



# ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

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ಅಂಶ 4

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 1<sup>st</sup> January, 2016/Pausha 11, 1937 (Saka)

The following Act of Parliament received the assent of the President on the 31<sup>st</sup> December, 2015, and is hereby published for general information:-

THE ARBITRATION AND CONCILIATION (AMENDMENT) ACT, 2015

No.3 OF 2016

[31<sup>st</sup> December, 2015]

An Act to amend the Arbitration and Conciliation Act, 1996.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:-

1. **Short title and commencement.** (1) This Act may be called the Arbitration and Conciliation (Amendment) Act, 2015.

(2) It shall be deemed to have come into force on the 23rd October, 2015.

2. **Amendment of section 2.** In the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the principal Act), in section 2,-

(i) in sub-section (1),-

(A) for clause (e), the following clause shall be substituted, namely:-

(e) "Court" means-

- (i) in the case of an arbitration other than international commercial arbitration, the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small Causes;
- (ii) in the case of international commercial arbitration, the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, and in other cases, a High Court having jurisdiction to hear appeals from decrees of courts subordinate to that High Court;";

(B) in clause (f), in sub-clause (iii), the words "a company or" shall be omitted;

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

"Provided that subject to an agreement to the contrary, the provisions of sections 9.27 and clause (a) of sub-section (1) and sub-section (3) of section 37 shall also apply to international commercial arbitration, even if the place of arbitration is outside India, and an arbitral award made or to be made in such place is enforceable and recognised under the provisions of Part II of this Act."

**3. Amendment of section 7.** In section 7 of the principal Act, in sub-section (4), in clause (b), after the words "or other means of telecommunication", the words "including communication through electronic means" shall be inserted.

**4. Amendment of section 8.** In section 8 of the principal Act,-

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

"(1) A judicial authority, before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party to the arbitration agreement or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substance of the dispute, then, notwithstanding any judgment, decree or order of the Supreme Court or any Court, refer the parties to arbitration unless it finds that prima facie no valid arbitration agreement exists.";

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

"Provided that where the original arbitration agreement or a certified copy thereof is not available with the party applying for reference to arbitration under sub-section (1), and the said agreement or certified copy is retained by the other party to that agreement, then, the party so applying shall file such application along with a copy of the arbitration agreement and a petition praying the Court to call upon the other party to produce the original arbitration agreement or its duly certified copy before that Court."

**5. Amendment of section 9.** Section 9 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:-

"(2) Where, before the commencement of the arbitral proceedings, a Court passes an order for any interim measure of protection under sub-section (1), the arbitral proceedings shall be commenced within a period of ninety days from the date of such order or within such further time as the Court may determine.

(3) Once the arbitral tribunal has been constituted, the Court shall not entertain an application under sub-section (1), unless the Court finds that circumstances exist which may not render the remedy provided under section 17 efficacious."

**6. Amendment of section 11.** In section 11 of the principal Act,-

- (i) in sub-sections (4), (5) and (6), for the words "the Chief Justice or any person or institution designated by him" wherever they occur, the words "the Supreme Court or, as the case may be, the High Court or any person or institution designated by such Court" shall be substituted;
- (ii) after sub-section (6), the following sub-sections shall be inserted, namely:-

"(6A) The Supreme Court or, as the case may be, the High Court, while considering any application under sub-section (4) or sub-section (5) or sub-section (6), shall, notwithstanding any judgment, decree or order of any Court, confine to the examination of the existence of an arbitration agreement.

- (6B) The designation of any person or institution by the Supreme Court or, as the case may be, the High Court, for the purposes of this section shall not be regarded as a delegation of judicial power by the Supreme Court or the High Court.”;
- (iii) in sub-section (7), for the words “the Chief Justice or the person or institution designated by him is final”, the words “the Supreme Court or, as the case may be, the High Court or the person or institution designated by such Court is final and no appeal including Letters Patent Appeal shall lie against such decision” shall be substituted;
- (iv) for sub-section (8), the following sub-section shall be substituted, namely:-
- “(8) The Supreme Court or, as the case may be, the High Court or the person or institution designated by such Court, before appointing an arbitrator, shall seek a disclosure in writing from the prospective arbitrator in terms of sub-section (1) of section 12, and have due regard to-
- (a) any qualifications required for the arbitrator by the agreement of the parties; and
- (b) the contents of the disclosure and other considerations as are likely to secure the appointment of an independent and impartial arbitrator.”;
- (v) in sub-section (9), for the words “the Chief Justice of India or the person or institution designated by him”, the words “the Supreme Court or the person or institution designated by that Court” shall be substituted;
- (vi) for sub-section (10), the following sub-section shall be substituted, namely:-
- “(10) The Supreme Court or, as the case may be, the High Court, may make such scheme as the said Court may deem appropriate for dealing with matters entrusted by sub-section (4) or sub-section (5) or sub-section (6), to it.”;
- (vii) in sub-section (11), for the words “the Chief Justices of different High Courts or their designates, the Chief Justice or his designate to whom the request has been first made”, the words “different High Courts or their designates, the High Court or its designate to whom the request has been first made” shall be substituted;
- (viii) for sub-section (12), the following sub-section shall be substituted, namely:-
- “(12) (a) Where the matters referred to in sub-sections (4), (5), (6), (7), (8) and sub-section (10) arise in an international commercial arbitration, the reference to the “Supreme Court or, as the case may be, the High Court” in those sub-sections shall be construed as a reference to the “Supreme Court”; and
- (b) where the matters referred to in sub-sections (4), (5), (6), (7), (8) and sub-section (10) arise in any other arbitration, the reference to “the Supreme Court or, as the case may be, the High Court” in those sub-sections shall be construed as a reference to the “High Court” within whose local limits the principal Civil Court referred to in clause (e) of sub-section (1) of section 2 is situate, and where the High Court itself is the Court referred to in that clause, to that High Court.”;
- (ix) after sub-section (12), the following sub-sections shall be inserted, namely:-
- “(13) An application made under this section for appointment of an arbitrator or arbitrators shall be disposed of by the Supreme Court or the High Court or the person or institution designated by such Court, as the case may be, as expeditiously as possible and an endeavour shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party.
- (14) For the purpose of determination of the fees of the arbitral tribunal and the manner of its payment to the arbitral tribunal, the High Court may frame such rules as may be necessary, after taking into consideration the rates specified in the Fourth Schedule.

