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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 the 15th March, 2021:—

BILL NO. 55 OF 2021

A Bill further to amend the Government of National Capital Territory of Delhi Act, 1991.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Government of National Capital Territory of Delhi (Amendment) Act, 2021.

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

Amendment of section 21.

1 of 1992.

2. In section 21 of the Government of National Capital Territory of Delhi Act, 1991 (hereinafter referred to as the principal Act), after sub-section (*2*), the following sub-section shall be inserted, namely:—

'(*3*) The expression "Government" referred to in any law to be made by the Legislative Assembly shall mean the Lieutenant Governor.'.

Amendment of section 24.

3. In section 24 of the principal Act, in the second proviso,—

(*i*) in clause (*c*), for the word and figures "section 43.", the words and figures "section 43; or" shall be substituted;

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

"(*d*) incidentally covers any of the matters which falls outside the purview of the powers conferred on the Legislative Assembly.".

Amendment of section 33.

4. In section 33 of the principal Act, in sub-section (*1*),—

(*a*) after the words "conduct of its business", the words "which shall not be inconsistent with the Rules of Procedure and Conduct of Business in House of People" shall be inserted;

(*b*) in the proviso, for the words "Provided that", the following shall be substituted, namely:—

"Provided that the Legislative Assembly shall not make any rule to enable itself or its Committees to consider the matters of day-to-day administration of the Capital or conduct inquiries in relation to the adminstrative decisions, and any of the rule made in contravention of this proviso, before the commencement of the Government of National Capital Territory of Delhi (Amendment) Act, 2021, shall be void:

Provided further that".

Amendment of section 44.

5. In section 44 of the principal Act, in sub-section (*2*), the following proviso shall be inserted, namely:—

"Provided that before taking any executive action in pursuance of the decision of the Council of Ministers or a Minister, to exercise powers of Government, State Government, Appropriate Government, Lieutenant Governor, Administrator or Chief Commissioner, as the case may be, under any law in force in the Capital, the opinion of Lieutenant Governor in term of proviso to clause (4) of article 239AA of the Constitution shall be obtained on all such matters as may be specified, by a general or special order, by Lieutenant Governor.".

STATEMENT OF OBJECTS AND REASONS

The Government of National Capital Territory of Delhi Act, 1991 (1of 1992) was enacted to supplement the provisions of the Constitution relating to the Legislative Assembly and a Council of Ministers for the National Capital Territory of Delhi and for matters connected therewith or incidental thereto. Section 44 of the Act deals with conduct of business and there is no structural mechanism provided in the Act for effective time bound implementation of said section. Further, there is no clarity as to what proposal or matters are required to be submitted to Lieutenant Governor before issuing order thereon.

2. The Constitution Bench of the Hon'ble Supreme Court, in its judgment dated the 04th July, 2018, and Division Bench of the Hon'ble Supreme Court, in its judgment dated the 14th February, 2019, has interpreted the provisions of article 239AA of the Constitution relating to the structure of governance in National Capital Territory of Delhi.

3. In order to give effect to the interpretation made by Hon'ble Supreme Court in the aforesaid judgments, a Bill, namely, the Government of National Capital Territory of Delhi (Amendment) Bill, 2021 seeks, *inter alia*, to clarify the expression "Government", which in the context of legislations to be passed by the Legislative Assembly of Delhi, shall mean the Lieutenant Governor of the National Capital Territory of Delhi, consistent with the status of Delhi as a Union territory to address the ambiguities in the interpretation of the legislative provisions. It further seeks to ensure that the Lieutenant Governor is necessarily granted an opportunity to exercise the power entrusted to him under proviso to clause (4) of article 239AA of the Constitution, in select category of cases and also to make rules in matters which incidentally encroach upon matters falling outside the preview of the Legislative Assembly. It also seeks to provide for rules made by the Legislative Assembly of Delhi to be consistent with the rules of the House of the People.

4.The said Bill will promote harmonious relations between the legislature and the executive, and further define the responsibilities of the elected Government and the Lieutenant Governor, in line with the constitutional scheme of governance of National Capital Territory of Delhi, as interpreted by the Hon'ble Supreme Court.

5. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI; AMIT SHAH.

The 5th March, 2021.

BILL NO. 54 OF 2021

A Bill further to amend the National Institute of Pharmaceutical Education and Research Act, 1998.

BE it enacted by Parliament in the Seventy-second year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the National Institute of Pharmaceutical Education and Research (Amendment) Act, 2021.

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

13 of 1998.

2. In the National Institute of Pharmaceutical Education and Research Act, 1998 (hereinafter referred to as the principal Act), for the long title, the following long title shall be substituted, namely:— Amendment of long title.

"An Act to declare certain institutions of pharmaceutical education and research to be institutions of national importance and for matters connected therewith or incidental thereto.".

3. In section 1 of the principal Act, in sub-section (*1*), for the word "Institute", the word "Institutes" shall be substituted. Amendment of section 1.

4. For section 2 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 2.

"2. (*1*) Whereas the objects of the institutions mentioned in the Schedule, are such as to make them institutions of national importance, it is hereby declared that each such Institute is an institution of national importance. Declaration of certain institutions as institutions of national importance.

(*2*) It is hereby declared that every Institute established under sub-section (*2A*) of section 4, on and after the commencement of the National Institute of Pharmaceutical Education and Research (Amendment) Act, 2021, shall be an institution of national importance.".

5. In section 3 of the principal Act,— Amendment of section 3.

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

'(*a*) "appointed day", in relation to an Institute mentioned in column (3) of the Schedule, means the date of its establishment as mentioned against it in column (4) of that Schedule;';

(*ii*) in clauses (*b*) and (*c*), for the words "the Institute", the words "an Institute" shall be substituted;

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

'(*ca*) "Council" means the Council established under sub-section (*1*) of section 30A;';

(*iv*) in clauses (*d*), (*e*) and (*f*), for the words "the Institute", the words "an Institute" shall be substituted;

(*v*) for clause (*g*), the following clauses shall be substituted, namely:—

'(*g*) "Institute" means any of the institutions mentioned in column (3) of the Schedule;

(*ga*) "member" means a member of the Council nominated or elected under sub-section (*2*) of section 30A;

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

(*gc*) "Schedule" means the Schedule to this Act; ';

(*vi*) in clauses (*h*) and (*j*), for the words "the Institute", the words "an Institute" shall be substituted.

6. In section 4 of the principal Act,— Amendment of section 4.

(*i*) in the marginal heading, for the words "Establishment of Institute", the words "Establishment and incorporation of Institutes" shall be substituted;

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

"(*1*) Each of the Institutes mentioned in column (3) of the Schedule shall be a body corporate.";

(*iii*) in sub-section (*2*), for the words "The Institute", the words "Each Institute" shall be substituted;

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

"(*3*) The Board of Governors of an Institute shall consist of the following persons, namely:—

(*a*) a Chairperson, who shall be an eminent academician or scientist or technologist or professional, to be nominated by the Visitor;

(*b*) the Director of the institute, *ex officio*;

(*c*) the Joint Secretary to the Government of India in Department of Pharmaceuticals dealing with the national institutes of pharmaceutical education and research, *ex officio*;

(*d*) the Secretary, dealing with medical or technical education in the State Government concerned, *ex officio*;

(*e*) the representative of Drug Controller General of India, Ministry of Health and Family Welfare of the Government of India, *ex officio*;

(*f*) three eminent pharmaceutical experts, at least one of whom shall be a woman, having special knowledge or practical experience in education, research and biotechnology, to be nominated by the Council;

(*g*) two pharmaceutical industrialists to be nominated by the Council;

(*h*) two professors of the institute, to be nominated by the Senate.";

(*v*) in sub-section (*4*), the proviso shall be omitted.

Amendment of section 4A.

7. In section 4A of the principal Act, the words "within its jurisdiction" shall be omitted.

Omission of section 5.

8. Section 5 of the principal Act shall be omitted.

Amendment of section 6.

9. In section 6 of the principal Act,—

(*i*) for the words "On and from the appointed day", the words "On and from the appointed day, in relation to the National Institute of Pharmaceutical Education and Research, Mohali" shall be substituted;

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

"(*aa*) all property, movable and immovable of, or belonging to, the Society, shall vest in that Institute;";

(*iii*) for the words "the Institute", wherever they occur, the words "that Institute" shall be substituted.

Amendment of section 7.

10. In section 7 of the principal Act,—

(*a*) in the marginal heading, for the word "Institute", the word "Institutes" shall be substituted;

(*b*) for clause (*ii*), the following clauses shall be substituted, namely:—

"(*ii*) to develop courses leading to graduate and post graduate degrees, doctoral and post-doctoral distinctions and research in pharmaceutical education or to develop integrated courses relating thereto;

(*iia*) to conduct executive education courses, short-term certificate courses, training programmes, online or distant education, diploma courses and such other short-term executive courses;";

(*c*) in clause (*v*), for the words " by exchange of faculty members", the words "by promoting collaborative research, exchange of faculty members, researchers" shall be substituted;

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

"(*xa*) to establish Centres of Excellence for drug discovery and development and medical devices;".

Amendment of section 8.

11. In section 8 of the principal Act, for the word "Board", wherever it occurs, the words "Board of an Institute" shall be substituted.

Amendment of section 9.

12. In section 9 of the principal Act,—

(*i*) in the marginal heading, for the word "Institute", the word "Institutes" shall be substituted;

(*ii*) in sub-section (*1*), for the words "The Institute", the words "Every Institute" shall be substituted;

(*iii*) in sub-section (*2*), for the words "the Institute", the words "any Institute" shall be substituted.

Amendment of section 10.

13. In section 10 of the principal Act,—

(*i*) in the marginal heading, for the word "Institute", the word "Institutes" shall be substituted;

(*ii*) for the words "the Institute", the words "each of the Institutes" shall be substituted.

Amendment of section 11.

14. In section 11 of the principal Act,—

(*i*) in sub-section (*1*), for the words "the Institute", the words "every Institute" shall be substituted;

(*ii*) in sub-section (*2*), for the words "the Institute", the words "any Institute" shall be substituted.

Amendment of section 12.

15. In section 12 of the principal Act,—

(*i*) in the marginal heading, for the word "Institute", the word "Institutes" shall be substituted;

(*ii*) in the opening portion, for the words "the Institute", the words "an Institute" shall be substituted.

Amendment of section 13.

16. In section 13 of the principal Act, in the opening portion, for the words "the Institute", the words "each Institute" shall be substituted.

Amendment of section 14.

17. In section 14 of the principal Act, for the words "senate of the Institute", the words "senate of each Institute" shall be substituted.

Amendment of section 16.

18. In section 16 of the principal Act, for the words "Director of the Institute", the words "Director of each Institute" shall be substituted.

Amendment of section 17.

19. In section 17 of the principal Act, for the words "the Institute", the words "each Institute" shall be substituted.

Amendment of section 18.

20. In section 18 of the principal Act, for the words "Registrar of the Institute", the words "Registrar of each Institute" shall be substituted.

Amendment of section 20.

21. In section 20 of the principal Act,—

(*i*) for the words "enabling the Institute", the words "enabling the Institutes" shall be substituted;

(*ii*) for the words "pay to the Institute", the words "pay to each Institute" shall be substituted.

Amendment of section 21.

22. In section 21 of the principal Act,—

(*i*) in the marginal heading, for the word "Institute", the word "Institutes" shall be substituted;

(*ii*) in sub-section (*1*), for the words "The Institute shall", the words "Every Institute shall" shall be substituted.

Amendment of section 22.

23. In section 22 of the principal Act, for the words "the Institute", the words "every Institute" shall be substituted.

Amendment of section 23.

24. In section 23 of the principal Act,—

(*i*) in sub-section (*1*), for the words "The Institute", the words "Every Institute" shall be substituted;

(*ii*) in sub-section (*2*), for the words "the Institute", the words "every Institute" shall be substituted;

(*iii*) in sub-section (*3*), for the words "accounts of the Institute", the words "accounts of any Institute" shall be substituted;

(*iv*) in sub-section (*4*), for the words "the Institute", the words "every Institute" shall be substituted.

Amendment of section 24.

25. In section 24 of the principal Act, in sub-section (*1*), for the words "The Institute", the words "Every Institute" shall be substituted.

Amendment of section 25.

26. In section 25 of the principal Act, for the words "the Institute", the words "an Institute" shall be substituted.

Amendment of section 27.

27. In section 27 of the principal Act, in sub-section (*1*), for the words "the Institute", the words "every Institute" shall be substituted.

Amendment of section 28.

28. In section 28 of the principal Act, for the words "Ordinances of the Institute", the words "Ordinances of each Institute" shall be substituted.

Insertion of new Chapter II-A.

29. After Chapter II of the principal Act, the following Chapter shall be inserted, namely:—

"CHAPTER II-A

THE COUNCIL

Establishment of Council.

30A. (*1*) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for all the Institutes specified in column (3) of the Schedule, a central body to be called the Council.

