shall be liable to fine which may extend up to one hundred crore rupees based on the proportionality of the harm caused.

(*2*) Whoever commits the offence under sub-section (*1*) either intentionally, or with reckless disregard, he shall be liable for a term of imprisonment extending upto three years, and shall also be liable to fine:

Provided further that in case of companies, the penalty shall be governed by section 78.

(*3*) Whoever attempts to commit any offence under sub-section (*1*) shall be liable in the manner and to the extent provided for such offence under that sub-section.

(*4*) Whoever, except in conformity with the provisions of this Act, collects, receives, stores, processes, discloses or otherwise handles any sensitive personal data shall be liable to fine which may extend to two hundred crore rupees:

Provided that whoever commits the offence either intentionally, or with reckless disregard, he shall be liable for a term of imprisonment extending upto five years, and shall also be liable to fine:

Provided further that in case of offence committed by companies, the penalty shall be governed by section 78.

(*5*) Whoever attempts to commit any offence under sub-section (*3*) shall be punished with imprisonment and fine as provided for such offence in that section.

Punishment for offences related to interception of communication.

75. (*1*) Whoever, except in conformity with the provisions of this Act, intercepts, or causes the interception of, any communication of another person shall be liable to a fine which may extend to one hundred crore rupees:

Provided that whoever commits the offence under sub-section (*1*) either intentionally, or with reckless disregard, shall be liable for a term of imprisonment extending up to three years, and shall also be liable to fine.

(*2*) Whoever attempts to commit any offence under sub- section (*1*) shall be punished with imprisonment and fine as provided in that sub-section.

Punishment for offences related to surveillance.

76. (*1*) Whoever, except in conformity with the provisions of this Act, orders or carries out, or causes the ordering or carrying out, of any surveillance of another person shall be liable to a fine which may extend to ten crore rupees:

Provided that whoever commits the offence defined above eithis intentionally, or with reckless disregard, shall be liable for a term of imprisonment extending upto five years, and shall also be liable to fine.

(*2*) Whoever attempts to commit any offence under sub- section (*1*) shall be punished with imprisonment and fine as provided in that section.

Abetment and offenders.

77. Whoever abets any offence punishable under this Act shall be punished with imprisonment or fine, as the case may be, provided for that offence.

Offences by companies.

78. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time of the offence was committed, was 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, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company and it is proved that the offcnce has been committed with the consent or connvance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

Cognizance.

79. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under this chapter shall be cognizable and non-bailable. 2 of 1974.

General penalty for failure to comply with notice or order issued under this Act.

80. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice or order issued under any provisions thereof, including an order of the Chief Privacy Commissioner or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to one crore rupees, and, in the case of subsequent contravention, with an additional fine which may extend to ten lakh rupees for every day.

Punishment to be without prejudice to any other action.

81. The punishment for an offence under this Act shall be without prejudice to any other action which has been or which may be taken under this Act with respect to such contravention.

CHAPTER IX

MISCELLANEOUS

Power to make rules.

82. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act until such time as the Privacy Commission is constituted.

(*2*) The Privacy Commission may, by notification in the Official Gazette, make rules to carry out the provisions of this Act:

Provided that where the Privacy Commission makes rules upon a subject already covered by the Central Government, it shall ensure that protections accorded to data subjects by its rules are maintained or improved.

(*3*) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for such measures as may be necessary to secure—

(*a*) all personal data related to data subjects located in India; and

(*b*) any personal data flowing into and out of, exported or imported out of India;

(*c*) the notification of theft, loss or damage under sub-section (*4*) of section 17;

(*d*) the notification of disclosure under sub-section (*5*) of section 19;

(*e*) the application by an intelligence organisation under sub-section (*1*) of section 31;

(*f*) the application to intercept a communication under sub-section (*1*) of section 28;

(*g*) the application to renew an interception of communication under sub-section (*2*) of section 33;

(*h*) the notification of an interception of communication under sub-section (*1*) of section 34;

(*i*) the application to not inform under sub-section (*2*) of section 34;

(*j*) the application to store information obtained as a result of any interception of communication under sub-section (*2*) of section 37;

(*k*) the application to carry out surveillance under sub-section (*3*) of section 39;

(*l*) notification to the general public under sub-section (*2*) of section 40; the application to renew surveillance under sub-section (*2*) of section 41;

(*m*) the notification of surveillance under sub-section (*1*) of section 42;

(*n*) the application to not inform under sub-section (*2*) of section 42;

(*o*) the application to store information obtained as a result of surveillance under sub-section (*2*) of section 45;

(*p*) salaries, allowances and other terms and conditions of service of the Chief Privacy Commissioner, Privacy Commissioners, Secretaries and other members, staff and employees of the Privacy Commission;

(*q*) procedure to be followed by the Privacy Commission;

(*r*) powers and duties of Secretaries, officers and other employees of the Privacy Commission; and

(*s*) the effective implementation of this Act.