Explanation.-For the removal of doubts, it is hereby clarified that this sub-section shall not apply to international commercial arbitration and in arbitrations (other than international commercial arbitration) in case where parties have agreed for determination of fees as per the rules of an arbitral institution.” .

**7. Insertion of new section 11A.** After section 11 of the principal Act, the following new section shall be inserted, namely:-

**“11A. Power of Central Government to amend Fourth Schedule.** (1) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, amend the Fourth Schedule and thereupon the Fourth Schedule shall be deemed to have been amended accordingly.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft 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 disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by the both Houses of Parliament."

**8. Amendment of section 12.** In section 12 of the principal Act,-

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

"(1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose in writing any circumstances,-

- (a) such as the existence either direct or indirect, of any past or present relationship with or interest in any of the parties or in relation to the subject-matter in dispute, whether financial, business, professional or other kind, which is likely to give rise to justifiable doubts as to his independence or impartiality; and
- (b) which are likely to affect his ability to devote sufficient time to the arbitration and in particular his ability to complete the entire arbitration within a period of twelve months.

Explanation 1.-The grounds stated in the Fifth Schedule shall guide in determining whether circumstances exist which give rise to justifiable doubts as to the independence or impartiality of an arbitrator.

Explanation 2.- The disclosure shall be made by such person in the form specified in the Sixth Schedule.;"

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

"(5) Notwithstanding any prior agreement to the contrary, any person whose relationship, with the parties or counsel or the subject-matter of the dispute, falls under any of the categories specified in the Seventh Schedule shall be ineligible to be appointed as an arbitrator:

Provided that parties may, subsequent to disputes having arisen between them, waive the applicability of this sub-section by an express agreement in writing.

**9. Amendment of section 14.** In section 14 of the principal Act, in sub-section (1), in the opening portion, for the words "The mandate of an arbitrator shall terminate if", the words "The mandate of an arbitrator shall terminate and he shall be substituted by another arbitrator, if" shall be substituted.

**10. Substitution of new section for section 17.** For section 17 of the principal Act, the following section shall be substituted, namely:-

**"17. Interim measures ordered by arbitral tribunal.** (1) A party may, during the arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36, apply to the arbitral tribunal-

- (i) for the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or
- (ii) for an interim measure of protection in respect of any of the following matters, namely:-
  - (a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;
  - (b) securing the amount in dispute in the arbitration;
  - (c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorising any samples to be taken, or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;
  - (d) interim injunction or the appointment of a receiver;
  - (e) such other interim measure of protection as may appear to the arbitral tribunal to be just and convenient,

and the arbitral tribunal shall have the same power for making orders, as the court has for the purpose of, and in relation to, any proceedings before it.

(2) Subject to any orders passed in an appeal under section 37, any order issued by the arbitral tribunal under this section shall be deemed to be an order of the Court for all purposes and shall be enforceable under the Code of Civil Procedure, 1908, (5 of 1908) in the same manner as if it were an order of the Court."

**11. Amendment of section 23.** In section 23 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

"(2A) The respondent, in support of his case, may also submit a counterclaim or plead a set-off, which shall be adjudicated upon by the arbitral tribunal, if such counterclaim or set-off falls within the scope of the arbitration agreement."

**12. Amendment of section 24.** In section 24 of the principal Act, after the proviso to sub-section (1), the following proviso shall be inserted, namely:-

"Provided further that the arbitral tribunal shall, as far as possible, hold oral hearings for the presentation of evidence or for oral argument on day-to-day basis, and not grant any adjournments unless sufficient cause is made out, and may impose costs including exemplary costs on the party seeking adjournment without any sufficient cause."

**13. Amendment of section 25.** In section 25 of the principal Act, in clause (b), at the end, after the words "allegations by the claimant", the words "and shall have the discretion to treat the right of the respondent to file such statement of defence as having been forfeited" shall be inserted.

**14. Amendment of section 28.** In section 28 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) While deciding and making an award, the arbitral tribunal shall, in all cases, take into account the terms of the contract and trade usages applicable to the transaction." .

**15. Insertion of new sections 29A and 29B.** After section 29 of the principal Act, the following new sections shall be inserted, namely:-

**"29A. Time limit for arbitral award.** (1) The award shall be made within a period of twelve months from the date the arbitral tribunal enters upon the reference.

Explanation.-For the purpose of this sub-section, an arbitral tribunal shall be deemed to have entered upon the reference on the date on which the arbitrator or all the arbitrators, as the case may be, have received notice, in writing, of their appointment.

(2) If the award is made within a period of six months from the date the arbitral tribunal enters upon the reference, the arbitral tribunal shall be entitled to receive such amount of additional fees as the parties may agree.

(3) The parties may, by consent, extend the period specified in sub-section (1) for making award for a further period not exceeding six months.

(4) If the award is not made within the period specified in sub-section (1) or the extended period specified under sub-section (3), the mandate of the arbitrator(s) shall terminate unless the Court has, either prior to or after the expiry of the period so specified, extended the period:

Provided that while extending the period under this sub-section, if the Court finds that the proceedings have been delayed for the reasons attributable to the arbitral tribunal, then, it may order reduction of fees of arbitrator(s) by not exceeding five percent for each month of such delay.