(*2*) The Council shall consist of the following members, namely:—

(*a*) Minister in charge of the Ministry or Department of the Central Government having administrative control of the Pharmaceuticals, *ex officio*, as Chairperson;

(*b*) Minister of State in the Ministry or Department of the Central Government having administrative control of the Pharmaceuticals, *ex officio,* as Vice-Chairperson;

(*c*) the Secretary to the Government of India in charge of the Ministry or Department of the Central Government having administrative control of the Pharmaceuticals, *ex officio;*

(*d*) the Chairperson of every Board of Governors*, ex officio;*

(*e*) the Director of every Institute, *ex officio*;

(*f*) the Chairperson, All India Council for Technical Education, *ex officio*;

(*g*) the Director General, Council of Scientific and Industrial Research, *ex officio*;

(*h*) four Secretaries to the Government of India, to represent the Ministries or Departments of the Central Government dealing with Biotechnology, Health Research, Higher Education and Science and Technology, *ex officio;*

(*i*) not less than three, but not more than five persons to be nominated by the Visitor, at least one of whom shall be a woman, having special knowledge or practical experience in education, pharmaceutical industry, medical devices industry or pharmaceutical research;

(*j*) three members of Parliament of whom two shall be elected by the House of the People and one by the Council of States, from amongst its members;

(*k*) the President, Indian Drugs Manufacturing Association, *ex officio*;

(*l*) the President, Organisation of Pharmaceutical Producers of India, *ex officio*;

(*m*) the President, Pharmacy Council of India, *ex officio*;

(*n*) the Financial Advisor of the Ministry or Department of the Central Government dealing with Pharmaceuticals, *ex officio*;

(*o*) the Joint Secretary to the Government of India in the Ministry or Department of the Central Government having administrative control of the Pharmaceuticals, *ex officio,* as Member-Secretary.

(*3*) It is hereby declared that the office of a member of the Council shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

Term of office of, vacancies among, and allowances payable to, members of Council.

30B. (*1*) Save as otherwise provided in this section, the term of office of a member of the Council shall be three years from the date of his nomination or election, as the case may be.

(*2*) The term of office of an *ex officio* member shall continue so long as he holds the office by virtue of which he is a member.

(*3*) The term of office of a member elected under clause (*j*) of sub-section (*2*) of section 30A shall come to an end as soon as he becomes a Minister or Minister of State or Deputy Minister, or the Speaker or the Deputy Speaker of the House of the People, or the Deputy Chairperson of the Council of States or ceases to be a member of the House which elected him.

(*4*) The term of office of a member nominated or elected to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated or elected.

(*5*) Notwithstanding anything contained in this section an outgoing member shall, unless the Central Government otherwise directs, continue in office until another person is nominated or elected as a member in his place.

(*6*) The members of the Council shall be paid such travelling and other allowances by the Central Government as may be determined by that Government, but no member shall be entitled to any salary by reason of this sub-section.

Functions of Council.

30C. (*1*) It shall be the general duty of the Council to coordinate the activities of all the Institutes and to take all such steps as to ensure planned and coordinated development of pharmaceutical education and research and maintenance of standards thereof.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Council shall perform the following functions, namely:—

(*a*) to advise on matters relating to the duration of the courses, the degrees and other academic distinctions to be conferred by the Institutes, admission standards and other academic matters;

(*b*) to lay down policy regarding cadres, methods of recruitment and conditions of service of employees, institution of scholarships and free-ships, levying of fees and other matters of common interest;

(*c*) to examine the development plans of each Institute and to approve such of them as are considered necessary and also to indicate broadly the financial implications of such approved plans;

(*d*) to lay down policy or guidelines for promoting research and development in pharmaceuticals and related areas, fostering collaboration and overseeing developments and on matters incidental thereto;

(*e*) to examine the annual budget estimates of each Institute and to recommend to the Central Government the allocation of funds for that purpose;

(*f*) to advise the Visitor, if so required, in respect of any function to be performed by him under this Act; and

(*g*) to perform such other functions as are assigned to it by or under this Act.

(*3*) The Council shall meet at least once every year and follow such procedure in its meetings as may be prescribed.

Chairman of Council.

30D. (*1*) The Chairperson of the Council shall ordinarily preside at the meetings of the Council:

Provided that in the absence of the Chairperson, the Vice-Chairperson shall preside at the meetings of the Council:

Provided further that in the absence of both the Chairperson and the Vice-Chairperson, any other member, chosen from amongst themselves by the members present at the meeting shall preside at that meeting.

(*2*) It shall be the duty of the Chairperson of the Council to ensure that the decisions taken by the Council are implemented.

(*3*) The Chairman shall exercise such other powers and perform such other duties as are assigned to him by this Act.

Power to make rules in respect of matters in this Chapter.

30E. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Chapter.

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

(*a*) the manner of filling vacancies among the members of the Council;

(*b*) the disqualifications for being chosen as, and for being, a member of the Council;

(*c*) the circumstances in which, and the authority by which, members may be removed;

(*d*) the meetings of the Council and the procedure of conducting business thereat;

(*e*) the travelling and other allowances payable to members of the Council; and

(*f*) the functions of the Council and the manner in which such functions may be exercised.

(*3*) Every rule made by the Central Government under this Chapter 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.".

Amendment of section 31.

30. In section 31 of the principal Act, for the words "No act of the Institute", the words "No act of the Council or any Institute" shall be substituted.

Amendment of section 32.

31. In section 32 of the principal Act,—

(*i*) in the marginal heading, for the word "Institute", the word "Institutes" shall be substituted;

(*ii*) for the words "the Institute", the words "every Institute" shall be substituted.

Amendment of section 33.

32. In section 33 of the principal Act, for the words "Whenever the Institute", the words "Whenever an Institute" shall be substituted.

Insertion of new section 33A.

33. After section 33 of the principal Act, the following section shall be inserted, namely:—

Power of Central Government to issue directions.

"33A. The Institute shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.".

Amendment of section 35.

34. In section 35 of the principal Act, for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) until the first Statutes and the Ordinances in relation to the Institutes mentioned in column (3) of the Schedule are made under this Act, the Statutes and the Ordinances of the National Institute of Pharmaceutical Education and Research, Sector-67, S.A.S. Nagar (Mohali), District Ropar, Punjab as in force, shall apply to those Institutes with the necessary modifications and adaptations in so far as they are not inconsistent with the provisions of this Act.".

THE SCHEDULE

[*See* sections 2, 3(*a*), (*g*), (*gc*), 4(*1*), 30A and 35(*b*)]

Sl. No.	Location of	Name of institutions incorporated under this Act institute and the State	Date of establishment of Institute
(*1*)	(*2*)	(*3*)	(*4*)
1.	Mohali, Punjab	The National Institute of Pharmaceutical Education and Research Society, Mohali	8th July, 1998
2.	Ahmedabad, Gujarat	The National Institute of Pharmaceutical Education and Research, Ahmedabad	6th September, 2007
3.	Hajipur, Bihar	The National Institute of Pharmaceutical Education and Research, Hajipur	6th September, 2007
4.	Hyderabad, Telengana	The National Institute of Pharmaceutical Education and Research, Hyderabad	6th September, 2007
5.	Kolkata, West Bengal	The National Institute of Pharmaceutical Education and Research, Kolkata	6th September, 2007
6.	Guwahati, Assam	The National Institute of Pharmaceutical Education and Research, Guwahati	5th August, 2008
7.	Raebareli, Uttar Pradesh	The National Institute of Pharmaceutical Education and Research, Raebareli	26th September, 2008

STATEMENT OF OBJECTS AND REASONS

The National Institute of Pharmaceutical Education and Research Act, 1998 (13 of 1998) was enacted to declare the National Institute of Pharmaceutical Education and Research at Mohali, Punjab to be an institute of national importance and to provide for its incorporation and matters connected therewith.

2. The Act was subsequently amended in 2007 to empower the Central Government to establish similar institutes in different parts of the country. Thereafter, six new institutes at Ahmedabad, Guwahati, Hajipur, Hyderabad, Kolkata and Raebareli were established during 2007-08.

3. A need is felt to bring clarity that the six institutes so established as well as any other similar institute to be established under the said Act shall be institutes of national importance. In order to coordinate the activities of all such institutes, to ensure coordinated development of pharmaceutical education and research and maintenance of standards, etc., there is a need to establish a central body, to be called the Council. Also, there is a need to rationalise the Board of Governors of each such institute and to widen the scope and number of courses run by such institutes.

4. The National Institute of Pharmaceutical Education and Research (Amendment) Bill, 2021, *inter alia*, seeks to provide for—

(*i*) amendment of section 2 to declare that—

(*a*) each such Institute is an institution of national importance;

(*b*) every Institute established under sub-section (*2A*) of section 4 on and after the commencement of the National Institute of Pharmaceutical Education and Research (Amendment) Act, 2021 shall also be an institution of national importance;

(*ii*) amendment of section 4 to rationalise the Board of Governors of each such institute from its existing strength of 23 to 12 members;

(*iii*) amendment of section 7 to widen the scope and number of courses run by such institutes, including graduate and post-graduate degrees, doctoral and post-doctoral distinctions and research in pharmaceutical education, integrated courses, certificate courses and executive courses;

(*iv*) insertion of new sections 30A, 30B, 30C, 30D, 30E to provide for establishment of Council, term of office, etc., of members of Council, functions of Council, Chairman of Council and power to make rules by Central Government, respectively;

(*v*) insertion of a new section 33A to empower the Central Government to issue directions to the Institute for efficient administration of the Act.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 5th March, 2021.

D.V. SADANANDA GOWDA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 29 of the Bill seeks to insert new Chapter II-A, and new sections 30A to 30E, in the principal Act. Proposed section 30E empowers the Central Government to make rules to provide for (*i*) the manner of filling vacancies among the members of the Council; (*ii*) the disqualifications for being chosen as, and for being, a member of the Council; (*iii*) the circumstances in which, and the authority by which, members may be removed; (*iv*) the meetings of the Council and the procedure of conducting business thereat; (*v*) the travelling and other allowances payable to members of the Council; and (*vi*) the functions of the Council and the manner in which such functions may be exercised.

BILL NO. 65 OF 2021

A Bill further to amend the Mines and Minerals (*Development and Regulation*) *Act,* 1957.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Mines and Minerals (Development and Regulation) Amendment Act, 2021.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Substitution of references to certain expressions by certain other expressions.

67 of 1957.

2. Throughout the Mines and Minerals (Development and Regulation) Act, 1957 (hereinafter referred to as the principal Act),—

(*i*) for the words "reconnaissance permit, prospecting license or mining lease" wherever they occur, the words "mineral concession" shall be substituted;

(*ii*) for the words "prospecting licence-cum-mining lease", wherever they occur [other than in clause (*a*) of section 3], the words "composite licence" shall be substituted.

Amendment of section 3.

3. In section 3 of the principal Act,-—

(*i*) for clauses (*a*) and (*aa*), the following clauses shall be substituted, namely:—

'(*a*) "composite licence" means the prospecting licence-cum-mining lease which is a two stage concession granted for the purpose of undertaking prospecting operations followed by mining operations in a seamless manner;

(*aa*) "dispatch" means the removal of minerals or mineral products from the leased area and includes the consumption of minerals and mineral products within such leased area;

(*ab*) "Government company" shall have the same meaning as assigned to it in clause (*45*) of section 2 of the Companies Act, 2013; 18 of 2013.

(*ac*) "leased area" means the area specified in the mining lease within which the mining operations can be undertaken and includes the non-mineralised area required and approved for the activities falling under the definition of "mine" as referred to in clause (*i*);

(*ad*) "minerals" includes all minerals except mineral oils;

(*ae*) "mineral concession" means either a reconnaissance permit, prospecting licence, mining lease, composite licence or a combination of any of these and the expression "concession" shall be construed accordingly;';

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

'(*fa*) "production" or any derivative of the word "production" means the winning or raising of mineral within the leased area for the purpose of processing or dispatch;';

(*iii*) clause (*ga*) shall be omitted;

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

'(*hba*) "Schedule" means the Schedules appended to the Act;';

(*v*) in clause (*i*),—

(*i*) for the words and figures, "the Mines Act, 1952", the words and figures "the Occupational Safety, Health and Working Conditions Code, 2020" shall be substituted; 35 of 1952. 37 of 2020.

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

"*Explanation*.—For the purposes of this clause,—

(*i*) a mine continues to be a mine till exhaustion of its mineable mineral reserve and a mine may have different owners during different times from the grant of first mining lease till exhaustion of such mineable mineral reserve;

(*ii*) the expression "mineral reserve" means the economically mineable part of a measured and indicated mineral resource.".

Amendment of section 4.

4. In section 4 of the principal Act, in sub-section (*1*), in the second proviso, for the words "such entity that may be notified for this purpose by the Central Government", the words "other entities including private entities that may be notified for this purpose, subject to such conditions as may be specified by the Central Government" shall be substituted.

Amendment of section 4A.

5. In section 4A of the principal Act, in sub-section (*4*),—

(*i*) for the words "mining operations" wherever they occur, the words "production and dispatch" shall be substituted;

(*ii*) for the first, second, third and fourth provisos, the following provisos shall be substituted, namely:-—

"Provided that the State Government may, on an application made by the holder of such lease before it lapses and on being satisfied that it shall not be possible for the holder of the lease to undertake production and dispatch or to continue such production and dispatch for reasons beyond his control, make an order, within a period of three months from the date of receipt of such application, to extend the period of two years by a further period not exceeding one year and such extension shall not be granted for more than once during the entire period of lease:

Provided further that such lease shall lapse on failure to undertake production and dispatch or having commenced the production and dispatch fails to continue the same before the end of such extended period.".

Amendment of section 5.