(*4*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, 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.

(*5*) Every rule made by the Central Government under sub-section (*1*) shall require express assent of both Houses of Parliament:

Provided that where assent under sub-section (*5*) is not obtained, the rules shall not be valid.

Bar of jurisdiction.

83. (*1*) On and from the appointed day, courts or authorities shall have, or be entitled to exercise jurisdiction with respect to remedies provided for data subjects and against data subjects under this Act with respect:

Provided that legal proceedings for relief in the nature of interim injunctions or mandatory injunctions shall not be initiated against the authorities provided for under this Act including but not limited to the State Privacy Commission and the Privacy Commission:

Provided that further provisions of the Arbitration and Conciliation Act, 1996 shall not bar the Privacy Commission or the State Privacy Commission or any other body from exercising jurisdiction under the provisions of this Act.

(*2*) No order passed under this Act shall be appealable except as provided therein and no injunction shall be granted by any court or Division to any authority established under this Act in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Protection of action taken in good faith.

84. (*1*) No suit or other legal proceeding shall lie against the Central Government, State Government, Privacy Commission, Chief Privacy Commissioner, Privacy Commissioner or any person Acting under the direction either of the Central Government, State Government, Privacy Commission, Chief Privacy Commissioner or Privacy Commissioner in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made thereunder.

(*2*) Notwithstanding anything inconsistent therewith contained in any other law for the time being in force, any communication or complaint made in good faith made by any person alleging a violation of the provisions of this Act, if made to the Privacy Commission, the Surveillance and Interception Review Divisions and their Public Advocates, or to any High Court or the Supreme Court, shall not be treated as a violation of this Act or any other law.

Power to remove difficulties.

85. (*1*) If difficulties arise in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

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

(*2*) The provisions of sub-section (*1*) shall only apply in instances when it is with respect to conflict between this Act and any existing law;

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

Act to have overriding effect.

86. (*1*) Except as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, including provisions in—

(*a*) sections 43A, 69, 69B, 72 and 72A of the Information Technology Act, 2000; and 21 of 2000.

(*b*) sections 7, 28, 29, 30, 31, 32, 33 and 47 of the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016; and 18 of 2016.

(*c*) section 5(*2*) of the Indian Telegraph Act, 1885; and

(*d*) section 21 of the Prevention of Money Laundering Act, 2002; and The Census Act, 1948. 15 of 2003. 3 of 1948

(*2*) Nothing contained in sub-section (*1*) shall apply to the provisions of the Representation of the People Act, 1951 and the Right to Information Act, 2005. 43 of 1951. 22 of 2005.

(*3*) Where the provisions of any law in force provide for additional safeguards that are not inconsistent with the present Act, those provisions shall continue to apply and the Act shall not be considered in derogation of such provisions.

SCHEDULE

COMPETENT ORGANISATIONS

[*See* section 2(*i*)]

(*1*) 'Armed force' to mean any body raised or constituted pursuant to or in connection with, or presently governed by, the Army Act, 1950 (46 of 1950), the Indian Reserve Forces Act, 1888 (4 of 1888), the Territorial Army Act, 1948 (6 of 1948), the Navy Act, 1957 (62 of 1957), the Air Force Act, 1950 (45 of 1950), the Reserve and Auxiliary Air Forces Act, 1952 (62 of 1952), the Coast Guard Act, 1978 (30 of 1978) or the Assam Rifles Act, 2006 (47 of 2006).

(*2*) 'Intelligence Organisation' to mean an intelligence organisation under the Intelligence Organisations (Restriction of Rights) Act, 1985 (58 of 1985) as on the date of this Act receiving Presidential assent.