(5) The extension of period referred to in sub-section (4) may be on the application of any of the parties and may be granted only for sufficient cause and on such terms and conditions as may be imposed by the Court.

(6) While extending the period referred to in sub-section (4), it shall be open to the Court to substitute one or all of the arbitrators and if one or all of the arbitrators are substituted, the arbitral proceedings shall continue from the stage already reached and on the basis of the evidence and material already on record, and the arbitrator(s) appointed under this section shall be deemed to have received the said evidence and material.

(7) In the event of arbitrator(s) being appointed under this section, the arbitral tribunal thus reconstituted shall be deemed to be in continuation of the previously appointed arbitral tribunal.

(8) It shall be open to the Court to impose actual or exemplary costs upon any of the parties under this section.

(9) An application filed under sub-section (5) shall be disposed of by the Court as expeditiously as possible and endeavour shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party.

**29B. Fast track procedure.** (1) Notwithstanding anything contained in this Act, the parties to an arbitration agreement, may, at any stage either before or at the time of appointment of procedure. the arbitral tribunal, agree in writing to have their dispute resolved by fast track procedure specified in sub-section (3).

(2) The parties to the arbitration agreement, while agreeing for resolution of dispute by fast track procedure, may agree that the arbitral tribunal shall consist of a sole arbitrator who shall be chosen by the parties.

(3) The arbitral tribunal shall follow the following procedure while conducting arbitration proceedings under sub-section (1):

- (a) The arbitral tribunal shall decide the dispute on the basis of written pleadings, documents and submissions filed by the parties without any oral hearing;
- (b) The arbitral tribunal shall have power to call for any further information or clarification from the parties in addition to the pleadings and documents filed by them;
- (c) An oral hearing may be held only, if, all the parties make a request or if the arbitral tribunal considers it necessary to have oral hearing for clarifying certain issues;
- (d) The arbitral tribunal may dispense with any technical formalities, if an oral hearing is held, and adopt such procedure as deemed appropriate for expeditious disposal of the case.

(4) The award under this section shall be made within a period of six months from the date the arbitral tribunal enters upon the reference.

(5) If the award is not made within the period specified in sub-section (4), the provisions of sub-sections (3) to (9) of section 29A shall apply to the proceedings.

(6) The fees payable to the arbitrator and the manner of payment of the fees shall be such as may be agreed between the arbitrator and the parties."

**16. Amendment of Section 31.** In section 31 of the principal Act,-

- (i) in sub-section (7), for clause (b), the following clause shall be substituted, namely:-
  - (b) A sum directed to be paid by an arbitral award shall, unless the award otherwise directs, carry interest at the rate of two per cent. higher than the current rate of interest prevalent on the date of award, from the date of award to the date of payment.

Explanation.- The expression "current rate of interest" shall have the same meaning as assigned to it under clause ( b) of section 2 of the Interest Act, 1978.; (14 of 1978)

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

(8) The costs of an arbitration shall be fixed by the arbitral tribunal in accordance with section 31A."

**17. Insertion of new section 31A.** After section 31 of the principal Act, the following new section shall be inserted, namely:-

**'31A. Regime for costs.** (1) In relation to any arbitration proceeding or a proceeding under any of the provisions of this Act pertaining to the arbitration, the Court or arbitral tribunal, notwithstanding anything contained in the Code of Civil Procedure, 1908, (5 of 1908) shall have the discretion to determine-

- (a) whether costs are payable by one party to another;
- (b) the amount of such costs; and
- (c) when such costs are to be paid.

Explanation.-For the purpose of this sub-section, "costs" means reasonable costs relating to--

- (i) the fees and expenses of the arbitrators, Courts and witnesses;
- (ii) legal fees and expenses;
- (iii) any administration fees of the institution supervising the arbitration; and
- (iv) any other expenses incurred in connection with the arbitral or Court proceedings and the arbitral award.

(2) If the Court or arbitral tribunal decides to make an order as to payment of costs,-

- (a) the general rule is that the unsuccessful party shall be ordered to pay the costs of the successful party; or
- (b) the Court or arbitral tribunal may make a different order for reasons to be recorded in writing.

(3) In determining the costs, the Court or arbitral tribunal shall have regard to all the circumstances, including-

- (a) the conduct of all the parties;
- (b) whether a party has succeeded partly in the case;
- (c) whether the party had made a frivolous counter claim leading to delay in the disposal of the arbitral proceedings; and
- (d) whether any reasonable offer to settle the dispute is made by a party and refused by the other party.

(4) The Court or arbitral tribunal may make any order under this section including the order that a party shall pay-

- (a) a proportion of another party's costs;
- (b) a stated amount in respect of another party's costs;
- (c) costs from or until a certain date only;
- (d) costs incurred before proceedings have begun;
- (e) costs relating to particular steps taken in the proceedings;
- (f) costs relating only to a distinct part of the proceedings; and
- (g) interest on costs from or until a certain date.

(5) An agreement which has the effect that a party is to pay the whole or part of the costs of the arbitration in any event shall be only valid if such agreement is made after the dispute in question has arisen.'

**18. Amendment of section 34.** In section 34 of the principal Act,-

(I) in sub-section (2), in clause (b), for the Explanation, the following Explanations shall be substituted, namely:-

"Explanation 1.-For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,-

- (i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or
- (ii) it is in contravention with the fundamental policy of Indian law; or
- (iii) it is in conflict with the most basic notions of morality or justice.

Explanation 2.-For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.";

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

(2A) An arbitral award arising out of arbitrations other than international commercial arbitrations, may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by reappraisal of evidence.";

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

"(5) An application under this section shall be filed by a party only after issuing a prior notice to the other party and such application shall be accompanied by an affidavit by the applicant endorsing compliance with the said requirement.