6. In section 5 of the principal Act, in sub-section (*1*), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the composite licence or mining lease shall not be granted for an area to any person other than the Government, Government company or corporation, in respect of any minerals specified in Part B of the First Schedule where the grade of such mineral in such area is equal to or above such threshold value as may be notified by the Central Government.".

Amendment of section 8.

7. In section 8 of the principal Act, after sub-section (*3*), the following sub-sections shall be inserted, namely:—

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

Provided that the period of mining leases, other than the mining leases granted through auction, shall be extended on payment of such additional amount as specified in the Fifth Schedule:

Provided further that the Central Government may, by notification in the Official Gazette and for reasons to be recorded in writing, amend the Fifth Schedule so as to modify the entries mentioned therein in the said Schedule with effect from such date as may be specified in the said notification.

(*5*) Any lessee may, where coal or lignite is used for captive purpose, sell such coal or lignite up to fifty per cent. of the total coal or lignite produced in a year after meeting the requirement of the end use plant linked with the mine in such manner as may be prescribed by the Central Government and on payment of such additional amount as specified in the Sixth Schedule:

Provided that the Central Government may, by notification in the Official Gazette and for the reasons to be recorded in writing, increase the said percentage of coal or lignite that may be sold by a Government company or corporation:

Provided further that the sale of coal shall not be allowed from the coal mines allotted to a company or corporation that has been awarded a power project on the basis of competitive bid for tariff (including Ultra Mega Power Projects):

Provided also that the Central Government may, by notification in the Official Gazette and for reasons to be recorded in writing, amend the Sixth Schedule so as to modify the entries mentioned therein with effect from such date as may be specified in the said notification.".

Amendment of section 8A.

8. In section 8A of the principal Act,—

(*a*) after sub-section (*7*), the following sub-section shall be inserted, namely:—

"(*7A*) Any lessee may, where mineral is used for captive purpose, sell mineral up to fifty per cent. of the total mineral produced in a year after meeting the requirement of the end use plant linked with the mine in such manner as may be prescribed by the Central Government and on payment of such additional amount as specified in the Sixth Schedule:

Provided that the Central Government may, by notification in the Official Gazette and for the reasons to be recorded in writing, increase the said percentage of mineral that may be sold by a Government company or corporation:

Provided further that the Central Government may, by notification in the Official Gazette and for reasons to be recorded in writing, amend the Sixth Schedule so as to modify the entries mentioned therein with effect from such date as may be specified in the said notification.";

(*b*) in sub-section (*8*), the following provisos shall be inserted, namely:-—

"Provided that the period of mining leases, other than the mining leases granted through auction, shall be extended on payment of such additional amount as specified in the Fifth Schedule:

Provided further that the Central Government may, by notification in the Official Gazette and for reasons to be recorded in writing, amend the Fifth Schedule so as to modify the entries mentioned therein with effect from such date as may be specified in the said notification.

Explanation.—For the removal of doubts, it is hereby clarified that all such Government companies or corporations whose mining lease has been extended after the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall also pay such additional amount as specified in the Fifth Schedule for the mineral produced after the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021.". 10 of 2015.

Substitution of new section for section 8B.

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

Provisions for period and transfer of statutory clearances.

"8B. (*1*) Notwithstanding anything contained in this Act or any other law for the time being in force, all valid rights, approvals, clearances, licences and the like granted to a lessee in respect of a mine (other than those granted under the provisions of the Atomic Energy Act, 1962 and the rules made thereunder) shall continue to be valid even after expiry or termination of lease and such rights, approvals, clearances, licences and the like shall be transferred to, and vested; subject to the conditions provided under such laws; in the successful bidder of the mining lease selected through auction under this Act: 33 of 1962.

Provided that where on the expiry of such lease period, mining lease has not been executed pursuant to an auction under provisions of sub-section (*4*) of section 8A, or lease executed pursuant to such auction has been terminated within a period of one year from such auction, the State Government may, with the previous approval of the Central Government, grant lease to a Government company or corporation for a period not exceeding ten years or till selection of new lessee through auction, whichever is earlier and such Government company or corporation shall be deemed to have acquired all valid rights, approvals, clearances, licences and the like vested with the previous lessee:

Provided further that the provisions of sub-section (*1*) of section 6 shall not apply where such mining lease is granted to a Government company or corporation under the first proviso:

Provided also that in case of atomic minerals having grade equal to or above the threshold value, all valid rights, approvals, clearances, licences and the like in respect of expired or terminated mining leases shall be deemed to have been transferred to, and vested in the Government company or corporation that has been subsequently granted the mining lease for the said mine.

(*2*) Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the new lessee to continue mining operations on the land till expiry or termination of mining lease granted to it, in which mining operations were being carried out by the previous lessee.".

Amendment of section 9B.

10. In section 9B of the principal Act,—

(*i*) after sub-section (*3*), the following proviso shall be inserted, namely:—

"Provided that the Central Government may give directions regarding composition and utilisation of fund by the District Mineral Foundation.";

(*ii*) in sub-section (*5*), after the words and figures, "Amendment Act, 2015", the words, brackets, figures and letter ", other than those covered under the provisions of sub-section (*2*) of section 10A" shall be inserted;

(*iii*) in sub-section (*6*), after the words and figures, "Amendment Act, 2015", the words, brackets, figures and letter "and those covered under the provisions of sub-section (*2*) of section 10A" shall be inserted.

Amendment of section 9C.

11. In section 9C of the principal Act,—

(*i*) in sub-section (*1*), for the words "non-profit body", the words "non-profit autonomous body" shall be substituted;

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

"(*5*) The entities specified and notified under sub-section (*1*) of section 4 shall be eligible for funding under the National Mineral Exploration Trust.".

Amendment of section 10.

12. In section 10 of the principal Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) Notwithstanding anything contained in this section, no person shall be eligible to make an application under this section unless-—

(*a*) he has been selected in accordance with the procedure specified under sections 10B, 11, 11A or the rules made under section 11B;

(*b*) he has been selected under the Coal Mines (Special) Provisions Act, 2015; or

11 of 2015.

(*c*) an area has been reserved in his favour under section 17A.".

Amendment of section 10A.

13. In section 10A of the principal Act, in sub-section (*2*),—

(*i*) in clause (*b*), the following provisos shall be inserted, namely:—

"Provided that for the cases covered under this clause including the pending cases, the right to obtain a prospecting licence followed by a mining lease or a mining lease, as the case may be, shall lapse on the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021:

Provided further that the holder of a reconnaissance permit or prospecting licence whose rights lapsed under the first proviso, shall be reimbursed the

expenditure incurred towards reconnaissance or prospecting operations in such manner as may be prescribed by the Central Government.";

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

"(*d*) in cases where right to obtain licence or lease has lapsed under, clauses (*b*) and (*c*), such areas shall be put up for auction as per the provisions of this Act:

Provided that in respect of the minerals specified in Part B of the First Schedule where the grade of atomic mineral is equal to or greater than the threshold value, the mineral concession for such areas shall be granted in accordance with the rules made under section 11B.".

Amendment of section 10B.

14. In section 10B of the principal Act,—

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

"(*1*) The provisions of this section shall not apply to the,—

(*a*) cases falling under section 17A;

(*b*) minerals specified in Part A of the First Schedule;

(*c*) minerals specified in Part B of the First Schedule where the grade of atomic mineral is equal to or greater than such threshold value as may be notified by the Central Government from time to time; or

(*d*) land in respect of which the minerals do not vest in the Government.";

(*ii*) in sub-section (*3*), the following proviso shall be inserted, namely:—

"Provided that where the State Government has not notified such area for grant of mining lease after establishment of existence of mineral contents of any mineral (whether notified mineral or otherwise), the Central Government may require the State Government to notify such area within a period to be fixed in consultation with the State Government and in cases where the notification is not issued within such period, the Central Government may notify such area for grant of mining lease after the expiry of the period so specified.";

(*iii*) in sub-section (*4*), the following provisos shall be inserted, namely:—

"Provided that-—

(*a*) where the State Government has not successfully completed auction for the purpose of granting a mining lease in respect of any mineral (whether notified mineral or otherwise) in such notified area; or

(*b*) upon completion of such auction, the mining lease or letter of intent for grant of mining lease has been terminated or lapsed for any reason whatsoever,

the Central Government may require the State Government to conduct and complete the auction or re-auction process, as the case may be, within a period to be fixed in consultation with the State Government and in cases where such auction or re-auction process is not completed within such period, the Central Government may conduct auction for grant of mining lease for such area after the expiry of the period so specified:

Provided further that upon successful completion of the auction, the Central Government shall intimate the details of the preferred bidder in the auction to the State Government and the State Government shall grant mining lease for such area to such preferred bidder in such manner as may be prescribed by the Central Government.";

(*iv*) in sub-section (*6*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that no mine shall be reserved for captive purpose in the auction.".

15. Section 10C of the principal Act shall be omitted. Omission of section 10C.

16. In section 11 of the principal Act,— Amendment of section 11.

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

"(*1*) The provisions of this section shall not apply to the,-—

(*a*) cases falling under section 17A;

(*b*) minerals specified in Part A of the First Schedule;

(*c*) minerals specified in Part B of the First Schedule where the grade of atomic mineral is equal to or greater than such threshold value as may be notified by the Central Government from time to time; or

(*d*) land in respect of which the minerals do not vest in the Government.";

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

"Provided that where the State Government has not notified such area for grant of composite licence of any mineral (whether notified mineral or otherwise), the Central Government may require the State Government to notify such area within a period to be fixed in consultation with the State Government and in cases where the notification is not issued within such period, the Central Government may notify such area for grant of composite licence after the expiry of the period so specified.";

(*iii*) in sub-section (*5*), the following provisos shall be inserted, namely:—

"Provided that—

(*a*) where the State Government has not successfully completed auction for the purpose of granting a composite licence in respect of any mineral (whether notified mineral or otherwise) in such notified area; or

(*b*) upon completion of such auction, the composite licence or letter of intent for grant of composite licence has been terminated or lapsed for any reason whatsoever,

the Central Government may require the State Government to conduct and complete the auction or re-auction process, as the case may be, within a period to be fixed in consultation with the State Government and in cases where such auction or re-auction process is not completed within such period, the Central Government may conduct auction for grant of composite licence for such area after the expiry of the period so specified:

Provided further that upon successful completion of the auction, the Central Government shall intimate the details of the preferred bidder in the auction to the State Government and the State Government shall grant composite licence for such area to such preferred bidder in such manner as may be prescribed by the Central Government.";

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

"(*10*) On completion of the prospecting operations, the holder of the composite licence shall submit the result of the prospecting operations in the form of a geological report to the State Government specifying the area required

for mining lease and the State Government shall grant mining lease for such area, to the holder of the composite licence in such manner as may be prescribed by the Central Government.".

Amendment of section 12A.

17. In section 12A of the principal Act,—

(*i*) in sub-section (*2*),—

(*a*) for the words, figures and letter, "section 10B or section 11", the words "this Act" shall be substituted;

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

"Provided that the transferee of mining lease shall not be required to pay the amount or transfer charges referred to in sub-section (*6*), as it stood prior to the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, after such commencement but no refund shall be made of the charges already paid.";

(*iii*) sub-section (*6*) shall be omitted.

Amendment of section 13.

18. In section 13 of the principal Act,—

(*a*) in sub-section (*1*), for the words "reconnaissance permits, prospecting licences and mining leases", the words "mineral concession" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) the clauses (*qqh*) and (*qqk*) shall be omitted;

(*ii*) for clause (*r*), the following clauses shall be substituted, namely:-—

"(*r*) the period of mining lease under sub-section (*4*) of section 8;

(*s*) the manner of sale of mineral by the holder of a mining lease under sub-section (*5*) of section 8;

(*t*) the manner of sale of mineral under sub-section (*7A*) of section 8A;

(*u*) the manner for reimbursement of expenditure towards reconnaissance permits or prospecting operations under second proviso to clause (*b*) of sub-section (*2*) of section 10A;

(*v*) the manner of granting mining lease to the preferred bidder under the second proviso to sub-section (*4*) of section 10B;

(*w*) the manner of granting composite licence to the preferred bidder under the second proviso to sub-section (*5*) of section 11;

(*x*) the manner of granting mining lease by the State Government to the holder of the composite licence under sub-section (*10*) of section 11;

(*y*) any other matter which is to be, or may be prescribed, under this Act.".

Amendment of section 17A.

19. In section 17A of the principal Act,—

(*a*) for sub-section (*2A*), the following shall be substituted, namely:—

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

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

(*b*) in sub-section (*2C*),—

(*i*) for the words, "may be prescribed by the Central Government.", the words "specified in the Fifth Schedule" shall be substituted;

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

"Provided that the Central Government may, by notification in the Official Gazette and for reasons to be recorded in writing, amend the Fifth Schedule so as to modify the entries mentioned therein in the said Schedule with effect from such date as may be specified in the said notification.

Explanation.—For the removal of doubts, it is hereby clarified that all such Government companies or corporations whose mining lease has been extended after the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall also pay such additional amount as specified in the Fifth Schedule for the mineral produced after the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021."

10 of 2015.