(*3*) 'Police Force' mean

(*a*) any body raised or constituted by the appropriate Government for the preservation of law and order and enforcement of laws related to customs, revenue, foreign exchange, excise, income tax and narcotics;

(*b*) the bodies raised or constituted pursuant to or in connection with, or presently governed by, the Police Act, 1861 (5 of 1861), the Central Reserve Police Force Act, 1949 (66 of 1949), the Border Security Force Act, 1968 (47 of 1968), the Indo-Tibetan Border Police Force Act, 1992 (35 of 1992), the Sashastra Seema Bal Act, 2007 (53 of 2007), the Central Industrial Security Force Act, 1968 (50 of 1968), the Railway Protection Force Act, 1957 (23 of 1957) and the National Security Guard Act, 1986 (47 of 1986);

(*c*) the bodies raised or constituted pursuant to or in connection with, or presently governed by, the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Income Tax Act, 1961 (43 of 1961), the National Investigation Agency Act, 2008 (34 of 2008) and the Central Vigilance Commission Act, 2003 (45 of 2003);

(*d*) The National Investigation Agency constituted under sub-section (*1*) of section 3 of the National Investigation Agency Act, 2008 (34 of 2008).

(*e*) Any police forces raised or constituted by the States, armed or otherwise.

STATEMENT OF OBJECTS AND REASONS

The Supreme Court, in a landmark judgment has affirmed the fundamental right to privacy. Such a verdict requires a comprehensive law to safeguard the privacy of citizens.

In his notes accompanying the clauses of a draft Bill of Rights, Dr. Ambedkar noted that:

> "The purpose is to protect the liberty of the individual from invasion by other individuals which is the object of enacting fundamental rights. The connection between individual liberty and the shape and form of the economic structure of society may not be apparent to everyone. Nonetheless the connection between the two is real. It shall be apparent if the following considerations are borne in mind. Political democracy rests on four premises which may be set out in the following terms:—
>
> 1. the individual is an end in himself;
>
> 2. that the individual has certain inalienable rights which must be guaranteed to him by the Constitution;
>
> 3. that the individual shall not be required to relinquish any of his constitutional rights as a condition precedent to the receipt of a privilege; and
>
> 4. that the State shall not delegate powers to private persons to govern others."

The Bill covering data protection and surveillance reform empowers citizens by providing autonomy and dignity through the right to privacy. The Bill creates a strong and independent Privacy Commission to enforce the right to privacy *via* investigation, rule-making and adjudication.

This Bill has been drafted keeping in mind global best practices, report of the Justice A.P. Shah Committee of Experts and submissions by multiple lawyers to the Justice Srikrishna Committee of Experts. The Bill has been significantly updated and incorporated best practices from international texts such as the European Union's General Data Protection Regulation.

The Bill is based on principles of individual rights, data protection, user privacy, surveillance reform, and a free and open internet. The respect for individual rights is at the core of the Personal Data and Information Privacy Code Bill, which maintains access Right to Information while also enabling citizens to safeguard their privacy.

NEW DELHI;
June 26, 2019.

D. RAVIKUMAR

FINANCIAL MEMORANDUM

Clause 47 of the Bill provides that the Central Government shall constitute a Privacy Commission to perform the functions and duties assigned to it under this Act. Clause 48(*1*) provides for appointment of Privacy Commissioners to the Privacy Commission. Clause 48(*3*) provides for the appointment of a Selection Committee to fill the vacancies in the Privacy Commission. Clause 51(*1*) provides for appointment of officers and employees by the Central Government to the Privacy Commission. Clause 51(*2*) provides for salaries and allowances payable to such employees or officers of the Privacy Commission. Clause 52(*7*) provides for salaries and allowances payable to Chief Privacy Commissioners and Privacy Commissioners of the Privacy Commission. Clause 55 provides for Central Government to provide requisite funds to the Privacy Commission through the Consolidated Fund of India.

Clause 65 provides for constitution of State Privacy Commission by the State Governments. Clause 65(*6*) provides for appointment of officers and employees by the State Government to the State Privacy Commission. Clause 65(*7*) provides for State Government to provide requisite funds to the State Privacy Commission. The expenditure relating to States shall be borne out of the Consolidated Funds of State Governments concerned. Clause 65(*9*) provides for salaries and allowances payable to State Chief Privacy Commissioners and Privacy Commissioners of the State Privacy Commission.

However, the expenditure relating to Union territories shall be borne out of the Consolidated Fund of India. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees five hundred crore per annum would involve from the Consolidated Fund of India.

A non-recurring expenditure of about rupees two hundred crore is also likely to be involved.

———

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 82 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

———

SNEHLATA SHRIVASTAVA,
Secretary General.

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