(6) An application under this section shall be disposed of expeditiously, and in any event, within a period of one year from the date on which the notice referred to in sub-section (5) is served upon the other party.".

**19. Substitution of new section for section 36.** For section 36 of the principal Act, the following section shall be substituted, namely:-

**"36. Enforcement.** (1) Where the time for making an application to set aside the arbitral award under section 34 has expired, then, subject to the provisions of sub-section (2), such award shall be enforced in accordance with the provisions of the Code of Civil Procedure, 1908, (5 of 1908) in the same manner as if it were a decree of the court.

(2) Where an application to set aside the arbitral award has been filed in the Court under section 34, the filing of such an application shall not by itself render that award unenforceable, unless the Court grants an order of stay of the operation of the said arbitral award in accordance with the provisions of sub-section (3), on a separate application made for that purpose.

(3) Upon filing of an application under sub-section (2) for stay of the operation of the arbitral award, the Court may, subject to such conditions as it may deem fit, grant stay of the operation of such award for reasons to be recorded in writing:

Provided that the Court shall, while considering the application for grant of stay in the case of an arbitral award for payment of money, have due regard to the provisions for grant of stay of a money decree under the provisions of the Code of Civil Procedure, 1908.". (5 of 1908)

**20. Amendment of section 37.** In section 37 of the principal Act, in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:-

- "(a) refusing to refer the parties to arbitration under section 8;
- (b) granting or refusing to grant any measure under section 9;
- (c) setting aside or refusing to set aside an arbitral award under section 34.".

**21. Amendment of section 47.** In section 47 of the principal Act, for the Explanation, the following Explanation shall be substituted, namely:-

'Explanation.-In this section and in the sections following in this Chapter, "Court" means the High Court having original jurisdiction to decide the questions forming the subject-matter of the arbitral award if the same had been the subject-matter of a suit on its original civil jurisdiction and in other cases, in the High Court having jurisdiction to hear appeals from decrees of courts subordinate to such High Court.' .

**22. Amendment of section 48.** In section 48 of the principal Act, for the Explanation to sub-section (2), the following Explanations shall be substituted, namely:-

"Explanation 1.-For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,-

- (i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or
- (ii) it is in contravention with the fundamental policy of Indian law; or
- (iii) it is in conflict with the most basic notions of morality or justice.

Explanation 2.-For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.".

**23. Amendment of section 56.** In section 56 of the principal Act, for the Explanation, the following Explanation shall be substituted, namely:-

'Explanation.-In this section and in the sections following in this Chapter, "Court" means the High Court having original jurisdiction to decide the questions forming the subject-matter of the arbitral award if the same had been the subject-matter of a suit on its original civil jurisdiction and in other cases, in the High Court having jurisdiction to hear appeals from decrees of courts subordinate to such High Court.' .

**24. Amendment of section 57.** In section 57 of the principal Act, in sub-section (1), for the Explanation, the following Explanations shall be substituted, namely:-

"Explanation 1.-For the avoidance of any doubt, it is clarified that an award is in conflict with the public policy of India, only if,-

- (i) the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81; or
- (ii) it is in contravention with the fundamental policy of Indian law; or
- (iii) it is in conflict with the most basic notions of morality or justice.

Explanation 2.-For the avoidance of doubt, the test as to whether there is a contravention with the fundamental policy of Indian law shall not entail a review on the merits of the dispute.".

**25. Insertion of new Fourth Schedule, Fifth Schedule, Sixth Schedule and Seventh Schedule.** After the Third Schedule to the principal Act, the following new Schedules shall be inserted, namely:-

THE FOURTH SCHEDULE

[See section 11 (14)]

| Sum in dispute                                   | Model fee                                                                                                            |
|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| Up to Rs. 5,00,000                               | Rs.45,000                                                                                                            |
| Above Rs. 5,00,000 and up to Rs.20,00,000        | Rs. 45,000 plus 3.5 per cent of the claim amount over and above Rs. 5,00,000                                         |
| Above Rs. 20,00,000 and up to Rs. 1,00,00,000    | Rs. 97,500 plus 3 per cent. of the claim amount over and above Rs. 20,00,000                                         |
| Above Rs. 1,00,00,000 and up to Rs. 10,00,00,000 | Rs. 3,37,500 plus 1 per cent. of the claim amount over and above Rs. 1,00,00,000                                     |
| Above Rs. 10,00,00,000 and up to Rs.20,00,00,000 | Rs. 12,37,500 plus 0.75 per cent. of the claim amount over and above Rs. 1,00,00,000                                 |
| Above Rs. 20,00,00,000                           | Rs. 19,87,500 plus 0.5 per cent. of the claim amount over and above Rs. 20,00,00,000 with a ceiling of Rs. 30,00,000 |

**Note:-** In the event, the arbitral tribunal is a sole arbitrator, he shall be entitled to an additional amount of twenty- five per cent. on the fee payable as per the table set out above.