(*c*) after sub-section (*3*), the following sub-sections shall be inserted, namely:—

"(*4*) The reservation made under this section shall lapse in case no mining lease is granted within a period of five years from the date of such reservation:

Provided that where the period of five years from the date of reservation has expired before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021 or expires within a period of one year from the date of commencement of the said Act, the reservation shall lapse in case no mining lease is granted within a period of one year from the date of commencement of the said Act:

Provided further that the State Government may, on application made by such Government company or corporation or on its own motion, and on being satisfied that it shall not be possible to grant the mining lease within the said period, make an order with reasons in writing, within a period of three months from the date of receipt of such application, to relax such period by a further period not exceeding one year:

Provided also that where the Government company or corporation in whose favour an area has been reserved under this section before the commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, has commenced production from the reserved area without execution of mining lease, such Government company or corporation shall be deemed to have become lessee of the State Government from the date of commencement of mining operations and such deemed lease shall lapse upon execution of the mining lease in accordance with this sub-section or expiry of period of one year from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, whichever is earlier.

10 of 2015.

(*5*) The termination or lapse of mining lease shall result in the lapse of the reservation under this section.".

Amendment of section 21.

20. In section 21 of the principal Act, after sub-section (*6*), the following *Explanation* shall be inserted, namely:—

"*Explanation*.—On and from the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, the expression "raising, transporting or causing to raise or transport any mineral without any lawful authority" occurring in this section, shall mean raising, transporting or causing to raise or transport any mineral by a person without prospecting licence, mining lease or composite licence or in contravention of the rules made under section 23C.".

Amendment of Schedules.

21. After the Fourth Schedule to the principal Act, the following Schedules shall be inserted, namely:—

"THE FIFTH SCHEDULE

[*See* sections 8(*4*), 8A(*8*) and 17A(*2C*)]

S.No.	Mineral	Additional amount on grant or extension of mining lease
1.	Iron ore and chromite	Equivalent to one hundred and fifty per cent. of the royalty payable
2.	Copper	Equivalent to fifty per cent. of the royalty payable
3.	Coal and lignite	Equivalent to the royalty payable
4.	Other minerals (other than coal and lignite)	Equivalent to the royalty payable

Explanation.—For the purposes of this Schedule, the additional amount shall be in addition to royalty or payment to the District Mineral Foundation and National Mineral Exploration Trust or any other statutory payment.

THE SIXTH SCHEDULE

[*See* sections 8(*5*) and 8A(*7A*)]

(*i*) For non-auctioned captive mines (other than coal and lignite):

S.No.	Mineral	Additional Amount
1.	Bauxite	
	(*i*) Metallurgical Grade	Equivalent to one hundred and fifty per cent. of the royalty payable
	(*ii*) Non Metallurgical Grade	Equivalent to the royalty payable
2.	Chromite	
	(*i*) Up to forty per cent. of Cr_2O_3	Equivalent to the royalty payable
	(*ii*) forty per cent. and more of Cr_2O_3 and concentrates	Equivalent to two hundred per cent. of the royalty payable
3.	Iron ore	
	(*i*) Lumps, ROM and concentrates	Equivalent to two hundred and fifty per cent. of the royalty payable
	(*ii*) Fines	Equivalent to one hundred and fifty per cent. of the royalty payable
4.	Limestone	
	(*i*) L.D. Grade (less than 1.5 per cent. silica content)	Equivalent to two hundred per cent. of the royalty payable
	(*ii*) Other grades	Equivalent to the royalty payable

5.	Manganese	
	(*i*) Less than thirty-five per cent. of manganese content	Equivalent to the royalty payable
	(*ii*) Thirty-five per cent. and above of manganese content	Equivalent to five hundred per cent. of the royalty payable
6.	Other minerals	Equivalent to the royalty payable

(*ii*) For auctioned captive mines (other than coal and lignite):

S.No.	Quantity of sale	Additional Amount
1.	Sale of mineral up to twenty-five per cent. of annual production	*Nil*
2.	Sale of mineral more than twenty-five per cent. and up to fifty per cent. of annual production	Equivalent to fifty per cent. of the royalty payable

(*iii*) For coal and lignite:

S.No.	Type of mine	Additional Amount
1.	(*i*) Captive coal and lignite mines, auctioned for power sector through reverse bidding under the Coal Mines (Special Provisions) Act, 2015 (11 of 2015)	Equivalent to two hundred per cent. of the royalty payable
	(*ii*) Captive coal and lignite mines allocated through allotment route (other than mines covered under item no. (*iv*))	Equivalent to the royalty payable
	(*iii*) Captive coal and lignite mines allocated through auction route (other than mines covered under item nos. (*i*) and (*iv*))	Equivalent to the royalty payable
	(*iv*) For captive coal and lignite mines that were auctioned and allotted with condition allowing sale of coal up to twenty-five per cent. of annual production—	
	(*a*) for sale of coal up to twenty-five per cent. of annual production	Additional amount payable as per the condition mentioned in the tender document or allotment document
	(*b*) for sale of coal more than twenty-five per cent. and up to fifty per cent. of annual production	Fifty per cent. of the royalty payable

Explanation.—For the purposes of this Schedule, it is hereby clarified that—

(*i*) the additional amount shall be in addition to royalty or payment to the District Mineral Foundation and National Mineral Exploration Trust or any other statutory payment or payment specified in the tender document or the auction premium (wherever applicable).

(*ii*) *Ad valorem* royalty for the purpose of calculating the additional amount for coal and lignite shall be based on National Coal Index and Representative Price of coal excluding the taxes, levies and other charges.".

STATEMENT OF OBJECTS AND REASONS

The Mines and Minerals (Development and Regulation) Act, 1957 (the Act) was enacted with a view to provide for the development and regulation of mines and minerals under the control of Union.

2. The Act was comprehensively amended in 2015 to bring several reforms in the mineral sector, notably, mandating auction of mineral concessions to improve transparency, establishing District Mineral Foundation and National Mineral Exploration Trust and stringent penalty for illegal mining. The Act was further amended in the years 2016 and 2020 to allow transfer of leases for non-auctioned captive mines and to deal with the emergent issue of expiry of leases on 31st March 2020.

3. In order to fully harness the potential of the mineral sector, increase employment and investment in the mining sector including coal, increase the revenue to the States, increase the production and time bound operationalisation of mines, maintain continuity in mining operations after change of lessee, increase the pace of exploration and auction of mineral resources and resolve long pending issues that have slowed the growth of the sector, it is felt necessary to further amend the said Act.

4. The Mines and Minerals (Development and Regulation) Amendment Bill, 2021, *inter alia,* provides for the following, namely:—

(*i*) to remove the distinction between captive and merchant mines by providing for auction of mines in future without restriction of captive use of minerals and allowing existing captive mines including captive coal mines to sell up to fifty per cent. of the minerals produced after meeting the requirement of linked end use plants to ensure optimal mining of mineral resources and specify the additional amount to be charged on such sale. The sale of minerals by captive plants would facilitate increase in production and supply of minerals, ensure economies of scale in mineral production, stabilize prices of ore in the market and bring additional revenue to the States;

(*ii*) to provide for payment of additional amount to the State Government on extension and grant of mining lease of Government companies to create level playing field between the auctioned mines and the mines of Government companies;

(*iii*) to provide that all the valid rights, approvals, clearances, licences and the like granted to a lessee in respect of a mine shall continue to be valid even after expiry or termination of lease and such clearances shall be transferred and vested to the successful bidder of the mining lease. This will ensure continuity in mining operations even with change of lessee, conservation of mineral and avoid repetitive and redundant process of obtaining clearances again for the same mine;

(*iv*) to grant short term mining lease to Government companies in situations where the auction of mines pursuant to sub-section (*4*) of section 8A has failed;

(*v*) to empower the Central Government to issue directions regarding composition and utilisation of Fund by the District Mineral Foundation;

(*vi*) to close the pending cases of non-auctioned concession holders which have not resulted in grant of mining leases despite passage of a considerable time of more than five years. The existence of these cases is anachronistic and antagonistic to the auction regime. The closure of the pending cases would facilitate the Government to put to auction a large number of mineral blocks in the interest of nation resulting in early operationalisation of such blocks and additional revenue to the State Governments;

(*vii*) to remove the restrictions on transfer of mineral concessions for non-auctioned mines to attract fresh investment and new technology in the sector;

(*viii*) to empower the Central Government to notify the area and conduct auction in cases where the State Governments face difficulty in notifying the areas and conducting auction or fails to notify the area or conduct auction in order to ensure auction of more number of mineral blocks on regular basis for continuous supply of minerals in the country;

(*ix*) to fix a time-frame for grant of leases for the areas reserved for Government companies for expediting grant of leases and production by the Government companies; and

(*x*) to amend section 21 of the Act so as to clarify the expression "without any lawful authority" in order to limit its scope to the violations of the said Act and the rules made thereunder. The said amendment will bring clarity and certainty to the mining sector.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 10*th March,* 2021.

PRALHAD JOSHI.

FINANCIAL MEMORANDUM

The Bill seeks to amend the Mines and Minerals (Development and Regulation) Act, 1957 (the Act) to develop the mining sector to its full potential for faster economic growth.

2. Clause 12 of the Bill proposes to insert two provisos in clause (*b*) of sub-section (*2*) of section 10A of the said Act. The first proviso provides that upon commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2021, the rights of concession holders under clause (*b*) of sub-section (*2*) of section 10A to obtain a prospecting licence followed by a mining lease or a mining lease, as the case may be, shall lapse. The second proviso provides that the holder of a reconnaissance permit or prospecting licence whose right has lapsed under the proposed first proviso shall be reimbursed for expenditure incurred towards reconnaissance permit or prospecting operations in such manner as may be prescribed by the Central Government.

3. The financial implication of this amendment will be to the extent of payment of reimbursement by the Central Government to the holders of a reconnaissance permit or prospecting licence whose rights have lapsed. This expenditure on account of reimbursement may increase in case any foreign investor invokes Bilateral Investment Promotion and Protection Agreements executed between India and other countries. The value of awards, if any, of arbitration bodies under the said Agreement cannot be estimated at this stage.

4. The expenditure is to be incurred from the funds of the National Mineral Exploration Trust established under section 9C of the Act. The said Trust is established for the purpose of funding regional and detailed exploration of minerals. The holder of a mining lease or composite licence is mandated to pay to the Trust, a sum equivalent to two per cent. of royalty paid in terms of the Second Schedule of the Act. At present around six hundred crore rupees accrues annually to the Trust and the Trust has around one thousand seven hundred crore rupees after taking into account the projects sanctioned by the Trust. The accrual to and expenditure from the Trust are done through Consolidated Fund of India.

5. In case the funds accrued to the Trust are not sufficient for reimbursement, the expenditure will be made from the Consolidated Fund of India through budgetary allocation. All the expenditure from the Trust and Consolidated Fund of India would be of non-recurring nature.

6. The amount of reimbursement will be recouped from successful bidders of the mineral concession in that area and will be deposited in the Trust. However, recouping of the amount would depend on successful auction of these blocks.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Mines and Minerals (Development and Regulation) Amendment Bill, 2021 seeks to amend sub-section (*2*) of section 13 of the Mines and Minerals (Development and Regulation) Act, 1957 to make rules for carrying out the provisions of the proposed legislation which are as under:—

(*i*) the period of mining lease under sub-section (*4*) of section 8;

(*ii*) the manner of sale of mineral by the holder of a mining lease under sub-section (5) of section 8;

(*iii*) the manner of sale of mineral under sub-section (*7A*) of section 8A;

(*iv*) the manner for reimbursement of expenditure towards reconnaissance permits or prospecting operations under second proviso to clause (*b*) of sub-section (*2*) of section 10A;

(*v*) the manner of granting mining lease to the preferred bidder under the second proviso to sub-section (*4*) of section 10B;

(*vi*) the manner of granting composite licence to the preferred bidder under the second proviso to sub-section (*5*) of section 11; and

(*vii*) the manner of granting mining lease by the State Government to the holder of the composite licence under sub-section (*10*) of section 11.

2. The matters in respect of which rules may be made and notifications issued are matters of procedure and administrative detail and it is not practicable to provide for them in the proposed legislation itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 56 OF 2021

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

BE it enacted by Parliament in the Seventy-second 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) Amendment Act, 2021.

(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 Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the principal Act), 2 of 2016.—

(i) clause *(4)* shall be omitted;

(ii) in clause *(14),*—

(a) in sub-clause *(ii),* after the words "contravention of", the words "the provisions of this Act or" shall be inserted;

(b) for sub-clause *(vi)*, the following sub-clause shall be substituted, namely:–

"*(vi*) who does not have parents and no one is willing to take care of and protect or who is abandoned or surrendered;";

(c) in sub-clause *(ix),* for the words "is likely to be", the words "has been or is being or is likely to be" shall be substituted;

(iii) in clause *(17),* for the words "Children's Home", the words "child care institution" shall be substituted;

(iv) in clause *(26),* for the words "which is the focal point", the words "which shall function under the supervision of the District Magistrate" shall be substituted;

(v) after clause (*26*), the following clause shall be inserted, namely:—

'(26A) "District Magistrate" includes Additional District Magistrate of the District;';

(vi) in clause *(46)*, the words "the person in-charge of which is willing" shall be omitted;

(vii) for clause *(54)*, the following clause shall be substituted, namely:—

'(54) "serious offences" includes the offences for which the punishment under the Indian Penal Code or any other law for the time being in force, is,— 45 of 1860.