THE FIFTH SCHEDULE

[See section 12 (1)(b)]

The following grounds give rise to justifiable doubts as to the independence or impartiality of arbitrators:

**Arbitrator's relationship with the parties or counsel**

1. The arbitrator is an employee, consultant, advisor or has any other past or present business relationship with a party.
2. The arbitrator currently represents or advises one of the parties or an affiliate of one of the parties.
3. The arbitrator currently represents the lawyer or law firm acting as counsel for one of the parties.
4. The arbitrator is a lawyer in the same law firm which is representing one of the parties.
5. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties if the affiliate is directly involved in the matters in dispute in the arbitration.
6. The arbitrator's law firm had a previous but terminated involvement in the case without the arbitrator being involved himself or herself.
7. The arbitrator's law firm currently has a significant commercial relationship with one of the parties or an affiliate of one of the parties.
8. The arbitrator regularly advises the appointing party or an affiliate of the appointing party even though neither the arbitrator nor his or her firm derives a significant financial income therefrom.
9. The arbitrator has a close family relationship with one of the parties and in the case of companies with the persons in the management and controlling the company.
10. A close family member of the arbitrator has a significant financial interest in one of the parties or an affiliate of one of the parties.
11. The arbitrator is a legal representative of an entity that is a party in the arbitration.
12. The arbitrator is a manager, director or part of the management, or has a similar controlling influence in one of the parties.
13. The arbitrator has a significant financial interest in one of the parties or the outcome of the case.
14. The arbitrator regularly advises the appointing party or an affiliate of the appointing party, and the arbitrator or his or her firm derives a significant financial income therefrom.

**Relationship of the arbitrator to the dispute**

15. The arbitrator has given legal advice or provided an expert opinion on the dispute to a party or an affiliate of one of the parties.
16. The arbitrator has previous involvement in the case.

**Arbitrator's direct or indirect interest in the dispute**

17. The arbitrator holds shares, either directly or indirectly, in one of the parties or an affiliate of one of the parties that is privately held.
18. A close family member of the arbitrator has a significant financial interest in the outcome of the dispute.
19. The arbitrator or a close family member of the arbitrator has a close relationship with a third party who may be liable to recourse on the part of the unsuccessful party in the dispute.

**Previous services for one of the parties or other involvement in the case**

20. The arbitrator has within the past three years served as counsel for one of the parties or an affiliate of one of the parties or has previously advised or been consulted by the party or an affiliate of the party making the appointment in an unrelated matter, but the arbitrator and the party or the affiliate of the party have no ongoing relationship.
21. The arbitrator has within the past three years served as counsel against one of the parties or an affiliate of one of the parties in an unrelated matter.
22. The arbitrator has within the past three years been appointed as arbitrator on two or more occasions by one of the parties or an affiliate of one of the parties.
23. The arbitrator's law firm has within the past three years acted for one of the parties or an affiliate of one of the parties in an unrelated matter without the involvement of the arbitrator.
24. The arbitrator currently serves, or has served within the past three years, as arbitrator in another arbitration on a related issue involving one of the parties or an affiliate of one of the parties.

**Relationship between an arbitrator and another arbitrator or counsel**

25. The arbitrator and another arbitrator are lawyers in the same law firm.
26. The arbitrator was within the past three years a partner of, or otherwise affiliated with, another arbitrator or any of the counsel in the same arbitration.
27. A lawyer in the arbitrator's law firm is an arbitrator in another dispute involving the same party or parties or an affiliate of one of the parties.
28. A close family member of the arbitrator is a partner or employee of the law firm representing one of the parties, but is not assisting with the dispute.
29. The arbitrator has within the past three years received more than three appointments by the same counsel or the same law firm.

**Relationship between arbitrator and party and others involved in the arbitration**

30. The arbitrator's law firm is currently acting adverse to one of the parties or an affiliate of one of the parties.
31. The arbitrator had been associated within the past three years with a party or an affiliate of one of the parties in a professional capacity, such as a former employee or partner.

**Other circumstances**

32. The arbitrator holds shares, either directly or indirectly, which by reason of number or denomination constitute a material holding in one of the parties or an affiliate of one of the parties that is publicly listed.
33. The arbitrator holds a position in an arbitration institution with appointing authority over the dispute.
34. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties, where the affiliate is not directly involved in the matters in dispute in the arbitration.

Explanation 1.-The term "close family member" refers to a spouse, sibling, child, parent or life partner.

Explanation 2.- The term "affiliate" encompasses all companies in one group of companies including the parent company.

Explanation 3.-For the removal of doubts, it is clarified that it may be the practice in certain specific kinds of arbitration, such as maritime or commodities arbitration, to draw arbitrators from a small, specialised pool. If in such fields it is the custom and practice for parties frequently to appoint the same arbitrator in different cases, this is a relevant fact to be taken into account while applying the rules set out above.

#### THE SIXTH SCHEDULE

[See section 12 (l)(b)]

NAME:

CONTACT DETAILS:

PRIOR EXPERIENCE (INCLUDING EXPERIENCE WITH ARBITRATIONS):

NUMBER OF ONGOING ARBITRATIONS:

CIRCUMSTANCES DISCLOSING ANY PAST OR PRESENT RELATIONSHIP WITH OR INTEREST IN ANY OF THE PARTIES OR IN RELATION TO THE SUBJECT-MATTER IN DISPUTE, WHETHER FINANCIAL, BUSINESS, PROFESSIONAL OR OTHER KIND, WHICH IS LIKELY TO GIVE RISE TO JUSTIFIABLE DOUBTS AS TO YOUR INDEPENDENCE OR IMPARTIALITY (LIST OUT):

CIRCUMSTANCES WHICH ARE LIKELY TO AFFECT YOUR ABILITY TO DEVOTE SUFFICIENT TIME TO THE ARBITRATION AND IN PARTICULAR YOUR ABILITY TO FINISH THE ENTIRE ARBITRATION WITHIN TWELVE MONTHS (LIST OUT):

#### THE SEVENTH SCHEDULE

[See section 12 (5)]