(a) minimum imprisonment for a term more than three years and not exceeding seven years; or

(b) maximum imprisonment for a term more than seven years but no minimum imprisonment or minimum imprisonment of less than seven years is provided.'.

3. In section 3 of the principal Act, for the words "the Board, and", the words "the Board, the Committee, or" shall be substituted. Amendment of section 3.

4. In section 4 of the principal Act, in sub-section *(7),* in clause *(iii),* for the words "less than", the word "minimum" shall be substituted. Amendment of section 4.

5. In section 8 of the principal Act, in sub-section *(3),* in clause *(m),* for the words "of such a child to the observation home", the words "that child to an observation home or place of safety, as the case may be," shall be substituted. Amendment of section 8.

6. In section 12 of the principal Act, in sub-section *(2),* after the words "observation home", the words "or a place of safety, as the case may be," shall be inserted. Amendment of section 12.

7. In section 16 of the principal Act, after sub-section *(3)*, the following sub-section shall be inserted, namely:— Amendment of section 16.

"(4) The District Magistrate may, as and when required, in the best interest of a child, call for any information from all the stakeholders including the Board and the Committee.".

8. In section 18 of the principal Act, in sub-section *(1),* after the words "heinous offence,", the words and figures "or a child above the age of sixteen years has committed a heinous offence and the Board has, after preliminary assessment under section 15, disposed of the matter" shall be inserted. Amendment of section 18.

Amendment of section 27.

9. In section 27 of the principal Act,—

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

"*(4)* No person shall be appointed as a member of the Committee unless he has a degree in child psychology or psychiatry or law or social work or sociology or human health or education or human development or special education for differently abled children and has been actively involved in health, education or welfare activities pertaining to children for seven years or is a practicing professional with a degree in child psychology or psychiatry or law or social work or sociology or human health or education or human development or special education for differently abled children.

(4A) No person shall be eligible for selection as a member of the Committee, if he—

(i) has any past record of violation of human rights or child rights,

(ii) has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or has not been granted full pardon in respect of such offence,

(iii) has been removed or dismissed from service of the Government of India or State Government or an undertaking or corporation owned or controlled by the Government of India or State Government,

(iv) has ever indulged in child abuse or employment of child labour or immoral act or any other violation of human rights or immoral acts, or

(v) is part of management of a child care institution in a District.";

(ii) in sub-section *(7),* in clause *(iii)*, for the words "less than", the word "minimum" shall be substituted;

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

"(8) The Committee shall submit a report to the District Magistrate in such form as may be prescribed and the District Magistrate shall conduct a quarterly review of the functioning of the Committee.";

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

"*(10)* The District Magistrate shall be the grievance redressal authority to entertain any grievance arising out of the functioning of the Committee and the affected child or anyone connected with the child, as the case may be, may file a complaint before the District Magistrate who shall take cognizance of the action of the Committee and, after giving the parties an opportunity of being heard, pass appropriate order.".

Amendment of section 32.

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

"(2) The information regarding a child referred to in sub-section *(1)* shall be uploaded by the Committee or the District Child Protection Unit or the child care institution, as the case may be, on a portal as may be specified by the Central Government in this behalf.".

Amendment of section 37.

11. In section 37 of the principal Act, in sub-section *(1),* the words "submitted by Child Welfare Officer" shall be omitted.

Amendment of section 38.

12. In section 38 of the principal Act, in sub-section *(5)*, after the words "shall inform", the words "the District Magistrate," shall be inserted.

Amendment of section 40.

13. In section 40 of the principal Act, after sub-section *(3),* the following sub-section shall be inserted, namely: —

"(4) The Committee shall submit a quarterly report regarding restored, dead and runaway children to the State Government and the District Magistrate in such form as may be prescribed.".

Amendment of section 41.

14. In section 41 of the principal Act,—

(i) in sub-section *(1),* the words ", within a period of six months from the date of commencement of this Act," shall be omitted;

(ii) in sub-section *(2),* for the words "shall determine", the words "shall, after considering the recommendations of the District Magistrate, determine" shall be substituted.

Amendment of section 54.

15. In section 54 of the principal Act,—

(i) in sub-section *(2)*, for the words "District Child Protection Units or State Government, as the case may be", the words "District Magistrate" shall be substituted;

(ii) in sub-section *(3)*, for the words "District Child Protection Unit or the State Government", the words "District Magistrate" shall be substituted.

Amendment of section 55.

16. In section 55 of the principal Act, in sub-section *(1)*, after the words "State Government", the words "or District Magistrate" shall be inserted.

Amendment of section 56.

17. In section 56 of the principal Act, in sub-section *(5),* for the word "Court", the words "District Magistrate" shall be substituted.

Amendment of section 58.

18. In section 58 of the principal Act,—

(i) in sub-section *(3)*, for the words "in the court", the words "before the District Magistrate" shall be substituted;

(ii) in sub-section *(4),* for the words "court order", the words "order passed by the District Magistrate" shall be substituted.

Amendment of section 59.

19. In section 59 of the principal Act,—

(i) in sub-section *(7),* for the words "in the court", the words "before the District Magistrate" shall be substituted;

(ii) in sub-section *(8)*, for the words "court order", the words "order passed by the District Magistrate" shall be substituted.

Amendment of section 60.

20. In section 60 of the principal Act, in sub-section *(1)*, for the word "court", the words "District Magistrate" shall be substituted.

Amendment of section 61.

21. In section 61 of the principal Act,—

(i) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Procedure for disposal of adoption proceedings.";

(ii) in sub-section *(1),* for the word "court", the words "District Magistrate" shall be substituted;

(iii) in sub-section *(2)*, for the word "court", the words "District Magistrate" shall be substituted.

Amendment of section 63.

22. In section 63 of the principal Act, for the word "court", the words "District Magistrate" shall be substituted.

Amendment of section 64.

23. In section 64 of the principal Act, for the words "concerned courts", the words "District Magistrate" shall be substituted.

Amendment of section 65.

24. In section 65 of the principal Act, in sub-section *(4)*, for the word "court", the words "District Magistrate" shall be substituted.

Amendment of section 74.

25. In section 74 of the principal Act, in sub-section *(2),* for the words "in cases where the case", the words "in the pending case or in the case which" shall be substituted.

Substitution of section 86.

26. For section 86 of the principal Act, the following section shall be substituted, namely:—

Classification of offences and designated court.

"86. *(1)* Where an offence under this Act is punishable with imprisonment for a term of more than seven years, then, such offence shall be cognizable and non-bailable.

(2) Where an offence under this Act is punishable with imprisonment for a term of three years and above, but not more than seven years, then, such offence shall be non-cognizable and non-bailable.

(3) Where an offence, under this Act is punishable with imprisonment for less than three years or with fine only, then, such offence shall be non-cognizable and bailable.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or the Commission for Protection of Child Rights Act, 2005 or the Protection of Children from Sexual Offences Act, 2012, offences under this Act shall be triable by the Children's Court.". 2 of 1974. 4 of 2006. 32 of 2012.

Amendment of section 87.

27. In section 87 of the principal Act, for the *"Explanation"*, the following *Explanation* shall be substituted, namely:—

'Explanation.—For the purposes of this section, the expression "abetment" shall have the same meaning as assigned to it in section 107 of the Indian Penal Code.'. 45 of 1860.

Amendment of section 101.

28. In section 101 of the principal Act,—

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

"(3) No appeal shall lie from any order of acquittal made by the Board in respect of a child alleged to have committed an offence other than the heinous offence by a child who has completed or is above the age of sixteen years.".

(ii) after sub-section *(5)*, the following sub-sections shall be inserted, namely:—

"*(6)* Any person aggrieved by an adoption order passed by the District Magistrate may, within a period of thirty days from the date of such order passed by the District Magistrate, file an appeal before the Divisional Commissioner.

(7) Every appeal filed under sub-section *(6),* shall be decided as expeditiously as possible and an endeavour shall be made to dispose it within a period of four weeks from the date of filing of the appeal:

Provided that where there is no Divisional Commissioner, the State Government or Union territory Administration, as the case may be, may, by notification, empower an officer equivalent to the rank of the Divisional Commissioner to decide the appeal.".

Amendment of section 110.

29. In section 110 of the principal Act, in sub-section *(2),*—

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

"*(xiva)* the form of report submitted to the District Magistrate under sub-section *(8)* of section 27;";

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

"(xxiia) the form of quarterly report regarding restored, dead and runaway children under sub-section *(4)* of section 40;".

STATEMENT OF OBJECTS AND REASONS

The Juvenile Justice (Care and Protection of Children) Act, 2015 (the Juvenile Justice Act) came into force with effect from the 15th January, 2016, by repealing the Juvenile Justice Act, 2000,with a comprehensive provision for the children alleged or found to be in conflict with law and children in need of care and protection. The Juvenile Justice Act has been made in pursuance of the Constitution of India which mandates equal rights for children and also mandates upon State, *inter alia,* to take suitable measures for protection of children.The Act also fulfils the India's commitment as a signatory to the United Nations Convention on the rights of the child, the United Nations Standard Millennium Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules), the Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption (1993) and other related international instruments.

2. Sub-section (*1*) of section 56 of the Juvenile Justice Act provides that adoption shall be resorted to for ensuring right to family for the orphan, abandoned and surrendered children, as per the provisions of the said Act and the rules and regulations made thereunder. Section 63 of the Juvenile Justice Act stipulates that the adoption is final on the issuance of the adoption order by the Court. Sub-section (*2*) of section 61 of the said Act also provides that the adoption proceedings shall be disposed of by the court within a period of two months from the date of filing of an application. It was observed that there is significant delay in finalisation of adoption cases in Courts. Besides, these adoption cases are non-adversarial in nature and to be dealt according to well laid out process. Hence, it is proposed to culminate the adoption process at the level of District Magistrate in the District.

3. District Magistrate, being the Chief Executive Officer in the District, is suitably placed to ensure effective coordination among the stakeholders for facilitation of necessary services for children's rehabilitation/re-integration. By further empowering District Magistrate to deal with child protection and adoption process, it aims to facilitate a coordinated and effective response of District Administration to various issues pertaining to children, including adoption.

4. The Juvenile Justice Act deals with "Petty", "Serious" and "Heinous" categories of offences. Hon'ble Supreme Court in the matter of Shilpa Mittal *Vs.* State of NCT of Delhi (Criminal Appeal No. 34 of 2020), *vide* its judgment dated the 9th January, 2020 has observed that the Juvenile Justice Act does not deal with the fourth category of offences viz., offence where the maximum sentence is more than seven years imprisonment, but no minimum sentence, or minimum sentence of less than seven years is provided and treated the same as "serious offences" under the Act.

5. Accordingly, the Juvenile Justice (Care and Protection of Children) Amendment Bill, 2021, *inter alia,* proposes:—

(*a*) to strengthen child protection at district level by empowering District Magistrate including Additional District Magistrate to effectively coordinate and monitor the functions of various agencies responsible for implementation of the provisions of the Juvenile Justice Act;

(*b*) to empower District Magistrate including Additional District Magistrate to authorise orders of adoption, in order to address issues of delay in adoption and to propose that appeals on the orders of adoption may be preferred to the Divisional Commissioner;

(*c*) to strengthen the Child Welfare Committee by incorporating provisions relating to educational qualifications for the members and stipulating eligibility conditions for selection of the committee;

(*d*) to categorise offences wherein maximum sentence is more than seven years imprisonment but no minimum sentence, or a minimum sentence of less than seven years has been provided as "serious offences" under the Juvenile Justice Act; and

(*e*) to remove difficulties in interpretation of the Juvenile Justice Act.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 9*th March*, 2021.

SMRITI ZUBIN IRANI.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 29 of the Bill seeks to amend section 110 of the Juvenile Justice (Care and Protection of Children) Act, 2015 which provides the Central Government to make rules for—

(*a*) the form of report submitted to the District Magistrate under sub-section (*8*) of section 27; and

(*b*) the form of quarterly report regarding restored, dead and runaway children under sub-section (*4*) of section 40.

2. The matter in respect of which the aforementioned rules may be made are matters of procedure and administrative details, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 60 OF 2021

A Bill to provide for the development, maintenance and management of aids to navigation in India; for training and certification of operator of aids to navigation, development of its historical, educational and cultural value; to ensure compliance with the obligation under the maritime treaties and international instruments to which India is a party and for matters connected therewith or incidental thereto.

WHEREAS India is signatory to maritime treaties and international instruments such as International Convention for the Safety of Life at Sea, 1974, as amended; and International Association of Marine Aids and Lighthouse Authorities Maritime Buoyage System;

AND WHEREAS it is considered necessary to give effect to the said treaties and instruments which, *inter alia*, provide for aids to navigation, vessel traffic services and marking of wrecks;

AND WHEREAS it is necessary to provide for and create a framework for the development, maintenance and management of vessel traffic services in India; training and certification of operators of aids to navigation; and the development of the historical educational and cultural value of aids to navigation;

AND WHEREAS it is further necessary to create a framework for the levy and collection of marine aids to navigation dues to discharge the sovereign functions of development, maintenance and management of aids to navigation and vessel traffic services in India by Government, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Marine Aids to Navigation Act, 2021.

(*2*) It extends to the whole of India including the maritime zones of India as specified in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976. 80 of 1976.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

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

(*a*) "accredited training organisation" means any organisation which is accredited by the Central Government under section 20;

(*b*) "aid to navigation" means a device, system or service, external to vessels, designed and operated to enhance safe and efficient navigation of individual vessels and vessel traffic, but shall not be construed to include a reference to vessel traffic services, unless otherwise specified;

(*c*) "Director General" means the Director General of Aids to Navigation appointed under section 4;

(*d*) "district" means an area demarcated as a district for the purposes of this Act under sub-section (*1*) of section 4;

(*e*) "general aid to navigation" means any aid to navigation, which the Central Government may, by notification in the Official Gazette, declare to be a general aid to navigation for the purposes of this Act;

(*f*) "heritage lighthouse" means an aid to navigation designated as such under section 23;

(*g*) "local aid to navigation" means any aid to navigation which is not a general aid to navigation;

(*h*) "local authority" means a State Government or other person having superintendence and management over a local aid to navigation;

(*i*) "marine aids to navigation dues" means the dues levied under section 24;

(*j*) "notification" means a notification published in the Official Gazette of India and the expression "notify" with its grammatical variation and cognate expressions shall be construed accordingly;

(*k*) "owner" means the owner of a vessel including its registered owner, a person to whom a share in the vessel belongs, bareboat charterer, manager and operator of the vessel;

(*l*) "port" means any port as defined in the Indian Ports Act, 1908; 15 of 1908.

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

(*n*) "proper officer" in relation to any functions to be performed under this Act, means the officer of customs who is assigned those functions by the Central Board of Indirect Taxes and Customs constituted under the Central Boards of Revenue

54 of 1963. Act, 1963, and includes any person appointed by the Central Government to discharge the functions of a proper officer under this Act;

(*o*) "rule" means rules made by the Central Government under this Act;

(*p*) "ship" includes a sailing vessel;

(*q*) "vessel" includes every description of water craft used or capable of being used in the marine environment, such as ship, boat, sailing vessel, fishing vessel, submersible, semi-submersible, hydrofoils, non-displacement crafts, amphibious crafts, wing-in-ground crafts, pleasure crafts, barges, lighters, mobile offshore drilling units or mobile offshore units;

(*r*) "vessel traffic service" means a service implemented under this Act to improve the safety and efficiency of vessel traffic and to protect the environment.

(*2*) Words and expressions used but not defined in this Act, and defined in the Merchant
44 of 1958. Shipping Act, 1958, shall have the same meanings respectively assigned to them in that Act.

CHAPTER II

DESIGNATION OF GENERAL AID TO NAVIGATION

Power to designate general aid to navigation.

3. The Central Government may, by notification in the Official Gazette, designate any aid to navigation to be a general aid to navigation.

CHAPTER III

DIRECTOR GENERAL OF AIDS TO NAVIGATION

Appointment of Director General, Deputy Director Generals and Directors.

4. (*1*) The Central Government shall, by notification in the Official Gazette, appoint,—

(*a*) the Director General;

(*b*) Deputy Director Generals; and

(*c*) Directors for districts.

(*2*) For the purposes of sub-section (*1*), the Central Government may demarcate such areas to be districts.

(*3*) Every officer appointed under sub-section (*1*) shall discharge his functions under the general superintendence and control of the Director General.

Duties of Director General.

5. The Director General shall advise the Central Government on matters relating to aids to navigation and perform such other duties as may be prescribed by the Central Government under this Act or in any other law for the time being in force.

Central Advisory Committee.

6. (*1*) The Central Government shall, by notification in the Official Gazette, appoint a Central Advisory Committee.

(*2*) The Central Government shall consult the Central Advisory Committee in regard to—

(*a*) the establishment or position of aids to navigation or of any works appertaining thereto; or

(*b*) additions to or the alteration or removal of, any aid to navigation; or

(*c*) variations to any aid to navigation or of the mode of use thereof; or

(*d*) the cost of any proposal relating to aids to navigation; or

(*e*) appointment of any sub-committee under sub-section (*3*); or

(*f*) the making or alteration of any rules or rates of marine aids to navigation dues under this Act.

(*3*) The Central Government may, if it deems necessary, appoint sub-committees for the purposes of advising it in regard to any of the matters specified under this Act.

(*4*) The Central Advisory Committee and the sub-committees referred to in sub-section (*3*) shall consist of such persons representing the interests affected by this Act or having special knowledge of the subject matter thereof.

(*5*) The procedure and conduct of business of the Central Advisory Committee and the sub-committees referred to in sub-section (*3*) shall be such as may be prescribed.

Proceedings of Central Advisory Committee not to be invalidated.

7. No act or proceeding of the Central Advisory Committee shall be invalidated merely by reason of—

(*a*) any vacancy in, or any defect in its constitution; or

(*b*) any defect in appointment of a person acting as its member; or

(*c*) any irregularity in its procedure not affecting the merits of the case.

CHAPTER IV

MANAGEMENT OF GENERAL AIDS TO NAVIGATION

Management of general aids to navigation.

8. The development, maintenance and management of all general aids to navigation shall be vested in the Central Government.

Powers of Central Government relating to aids to navigation.

9. (*1*) The Central Government, shall have the following powers relating to the development, maintenance and management of general aids to navigation, namely:—

(*a*) establish and maintain aids to navigation;

(*b*) add to, alter or remove any aid to navigation;

(*c*) alter or vary any aid to navigation;

(*d*) authorise to inspect any aid to navigation which may affect the safety of navigation;

(*e*) authorise to enter any property, whether public or private, for the purposes of inspection of any aid to navigation;

(*f*) transport, or cause to be transported, any goods through any property, whether public or private, for any purpose in connection with—

(*i*) the maintenance of an aid to navigation; or

(*ii*) the establishment of any aid to navigation;

(*g*) acquire any land as may be necessary for the purposes of this Act—

(*i*) to exercise its powers; or

(*ii*) for the maintenance of works.

(*2*) The Central Government shall, for the purposes of exercising its powers under sub-section (*1*), authorise any of the officers referred to in sub-section (*1*) of section 4, by general or special order in writing.

CHAPTER V

MANAGEMENT OF VESSEL TRAFFIC SERVICES

Management of vessel traffic services.

10. (*1*) The development, maintenance and management of vessel traffic services shall be vested in the Central Government.

(*2*) For the purposes of sub-section (*1*), the Central Government may, by order, authorise any person as vessel traffic service provider.

Powers of Central Government relating to vessel traffic services.

11. The Central Government, shall have the following powers relating to the development, maintenance and management of vessel traffic services, namely:—

(*a*) declare and authorise vessel traffic service provider to operate a vessel traffic service within an authorised area;

(*b*) accredit and approve vessel traffic service training and certification;

(*c*) establish and operate vessel traffic services, where it deems necessary;

(*d*) add to or alter or require any person to add to or alter any aspect of a vessel traffic service.

Competent Authority for Vessel Traffic Services.

12. (*1*) The Central Government shall, for the purposes of exercising its powers under section 11, appoint a Competent Authority for Vessel Traffic Services by notification in the Official Gazette.

(*2*) The manner of appointment of the Competent Authority shall be such as may be prescribed.

(*3*) The Competent Authority shall discharge such functions in such manner, as may be prescribed.

Standards for establishment and operation of vessel traffic services.

13. The standards for establishing and operating vessel traffic services in India shall be such, as may be prescribed.

CHAPTER VI

INSPECTION AND MANAGEMENT OF LOCAL AIDS TO NAVIGATION

Power to inspect Local aids to navigation.

14. (*1*) The Central Government may authorise any officer referred to in sub-section (*1*) of section 4 in writing, to enter upon at any time and inspect any local aid to navigation and make such inquiries in respect thereof or of the management thereof as such officer thinks fit.

(*2*) Every person having the charge of, or concerned in the management of, any local aid to navigation shall furnish to the officer authorised under sub-section (*1*) to inspect such aid to navigation, all such information as the officer may require.

(*3*) Every local authority shall furnish to the Central Government all such returns and other information in respect of the aids to navigation under its supervision and management, or of any of them, as the Central Government may require.

Control of local aids to navigation by Central Government.

15. (*1*) If the Central Government is satisfied, after an inspection under section 14 or such other inquiry, that a direction under this sub-section is necessary or expedient for the safety, or otherwise, in the interests of vessels, it may direct any local authority—

(*a*) to remove or discontinue or to refrain from moving or discontinuing any aid to navigation under its superintendence and management or to make or refrain from making any variation in the character or mode of use of any such aid to navigation; or

(*b*) to erect, place or maintain, or to refrain from erecting, placing or maintaining any aid to navigation within the local limits within which the local authority exercises its powers.

(*2*) A local authority shall not erect, place, remove or discontinue any aid to navigation or vary the character or mode of use of any aid to navigation, unless it has given to the Central Government at least one month's notice in writing of its intention so to do:

Provided that, in cases of emergency, a local authority may take such action as it deems necessary and shall give immediate notice of the same to the Central Government and, so far as is possible, to all vessels approaching or in the vicinity of such aid to navigation.

(*3*) If any local authority—

(*a*) fails to comply with any direction made under sub-section (*1*); or

(*b*) fails to exercise or perform, or exercises or performs in an improper, inefficient or unsuitable manner, any power or duty relating to the superintendence or management of any aid to navigation conferred or imposed upon it by or under any law for the time being in force; or

(*c*) fails to make adequate financial provision for the performance of any such duty,

the Central Government may, by order in writing, require such local authority to comply with the direction, or to make arrangements to the satisfaction of that Government for the proper exercise of the power or performance of the duty, or to make financial provision to the satisfaction of that Government for the performance of the duty, as the case may be, within such period as it may specify.

(*4*) If the local authority fails to comply with an order made under sub-section (*3*) within the specified period or within such further time as the Central Government may allow, the Central Government may exercise the power or perform the duty or make the requisite financial provision, as the case may be, and the local authority shall be liable to reimburse to the Central Government any expenditure incurred by it in so doing.

Management of local aids to navigation by Central Government.

16. The Central Government may, at the request of a local authority, undertake the superintendence and management of any local aids to navigation on its behalf, and the local authority shall pay to the Central Government such sums to defray the cost of superintendence and management, as may be agreed.

CHAPTER VII

OBSTRUCTION TO FUNCTIONING OF AIDS TO NAVIGATION

Power of Central Government to remove or alter obstructions to aids to navigation.

17. (*1*) The Central Government may, by notification in the Official Gazette, specify restrictions on activities that interfere with or obstruct the operation of any aid to navigation within the specified distance of such aid to navigation.

(*2*) Notwithstanding anything contained in any other law for the time being in force, where the functioning of any aid to navigation or vessel traffic service is being obstructed, directly or indirectly, the Central Government may, if it deems fit, issue such directions as may be necessary for the removal or alteration of such obstruction.

CHAPTER VIII

TRAINING AND CERTIFICATION

Power of Central Government to train and certify operators of aids to navigation and vessel traffic services.

18. (*1*) No person shall be allowed to operate or work on, including any ancillary activities as may be prescribed, any aid to navigation in any place unless he holds a valid training certificate certifying that such person has been trained in the operation of such aid to navigation.

(*2*) No person shall be allowed to operate or work on, including any ancillary activities as may be prescribed, a vessel traffic service in any place unless he holds a valid training certificate certifying that such person has been trained in the operation of vessel traffic services.

(*3*) A certificate of training issued under this Act shall be valid and effective throughout the territory of India.

Certification.

19. A certificate mentioned in sub-sections (*1*) and (*2*) of section 18 shall be issued by an accredited training organisation referred to in section 20, in such form, subject to such conditions and in such manner, as may be prescribed.

Accreditation of training organisations.

20. (*1*) The Central Government shall accredit training organisations for imparting training to, or conduct assessments of, persons in the operation of aids to navigation and vessel traffic services.

(*2*) The Central Government shall accredit such training organisations which meet the criteria, as may be prescribed, for imparting training to trainees or conduct assessment of persons in the operation of aids to navigation and vessel traffic services.

CHAPTER IX

MARKING OF WRECKS

Marking of wrecks.

21. The Central Government may, if considers necessary, give directions to any officer referred to in sub-section (*1*) of section 4 to mark any wreck in such manner as may be prescribed.

Reimbursement for marking wrecks.

22. The cost for marking the wreck shall be borne by or recovered from the owner or the operator of such vessel in such manner as may be prescribed.

CHAPTER X

DEVELOPMENT OF HERITAGE LIGHTHOUSES

Power of Central Government to designate any aid to navigation as heritage lighthouse.

23. (*1*) The Central Government may, by notification in the Official Gazette, designate any aid to navigation under its control as a heritage lighthouse.

(*2*) The Central Government shall develop the heritage lighthouses designated under sub-section (*1*), in addition to their function as aids to navigation or otherwise, for educational, cultural and tourism purposes, in such manner as may be prescribed.

CHAPTER XI

MARINE AIDS TO NAVIGATION DUES

Levy and collection of marine aids to navigation dues.

24. (*1*) There shall be levied and collected the marine aids to navigation dues, at such rates, as the Central Government may, by notification in the Official Gazette, specify from time to time.

(*2*) The marine aids to navigation dues levied under sub-section (*1*) shall be collected by the proper officer in respect of every ship arriving at or departing from any port in India, from such person, in such manner and at such time, as may be prescribed.

(*3*) The proceeds of the marine aids to navigation dues collected shall be credited to the Consolidated Fund of India in such manner as may be prescribed.