##### Arbitrator's relationship with the parties or counsel

1. The arbitrator is an employee, consultant, advisor or has any other past or present business relationship with a party.
2. The arbitrator currently represents or advises one of the parties or an affiliate of one of the parties.
3. The arbitrator currently represents the lawyer or law firm acting as counsel for one of the parties.
4. The arbitrator is a lawyer in the same law firm which is representing one of the parties.
5. The arbitrator is a manager, director or part of the management, or has a similar controlling influence, in an affiliate of one of the parties if the affiliate is directly involved in the matters in dispute in the arbitration.
6. The arbitrator's law firm had a previous but terminated involvement in the case without the arbitrator being involved himself or herself.
7. The arbitrator's law firm currently has a significant commercial relationship with one of the parties or an affiliate of one of the parties.
8. The arbitrator regularly advises the appointing party or an affiliate of the appointing party even though neither the arbitrator nor his or her firm derives a significant financial income therefrom.
9. The arbitrator has a close family relationship with one of the parties and in the case of companies with the persons in the management and controlling the company.
10. A close family member of the arbitrator has a significant financial interest in one of the parties or an affiliate of one of the parties.
11. The arbitrator is a legal representative of an entity that is a party in the arbitration.
12. The arbitrator is a manager, director or part of the management, or has a similar controlling influence in one of the parties.
13. The arbitrator has a significant financial interest in one of the parties or the outcome of the case.
14. The arbitrator regularly advises the appointing party or an affiliate of the appointing party, and the arbitrator or his or her firm derives a significant financial income therefrom.

##### Relationship of the arbitrator to the dispute

15. The arbitrator has given legal advice or provided an expert opinion on the dispute to a party or an affiliate of one of the parties.

16. The arbitrator has previous involvement in the case.

**Arbitrator's direct or indirect interest in the dispute**

17. The arbitrator holds shares, either directly or indirectly, in one of the parties or an affiliate of one of the parties that is privately held.
18. A close family member of the arbitrator has a significant financial interest in the outcome of the dispute.
19. The arbitrator or a close family member of the arbitrator has a close relationship with a third party who may be liable to recourse on the part of the unsuccessful party in the dispute.

Explanation 1.-The term "close family member" refers to a spouse, sibling, child, parent or life partner.

Explanation 2.- The term "affiliate" encompasses all companies in one group of companies including the parent company.

Explanation 3.-For the removal of doubts, it is clarified that it may be the practice in certain specific kinds of arbitration, such as maritime or commodities arbitration, to draw arbitrators from a small, specialised pool. If in such fields it is the custom and practice for parties frequently to appoint the same arbitrator in different cases, this is a relevant fact to be taken into account while applying the rules set out above.'

**26. Act not to apply to pending arbitral proceedings.** Nothing contained in this Act shall apply to the arbitral proceedings commenced, in accordance with the provisions of section 21 of the principal Act, before the commencement of this Act unless the parties otherwise agree but this Act shall apply in relation to arbitral proceedings commenced on or after the date of commencement of this Act.

**27. Repeal and savings.** (1) The Arbitration and Conciliation (Amendment) Ordinance, 2015, (Ord. 9 of 2015. ) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act. .

**DR. G. NARAYANA RAJU.**

Secretary to the Govt. of India.

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**०.३. गतिव, ४, २०१७**

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**MINISTRY OF LAW AND JUSTICE**

**(Legislative Department)**

**New Delhi, the 30<sup>th</sup> July, 2016/Shravana 8, 1938 (Saka)**

The following Act of Parliament received the assent of the President on the 29<sup>th</sup> July, 2016, and is hereby published for general information:-

**THE LOKPAL AND LOKAYUKTAS (AMENDMENT) ACT, 2016**

**No.37 OF 2016**

**[29<sup>th</sup> July, 2016]**

An Act to amend the Lokpal and Lokayuktas Act, 2013.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:-

**1. Short title and commencement.** (I) This Act may be called the Lokpal and Lokayuktas (Amendment) Act, 2016.

(2) It shall be deemed to have come into force on the 16th day of January, 2014.

**2. Amendment of section 44.** On and from the date of commencement of the Lokpal and Lokayuktas Act, 2013 (1 of 2014) (hereinafter referred to as the principal Act), for section 44, the following section shall be substituted, and shall be deemed to have been substituted, namely:-

**"44. Declaration of assets.** On and from the date of commencement of this Act, every public servant shall make a declaration of his assets and liabilities in such form and manner as may be prescribed." .

**3. Amendment of section 59.** On and from the date of commencement of the principal Act, in section 59, in sub-section (2), for clause (k), the following clause shall be substituted, and shall be deemed to have been substituted, namely:-

"(k) the form and manner of declaration of assets and liabilities by public servants under section 44:

Provided that the rules may be made under this clause retrospectively from the date on which the provisions of this Act came into force;"

**DR. G. NARAYANA RAJU.**

Secretary to the Govt. of India.

**MANOJ KUMAR**

Digitally signed by MANOJ KUMAR

Date: 2016.07.30

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**MINISTRY OF LAW AND JUSTICE**

**(Legislative Department)**

**New Delhi, the 30<sup>th</sup> July, 2016/Shravana 8, 1938 (Saka)**

The following Act of Parliament received the assent of the President on the 29<sup>th</sup> July, 2016, and is hereby published for general information:-

**THE REGIONAL CENTRE FOR BIOTECHNOLOGY ACT, 2016**

**No.36 OF 2016**

**[29<sup>th</sup> July, 2016]**

An Act to provide for the establishment of an institution of national importance to be known as Regional Centre for Biotechnology and to provide for matters connected therewith or incidental thereto.

WHEREAS an agreement for the establishment and operation of the Regional Centre for Biotechnology Training and Education in India was entered into between the Government of India and the United Nations Educational, Scientific and Cultural Organisation on the 14th day of July, 2006;

AND WHEREAS in pursuance of the said agreement, the Central Government through an executive order dated the 20th April, 2009, established the Regional Centre for Biotechnology Training and Education at Faridabad, Haryana;

AND WHEREAS it is expedient to make provisions for strengthening and to make the Regional Centre for Biotechnology an institution of national importance for imparting education, training and conducting research in the areas of Biotechnology and related multi disciplinary areas.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:-

**1. Short title and commencement.** (1) This Act may be called the Regional Centre for Biotechnology Act, 2016.

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

**2. Definitions.** In this Act, unless the context otherwise requires,-

- (a) "academic staff" means Assistant Professors, Associate Professors, Professors, Deans, Sub-Deans, Executive Director and such other persons, including Visiting Professors, Professors of Eminence, Honorary Professors, Adjunct Professors and Emeritus Professors, as may be appointed or engaged for imparting education, training or conducting research in the Regional Centre for Biotechnology;
- (b) "Board" means the Board of Governors constituted under section 14;
- (c) "Board of Studies" means the Board of Studies of the Regional Centre referred to in section 21;
- (d) "Chairperson" means the Chairperson of the Board;
- (e) "employee" means any person appointed by the Regional Centre and includes officers, academic and other staff of the Regional Centre;
- (f) "Executive Committee" means the Executive Committee of the Regional Centre constituted under section 18;
- (g) "Executive Director" means the Executive Director of the Regional Centre appointed under sub-section (1) of section 23;
- (h) "existing Regional Centre" means the Regional Centre for Biotechnology Training and Education at National Capital Region, Faridabad;
- (i) "hall" means a unit of residence, by whatever name called, for the students of the Regional Centre, maintained or recognised by it;
- (j) "institution" includes autonomous organisations within or outside India, for imparting education, training and conducting research in the areas of Biotechnology and supported by the Government of India or industry or universities or other organisations;
- (k) "Ordinances" means the Ordinances framed by the Programme Advisory Committee under section 42;
- (l) "Programme Advisory Committee" means the Programme Advisory Committee of the Regional Centre constituted under section 17;
- (m) "region" means the region comprising the territories of South Asian Association for Regional Co-operation (SAARC) States and generally the Asia region;
- (n) "Regional Centre" means the Regional Centre for Biotechnology established under section 3;
- (o) "Regulations" means the Regulations made by any authority of the Regional Centre under section 43;
- (p) "Statutes" means the Statutes framed by the Board under section 41;
- (q) "UNESCO" means the United Nations Educational, Scientific and Cultural Organisation.

**3. Establishment and incorporation of Regional Centre for Biotechnology.** (1) The Regional Centre for Biotechnology Training and Education at National Capital Region, Faridabad, Haryana functioning under the Department of Biotechnology, Ministry of Science and Technology is hereby established as a body corporate by the name of "Regional Centre for Biotechnology" having perpetual succession and a common seal with power, subject to the provisions of this Act, to contract and shall, by the said name, sue or be sued.

(2) The Regional Centre shall consist of a Board of Governors and authorities specified in section 13.

(3) The headquarters of the Regional Centre shall be at its campus in the National Capital Region, Faridabad.

**4. Declaration of Regional Centre for Biotechnology as an institution of national importance.** Whereas the objects of the institution known as the Regional Centre for Biotechnology are such as to make the institution one of national importance, it is hereby declared that the institution known as the Regional Centre for Biotechnology is an institution of national importance.

**5. Effect of establishment of Regional Centre.** (1) On and from the date of commencement of this Act,-

- (a) any reference to the existing Regional Centre in any law, other than this Act, or in any contract or other instrument, shall be deemed as a reference to the Regional Centre;
- (b) all properties and assets, movable and immovable, of, or belonging to the existing Regional Centre shall vest in the Regional Centre;
- (c) all rights and liabilities of the existing Regional Centre shall be transferred to, and be the rights and liabilities of, the Regional Centre;
- (d) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for, the existing Regional Centre immediately before the said date, for or in connection with the purposes of the said Regional Centre shall be deemed to have incurred, entered into or engaged to be done by, with or for, the Regional Centre;
- (e) all sums of money due to the existing Regional Centre immediately before that date shall be deemed to be due to the Regional Centre;
- (f) all suits and other legal proceedings instituted or which could have been instituted by or against the existing Regional Centre immediately before that date may be continued or may be instituted by or against the Regional Centre;
- (g) every employee (including those appointed for imparting instruction or giving training or conducting research in the existing Regional Centre), holding any office under the existing Regional Centre or teaching therein immediately before the commencement of this Act shall hold his office in the Regional Centre or continue teaching therein by the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if this Act had not been enacted and shall continue to do so as an employee of the Regional Centre or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Regional Centre within such period.

(2) Notwithstanding anything in the Industrial Disputes Act, 1947 (14 of 1947) or in any other law for the time being in force, absorption of any employee by the Regional Centre in its regular service under this section shall not entitle such employee to any compensation under that Act or any other law and no such claim shall be entertained by any court, tribunal or other authority.

**6. Jurisdiction.** The jurisdiction of the Regional Centre shall extend to whole of India and to such centres and specialised laboratories or other units for research, development and instruction, established by the Regional Centre within or outside India.

**7. Objectives of Regional Centre.** The objectives of the Regional Centre shall be-

- (a) to disseminate and to advance knowledge by providing instructional and research facilities in such branches of biotechnology and related fields as it may deem fit including technology policy development;

- (b) to provide capacity-building through education, training, research and development in biotechnology and related academic fields for sustainable development objectives through regional and international cooperation;
- (c) to facilitate transfer of knowledge and technology relating to biotechnology at the regional level;
- (d) to create a hub of biotechnology expertise and to address human resources needs in the countries in the region;
- (e) to promote and strengthen international co-operation to improve the social and economic conditions and welfare of the people;
- (f) to promote and facilitate a network of satellite centres in the region as well as within India.