(*4*) Every owner causing any ship to arrive at or depart from any port in India shall, self-assessing its liability to pay dues, file a return before the proper officer in such form and manner, as may be prescribed.

Utilisation of marine aids to navigation dues.

25. The marine aids to navigation dues levied under this Act shall be utilised for fulfilling the obligations and carrying out the purposes of this Act.

Receipts relating to marine aids to navigation dues and their verification.

26. (*1*) The owner shall credit the marine aids to navigation dues into the account of the Central Government in such manner as may be prescribed.

(*2*) The payment of marine aids to navigation dues shall be verified by the proper officer in respect of—

(*a*) the port at which the marine aids to navigation dues has been paid;

(*b*) the amount of the payment;

(*c*) the date on which the marine aids to navigation dues became payable; and

(*d*) the name, tonnage and other proper description of the ship in respect of which the payment is made,

for the purpose of granting clearance.

Assessment of marine aids to navigation dues and ascertainment of tonnage.

27. (*1*) The proper officer to whom the return has been furnished under sub-section (*4*) of section 24 shall, after making or causing to be made such inquiry as he thinks fit and after satisfying himself that the particulars stated in the return are correct, by order, assess the amount of marine aids to navigation dues payable by the owner or the master of the ship.

(*2*) If the return has not been furnished to the proper officer under sub-section (*4*) of section 24, he shall, after making or causing to be made such inquiry as he thinks fit, by order, assess the amount of marine aids to navigation dues payable by the owner or the master of the ship.

(*3*) For the purposes of levy of marine aids to navigation dues, the tonnage of a ship or sailing vessel shall be reckoned as under the Merchant Shipping Act, 1958, for such dues payable on a ship's tonnage including the tonnage of any space added under the said Act to the tonnage of ships by reason of such space being utilised for carrying cargo.

44 of 1958.

(*4*) In order to ascertain the tonnage of any ship for the purpose of levying marine aids to navigation dues, the proper officer may, if he deems it fit, require the production of any

documents, the appearance of any person and the inspection of any vessel, in such manner as may be prescribed.

Recovery of marine aids to navigation dues.

28. (*1*) If the owner of any ship refuses or neglects to pay the amount of marine aids to navigation dues payable under this Act in respect of the ship, the proper officer may seize the ship along with its equipment or any part thereof, and detain the same until the amount of the marine aids to navigation dues, together with the costs of the seizure and detention is paid.

(*2*) If any part of such marine aids to navigation dues remains unpaid after the expiry of thirty days following the date of the seizure, the proper officer may cause the ship or other thing seized to be sold, and with the proceeds of the sale may satisfy the marine aids to navigation dues remaining unpaid, together with the costs of the sale and shall repay the surplus, if any, to the person by whom the same were payable.

Refusal of port clearance.

29. The officer whose duty it is to grant a port clearance for any ship shall not grant the port clearance until the amount of marine aids to navigation dues payable in respect of the ship under this Act and of any fines imposed thereunder has been paid, or until security for the payment thereof has been given to his satisfaction.

Determination of disputes as to liability for payment.

30. If any dispute arises as to whether marine aids to navigation dues, expenses or costs are payable in respect of any ship under this Act or as to the amount of such dues, expenses or costs, such dispute shall, on an application made in this behalf by either of the disputing parties, be heard and determined by a civil court having jurisdiction at the place where the dispute arose.

Marine aids to navigation dues payable at one port recoverable at another.

31. (*1*) If the master of any ship in respect of which marine aids to navigation dues is payable at any port causes the ship to leave such port without having paid such dues, the proper officer at that port may, by writing, require the proper officer at any other port in India to which the ship may proceed, to recover the marine aids to navigation dues remaining unpaid.

(*2*) Any proper officer to whom such a requisition is directed, shall proceed to levy such sum as if it were payable under this Act at the port at which he is the proper officer, and a certificate by the proper officer at the port at which the marine aids to navigation dues first became payable, stating the amount payable, shall be sufficient proof in any proceeding under this Act that such amount is payable.

Exemption.

32. The Central Government may, by notification in the Official Gazette, exempt—

(*a*) any ship belonging to the Central Government or any State Government, which is not carrying cargo or passengers for freight or fares; or

(*b*) any other ship, or classes of ships or ships performing specified voyages,

from the payment of marine aids to navigation dues either wholly or to such extent as may be specified in that notification.

Refund of excess payments.

33. Where the marine aids to navigation dues has been paid in respect of any ship in excess of the amount payable under this Act, no claim to refund of such excess payment shall be admissible, unless it is made within six months from the date of such payment.

Fees.

34. The fees to be charged for providing assistance to ships for rendering special services to vessels shall be at such rates as may be prescribed.

CHAPTER XII

FINANCE, ACCOUNTS AND AUDIT

Receipt and expenditure.

35. The Central Government shall cause to be maintained a separate account of all amounts received by way of marine aids to navigation dues, expenses, costs and fines under this Act and of all expenditure incurred for the purposes of this Act, and shall cause such account to be laid before the Central Advisory Committee, as soon as possible after the close of each financial year.

Annual report.

36. (*1*) The Central Government shall cause to be laid before the Central Advisory Committee before the close of each financial year a statement of the estimated receipts under,

and expenditure for the purposes of this Act, during the forthcoming year.

(*2*) The statement of estimated receipts and expenditure shall be prepared in consultation with the Comptroller and Auditor-General of India, in such manner as may be prescribed.

CHAPTER XIII

OFFENCES AND PENALTIES

Intentionally obstructing aids to navigation or vessel traffic services.

37. (*1*) Whoever, intentionally commits any act or omits to do any act, which results in obstruction of, or reduction in, or limitation of, the effectiveness of, any aid to navigation or vessel traffic service, shall be liable to imprisonment for a term which may extend up to six months or with fine which may extend up to one lakh rupees, or with both.

(*2*) Notwithstanding anything contained in sub-section (*1*), no person shall be liable for punishment, if that—

(*a*) act or omission was necessary to save a life or a vessel; and

(*b*) such person took all reasonable steps to avoid the obstruction, reduction or limitation.

Negligently obstructing aids to navigation or vessel traffic services.

38. (*1*) Whoever, negligently commits any act or omits to do any act, which results in obstruction of, or reduction in, or limitation of, the effectiveness of, any aid to navigation or vessel traffic service, shall be liable to imprisonment for a term which may extend up to three months or with fine which may extend up to fifty thousand rupees, or with both.

(*2*) Notwithstanding anything contained in sub-section (*1*), no person shall be liable for punishment, if that—

(*a*) act or omission was necessary to save a life or a vessel; and

(*b*) such person took all reasonable steps to avoid the obstruction, reduction or limitation.

Intentionally destroying or damaging aids to navigation or vessel traffic services.

39. (*1*) Whoever, intentionally commits any act or omits to do any act, which results in damage to or destruction of any aid to navigation or vessel traffic service, shall be liable to imprisonment for a term which may extend up to twelve months or with fine which may extend up to five lakh rupees, or with both.

(*2*) Notwithstanding anything contained in sub-section (*1*), no person shall be liable for punishment, if that—

(*a*) act or omission was necessary to save a life or a vessel; and

(*b*) such person took all reasonable steps to avoid the damage or destruction.

Negligently destroying or damaging aids to navigation or vessel traffic services.

40. (*1*) Whoever, negligently commits any act or omits to do any act, which results in damage to or destruction of any aid to navigation or vessel traffic service, shall be liable to imprisonment for a term which may extend up to six months or with fine which may extend up to one lakh rupees, or with both.

(*2*) Notwithstanding anything contained in sub-section (*1*), no person shall be liable for punishment, if that—

(*a*) act or omission was necessary to save a life or a vessel; and

(*b*) such person took all reasonable steps to avoid the damage or destruction.

Causing damage to heritage lighthouse.

41. (*1*) Whoever, commits any act or omits to do any act, which results in damage to or destruction of any heritage lighthouse, shall be liable to imprisonment for a term which may extend up to six months or with fine which may extend up to one lakh rupees, or with both.

(*2*) Notwithstanding anything contained in sub-section (*1*), no person shall be liable for punishment, if that—

(*a*) act or omission was necessary to save a life or a vessel; and

(*b*) such person took all reasonable steps to avoid the destruction, fouling, damage, reduction or limitation.

Evading payment of marine aids to navigation dues.

42. Every owner or master of a ship, who evades or attempts to evade the payment of marine aids to navigation dues, expenses or costs payable in respect of the ship under this Act, shall be liable for fine, which may extend up to five times the amount of the sum so payable.

Non-compliance with directions of vessel traffic service provider.

43. Every owner or master of a ship, who fails to comply with any direction issued by a vessel traffic service provider relating to a vessel traffic service under this Act, shall be liable to fine which may extend up to one lakh rupees.

Cognizance of offences.

44. (*1*) No court shall take cognizance of any offence under this Act, except upon a complaint in writing made by any officer authorised in this behalf by the Central Government.

(*2*) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

Place of trial and jurisdiction of court.

45. Whoever, commits any offence under this Act or any rules made thereunder, may ordinarily be inquired into and tried by a court within whose local jurisdiction—

(*a*) such offence was committed; or

(*b*) such person may be found; or

(*c*) in any court which the Central Government may, by notification, direct in this behalf; or

(*d*) in any court in which he might be tried under any other law for time being in force.

CHAPTER XIV

MISCELLANEOUS

Power of Central Government to make rules.

46. (*1*) The Central Government may, after previous publication, make rules for carrying out the purposes of this Act.

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

(*a*) duties of the Director General under section 5;

(*b*) procedure and conduct of business of Central Advisory Committee and sub-committees constituted under sub-section (*5*) of section 6;

(*c*) manner of appointment of the Competent Authority under sub-section (*2*) and its functions under sub-section (*3*), of section 12;

(*d*) standards for establishment and operation of vessel traffic services under section 13;

(*e*) ancillary activities relating to aids to navigation under sub-section (*1*) and ancillary activities relating to vessel traffic services under sub-section (*2*), of section 18;

(*f*) form and manner of certificate, to be issued and the conditions subject to which such certificate is to be issued by the accredited training organisation and validated by the Director General under section 19;

(*g*) criteria for accreditation of training organisation under sub-section (*2*) of section 20;

(*h*) manner of marking wrecks under section 21;

(*i*) manner of recovering cost from the owner of the vessel for marking the wreck under section 22;

(*j*) development of heritage lighthouses designated under sub-section (*2*) of section 23;

(*k*) manner of, collection of marine aids to navigation dues by proper officer levied under sub-section (*2*) and crediting the proceeds of the dues so collected under sub-section (*3*), of section 24;

(*l*) form and manner of filing return under sub-section (*4*) of section 24;

(*m*) manner of payment of marine aids to navigation dues to the Central Government under sub-section (*1*) of section 26;

(*n*) manner of production of documents, appearance of any person and inspection of any vessel by proper officer under sub-section (*4*) of section 27;

(*o*) rates of fees for special services under section 34;

(*p*) form and manner of statement of estimated receipts and expenditure to be prepared in consultation with the Comptroller and Auditor-General of India under sub-section (*2*) of section 36;

(*q*) any other matter which is required to be, or may be, prescribed, for the purposes of carrying out the purposes of this Act.

Delegation of powers by Central Government.

47. The Central Government may delegate to any of its officers all or any of the functions and powers conferred upon it under this Act.

Power of Central Government to issue directions.

48. (*1*) Notwithstanding anything contained in this Act, the Director General shall, in the discharge of his functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give to him in writing from time to time.

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

Protection of action taken in good faith.

49. No suit, prosecution or other proceedings shall lie against the Central Government or any officer appointed under this Act for anything done or in good faith purporting to be done under this Act or the rules made thereunder.

Power to remove difficulties.

50. (*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 or expedient for removing the difficulty:

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

Laying of rules and notifications before Parliament.

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

Repeal and savings.

17 of 1927.

52. (*1*) The Lighthouse Act, 1927 is hereby repealed.

17 of 1927.

(*2*) Notwithstanding the repeal of the Lighthouse Act, 1927 (herein referred to as the repealed Act),—

(*a*) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under the repealed Act shall, until revoked, have effect as if it had been issued, made or granted under the provisions of this Act;

(*b*) any office established or created, officer appointed and anybody elected or constituted under the repealed Act shall continue and shall be deemed to have been established, created, appointed, elected, or constituted, as the case may be, under this Act;

(*c*) any document referring to the repealed Act shall be construed as referring to this Act or to the provision of this Act;

(*d*) any fine levied under the repealed Act may be recovered as if it had been levied under this Act;

(*e*) any offence committed under the repealed Act may be prosecuted and punished as if it had been committed under this Act;

(*f*) any proceeding pending before any court under the repealed Act may be tried or disposed of under the corresponding provisions of this Act;

(*g*) the officers appointed under the provisions of the repealed Act and continuing during the commencement of this Act shall continue as if they have been appointed under this Act;

(*h*) any person appointed under or by virtue of the repealed Act shall be deemed to have been appointed to that office under or by virtue of this Act;

(*i*) any inspection, investigation or inquiry ordered to be done under the provisions of the repealed Act shall continue to be proceeded with as if such inspection, investigation or inquiry was ordered to be done under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Lighthouse Act, 1927 (the said Act) was enacted to consolidate and amend the law relating to the provision, maintenance and control of lighthouse by the Government in India. Prior to the year 1927, there was no uniform system of management of lighthouse services in British India which included Myanmar, Pakistan, Bangladesh and also various Princely States. As a first step to centralise the administration of lighthouses, the government decided to enact the said Act to administer thirty-two lighthouses in the then six districts, namely Aden, Karachi, Bombay, Madras, Calcutta and Rangoon.

2. Over the period of time, maritime sector has undergone massive change and there have been enormous technological development in the field of marine aids to navigation such as vessel traffic services and diversification of aids to navigation to include technical aids other than lighthouses and lightships. Since, the role of marine aids to navigation has moved from a purely passive one based on "Visual Aids to Navigation" to "Radio and Digital Based Aids to Navigation", the roles of the Government and the Director General appointed under section 3 of the said Act have considerably widened. However, lack of statutory framework for such technological advancement has resulted in operational difficulties.

3. Therefore, in order to provide appropriate statutory framework to reflect the technological advancement in marine aids to navigation and the expanded role of regulators and operators thereof so as to be in compliance with the obligation under the maritime treaties and international instruments to which India is a party, the Government has decided to make the proposed legislation by repealing the said Act.

4. The Marine Aids to Navigation Bill, 2021, *inter alia*, provides for the following, namely:—

(*a*) to use the term "marine aids to navigation" instead of "lighthouse" in order to statutorily recognise and enable further use of modern forms of aids to navigation;

(*b*) renaming of the existing Director General of Lighthouse and Lightships as the Director General of Marine Aids to Navigation;

(*c*) to provide a framework for establishment, operation and management of aids to navigation;

(*d*) to provide a framework for establishment, operation and management of vessel traffic services;

(*e*) to empower the Central Government to appoint by notification, the Director General of Marine Aids to Navigation and a Competent Authority for Vessel Traffic Services;

(*f*) to empower the Central Government to provide by the rules the standards of regulation and operation of vessel traffic services;

(*g*) to provide for training and certification for operators of marine aids to navigation and vessel traffic services;

(*h*) to provide for marking of wrecks;

(*i*) to empower the Central Government for identification and development of heritage lighthouses;

(*j*) to provide for levy of marine aids to navigation dues in the place of the existing light-dues, levied on all vessels entering into or departing from a port in India;

(*k*) to provide for offences and penalties for obstruction and damage to marine aids to navigation or vessel traffic services;

(*l*) to empower the Central Government to make rules for carrying out the purposes of the proposed legislation.

5. The notes on clauses explain in detail the various provisions contained in the Bill.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 4*th March,* 2021.

MANSUKH MANDAVIYA.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Letter No. LH-11012/1/2019-SL dated 10 March, 2021 from Shri Mansukh Mandaviya, Minister of State for Ports, Shipping and Waterways (Independent Charge) and Chemicals & Fertilizers to the Speaker, Lok Sabha]

The President, having been informed of the subject matter of the proposed Bill, recommends under clause 1 of article 117 of the Constitution of India, the introduction of the Marine Aids to Navigation Bill, 2021 in Lok Sabha.

Notes on Clauses

Clause 2 of the Bill seeks to define various expressions used in the proposed legislation, which, *inter alia,* include "accredited training organisation", "aid to navigation", "Director General", "general aid to navigation", "heritage lighthouse", "local aid to navigation", "marine aids to navigation dues", etc.

Clause 3 of the Bill seeks to empower the Central Government to designate any aids to navigation as general aids to navigation.

Clause 4 of the Bill seeks to provide for the appointment of the Director General of Aids to Navigation, Deputy Director Generals and Directors. It further provides for the demarcation of districts.

Clause 5 of the Bill seeks to empower the Central Government to specify the duties to be carried out by the Director General.

Clause 6 of the Bill seeks to empower the Central Government to appoint a Central Advisory Committee and to provide for its functions and appointment of sub-committees under the Central Advisory Committee.

Clause 7 of the Bill seeks to provide that no act or proceeding of the Central Advisory Committee may be invalidated due to the reasons specified therein.

Clause 8 of the Bill seeks to provide that the development, maintenance and management of general aids to navigation in India shall vest with the Central Government.

Clause 9 of the Bill seeks to provide for the powers of Central Government with regard to aids to navigation.

Clause 10 of the Bill seeks to provide that the authority for development, maintenance and management of vessel traffic services in India shall vest with the Central Government and further to provide that the said Government shall authorise any person as vessel traffic service provider.

Clause 11 of the Bill seeks to provide the powers of the Central Government in respect of vessel traffic services.

Clause 12 of the Bill seeks to empower the Central Government to appoint a Competent Authority for Vessel Traffic Services and to provide by rules the functions to be discharged by it.

Clause 13 of the Bill seeks to empower the Central Government to make rules for standards of establishment and operation of vessel traffic services in India.

Clause 14 of the Bill seeks to empower the Central Government to authorise any officer to enter upon and inspect any local aids to navigation as specified therein. Every person having the charge of, or concerned in the management of, any local aid to navigation shall furnish to the officer so authorised to inspect such aid to navigation, all such information as the officer may require.

Clause 15 of the Bill seeks to empower the Central Government to direct local authorities in the management of local aids to navigation and the circumstances in which such power may be exercised so as to have control of local aids to navigation.

Clause 16 of the Bill seeks to empower the Central Government to undertake the superintendence and management of a local aid to navigation at the request of a local authority.

Clause 17 of the Bill seeks to empower the Central Government to issue directions to remove or alter obstructions to the functioning of aids to navigation.

Clause 18 of the Bill seeks to provide that marine aids to navigation and vessel traffic services are to be operated and maintained by trained personnel holding a valid certificate which shall be valid and effective throughout the territory of India.

Clause 19 of the Bill seeks to provide that the certificate issued under clause 18 by an accredited training organisation shall be in such form and manner as the Central Government may provide by rules.

Clause 20 of the Bill seeks to empower the Central Government for the accreditation of training organisations in order to enable the creation of trained operators for the operation and maintenance of aids to navigation, vessel traffic services and other ancillary functions.

Clause 21 of the Bill seeks to provide for the statutory recognition of existing responsibilities with regard to marking of wrecks.

Clause 22 of the Bill seeks to provide that the cost for marking of wrecks shall be borne by the owner or the operator of such vessel in the manner as may be provided by rules.

Clause 23 of the Bill seeks to empower the Central Government to designate and develop lighthouses having historical value as heritage lighthouses for educational, cultural and tourism purposes in addition to their role as marine aids to navigation.

Clause 24 of the Bill seeks to provide for the levy and collection of marine aids to navigation dues upon any ship arriving at or departing from any port in India.

Clause 25 of the Bill seeks to provide for utilisation of marine aids to navigation dues for fulfilling the obligations and purposes of the proposed legislation.

Clause 26 of the Bill seeks to empower the Central Government to provide by rules the manner of collecting the payment of marine aids to navigation dues and its verification by the proper officer.

Clause 27 of the Bill seeks to provide for the manner of assessment of the marine aids to navigation dues and ascertainment of tonnage of vessel.

Clause 28 of the Bill seeks to provide for the manner in which any outstanding marine aids to navigation dues may be recovered.

Clause 29 of the Bill seeks to provide for the refusal of port clearance to any ship in the event of non-payment of the marine aids to navigation dues.

Clause 30 of the Bill seeks to provide for the manner in which disputes relating to the payment of marine aids to navigation dues are to be heard and determined.

Clause 31 of the Bill seeks to provide that the marine aids to navigation dues payable at one port may be recovered at another port and also provides for the manner in which the same may be recovered.

Clause 32 of the Bill seeks to empower the Central Government to exempt any ship or class of ships from the payment of the marine aids to navigation dues.

Clause 33 of the Bill seeks to provide for refund of excess amount paid in respect of the marine aids to navigation dues.

Clause 34 of the Bill seeks to empower the Central Government to provide by rules the rates of fees to be charged for special services rendered to ships.

Clause 35 of the Bill seeks to provide that the Central Government shall maintain separate account for marine aids to navigation dues for proper accounts and furnish returns, statements, etc., to the Central Advisory Committee.

Clause 36 of the Bill seeks to provide that the Central Government shall cause an annual report of receipts and expenditure to be laid before the Central Advisory Committee.

Clause 37 of the Bill seeks to provide that intentionally obstructing an aid to navigation or a vessel traffic service would constitute an offence and shall be punishable as specified therein.

Clause 38 of the Bill seeks to provide that negligently obstructing an aid to navigation or a vessel traffic service would constitute an offence and shall be punishable as specified therein.

Clause 39 of the Bill seeks to provide that intentionally destroying or damaging an aid to navigation or a vessel traffic service would constitute an offence and shall be punishable as specified therein.

Clause 40 of the Bill seeks to provide that negligently destroying or damaging an aid to navigation or a vessel traffic service would constitute an offence and shall be punishable as specified therein.

Clause 41 of the Bill seeks to provide that causing damage to a heritage lighthouse would constitute an offence and shall be punishable as specified therein.

Clause 42 of the Bill seeks to provide penalty for evading marine aids to navigation dues.

Clause 43 of the Bill seeks to provide penalty for non-compliance of directions of vessel traffic service provider.

Clause 44 of the Bill seeks to provide for the manner in which cognizance of offences committed under the proposed legislation may be taken.

Clause 45 of the Bill seeks to provide for the place of trial and appropriate court for trial of offences committed under the proposed legislation.

Clause 46 of the Bill seeks to empower the Central Government to make rules to carry out the purposes of the proposed legislation.

Clause 47 of the Bill seeks to empower the Central Government to delegate to its officers any power or function conferred upon it by the proposed legislation.

Clause 48 of the Bill seeks to empower the Central Government to issue directions to the Director General on all matters of policy, which shall be final.

Clause 49 of the Bill seeks to protect the actions, of the Central Government, the Director General or any other officer or employee thereof, done under this Act in good faith.

Clause 50 of the Bill seeks to provide that if any difficulty arises in giving effect to the provisions of the proposed legislation within a period of three years from the date of its commencement, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the proposed legislation, as appears to it to be necessary or expedient for removing the difficulty.

Clause 51 of the Bill seeks to provide for laying of every rule, regulation and notification made under the proposed legislation, as soon as may be after it is made, before each House of Parliament.

Clause 52 of the Bill seeks to provide for the repeal of the Lighthouse Act, 1927 and saving of certain actions taken under the said Act.

FINANCIAL MEMORANDUM

Clause 6 of the Bill requires the consultation of Central Advisory Committee for alteration of rates of marine aids to navigation dues.

2. Clause 24 of the Bill empowers the Central Government for the levy and collection of marine aids to navigation dues and credit the sum so collected into the Consolidated Fund of India.

3. Clause 25 of the Bill empowers the Central Government to utilise the marine aids to navigation dues for fulfilling obligations and purposes of the Bill.

4. Clause 32 of the Bill empowers the Central Government to exempt any ship from the payment of marine aids to navigation dues.

5. Clause 33 of the Bill empowers the Central Government to refund the excess amount paid in respect of the marine aids to navigation dues.

6. Clause 34 of the Bill empowers the Central Government to provide by rules the rates for charging of fees for services rendered to ships.

7. In line with existing practice of light-dues, the marine aids to navigation dues will also be credited into the Consolidated Fund of India under a separate head of account. The annual expenditure on fulfilling the obligation and purpose of this Bill will be equivalent of the annual collection of marine aids to navigation dues and met out through the budgetary allocation of the Ministry of Ports, Shipping and Waterways.

8. The Bill, if enacted, will not involve any additional expenditure from the Consolidated Fund of India, either recurring or non-recurring.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 46 of the Marine Aids to Navigation Bill, 2021 seeks to empower the Central Government to make rules for: (a) duties of the Director General under section 5; (b) procedure and conduct of business of Central Advisory Committee and sub-committees constituted under sub-section (5) of section 6; (c) manner of appointment of the Competent Authority under sub-section (2) and its functions under sub-section (3), of section 12; (d) standards for establishment and operation of vessel traffic services under section 13; (e) ancillary activities relating to aids to navigation under sub-section (1) and ancillary activities relating to vessel traffic services under sub-section (2), of section 18; (f) form and manner of certificate, to be issued and the conditions subject to which such certificate is to be issued by the accredited training organisation and validated by the Director General under section 19; (g) criteria for accreditation of training organisation under sub-section (2) of section 20; (h) manner of marking wrecks under section 21; (i) manner of recovering cost from the owner of the vessel for marking the wreck under section 22; (j) development of heritage lighthouses designated under sub-section (2) of section 23; (k) manner of collection of marine aids to navigation dues by proper officer levied under sub-section (2) and crediting the proceeds of the dues so collected under sub-section (3) of section 24; (l) form and manner of filing return under sub-section (4) of section 24; (m) manner of payment of marine aids to navigation dues to the Central Government under sub-section (1) of section 26; (n) manner of production of documents, appearance of any person and inspection of any vessel by proper officer under sub-section (4) of section 27; (o) rates of fees for special services under section 34; (p) form and manner of statement of estimated receipts and expenditure to be prepared in consultation with the Comptroller and Auditor-General of India under sub-section (2) of section 36; (q) any other matter which is required to be, or may be, provided by rules, for carrying out the purposes of the proposed legislation.

2. The matters in respect of which the aforementioned rules may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is therefore, of a normal character.

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UTPAL KUMAR SINGH,
Secretary-General.

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JAGANATHAN ANANTHA KUMAR
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