**8. Functions of Regional Centre.** The functions of the Regional Centre, shall be-

- (a) to establish infrastructure and technology platforms which are directly relevant to biotechnology education, training and research;
- (b) to execute educational and training activities including grant of degrees in education and research in biotechnology and related fields;
- (c) to produce human resource tailored to drive innovation in biotechnology, particularly in areas of new opportunities and to fill talent gap in deficient areas;
- (d) to undertake research and development and scientific investigations in collaboration with relevant research centre's in the region;
- (e) to hold scientific symposia and conferences within India or in the region or outside the region and to conduct short-term and long-term training courses and workshops in all areas of biotechnology;
- (f) to collect universally available information with a view to setting up data banks for bio-information;
- (g) to collect and disseminate, through networking, the relevant local knowledge in the field of biotechnology, ensuring protection of intellectual property rights of local stakeholder communities;
- (h) to develop and implement a policy for intellectual property rights which is equitable and just to the stakeholders involved in research in the Regional Centre;
- (i) to disseminate the outcome of research activities in different countries through the publication of books and articles;
- (j) to promote collaborative research and development networking programme in specific areas of biotechnology with national, regional and international networks and promote exchange of scientists, at the regional level having regard to issues pertaining to intellectual property rights of collaborating institutions promoting equitable sharing of benefits with collaborating institutions.

**9. Regional Centre to work in collaboration with other institutions of UNESCO.** The Regional Centre shall pursue its objects and discharge its functions in close collaboration with other national, regional and international institutions of the UNESCO.

**10. Powers of Regional Centre.** (1) The Regional Centre shall have the following powers, namely:-

- (a) to provide for masters degree (including integrated programmes leading to masters degree), post-graduate diploma and doctoral degrees in biotechnology and related subjects at the interface of varied disciplines including physical, chemical, biological, medical, agricultural and engineering and other relevant sciences, as may be determined by the Regional Centre, from time to time;
- (b) to provide for short-term and long-term training courses in biotechnology on specific issues related to the development, extension, implementation and regulation of biotechnology and related areas, as may be specified by Statutes, from time to time;
- (c) to organise and undertake extramural studies, training and extension services in biotechnology;
- (d) to confer honorary degrees or other academic distinctions referred to in clause (a), in the manner specified by the Statutes;

- (e) to institute Professorships, Associate Professorships, Assistant Professorships and other academic positions required by the Regional Centre and to appoint persons to such Professorships, Associate Professorships, Assistant Professorships or other academic positions;
- (f) to recognise an institution of higher learning within India for the purposes of this Act and to withdraw such recognition in accordance with the norms laid down in the Statutes;
- (g) to appoint persons working in any other institution, including those located outside the country, as academic staff of the Regional Centre for such period as may be specified by the Statutes;
- (h) to create administrative, technical and other posts and to make appointments thereto, as may be specified by Statutes;
- (i) to co-operate or collaborate or associate with any institution, including those located outside the country, in such manner as may be specified and for such purposes as may be determined or agreed upon by the Regional Centre;
- (j) to establish and maintain centres and specialised laboratories or other units for research, development and instruction in India or outside India, as may be determined by the Statutes from time to time;
- (k) to institute and award fellowships, scholarships, studentships, medals and prizes as may be specified by the Statutes;
- (l) to make provision for research and advisory services and for that purpose to enter into such agreements with other institutions, industrial or other organisations, including those located outside the country as may be specified by the Statutes;
- (m) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other stakeholders;
- (n) to appoint visiting Professors, Professors of Eminence, Honorary Professors, Adjunct Professors, Emeritus Professors, Consultants and such other persons who may contribute to the advancement and objects of the Regional Centre;
- (o) to determine standards of admission to the Regional Centre, including examination, evaluation or any other method of testing;
- (p) to fix, demand and receive payment of fees and other charges;
- (q) to establish, recognise, maintain and manage halls or residences of students of the Regional Centre and other accommodation for students and to withdraw any such recognition;
- (r) to lay down conditions of service of all categories of employees, including their code of conduct;
- (s) to regulate and enforce discipline among the students and the employees, and to take such disciplinary measures in this regard as may be deemed by the Regional Centre to be necessary;
- (t) to make arrangements for promoting the health and general welfare of the students and employees of the Regional Centre;
- (u) to receive benefactions, donations and gifts and to acquire, hold and manage, and dispose of, with the prior approval of the Central Government, any property, movable or immovable, including trust and endowment properties, for the purposes or objectives of the Regional Centre;
- (v) to borrow money, with the prior approval of the Central Government on the security of the property of the Regional Centre; and
- (w) to do all such other acts and things as may be necessary in furtherance of the objects specified in section 7.

(2) In exercising its powers under sub-section (1), it shall be the endeavour of the Regional Centre to maintain high standards of education, training and research and the Regional Centre shall, among other measures which may be necessary for the said purpose, take, in particular, the following measures, namely:-

- (a) conduct innovative courses and programmes of studies with a provision for periodic review and restructuring; and
- (b) promote e-governance with an effective management information system.

**11. Regional Centre open to all castes, creed, race or class.** The Regional Centre or any institution recognised by it shall be open to persons of either sex and whatever caste, creed, race, ethnicity, nationality or class, and it shall not be lawful for the Regional Centre or such institution to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a member of the academic staff of the Regional Centre or such institution or to hold any other office therein or to be admitted as a student in the Regional Centre or such institution or to enjoy or exercise any privilege thereof.

**12. Privileges and immunities of Regional Centre.** The Regional Centre or persons attending the meetings of the Regional Centre shall enjoy such privileges and immunities as the Central Government may grant, pursuant to agreement entered into between the UNESCO and the Government of India from time to time concerning the Regional Centre.

**13. Authorities of Regional Centre.** The following shall be the authorities of the Regional Centre, namely:-

- (i) the Board of Governors;
- (ii) the Programme Advisory Committee;
- (iii) the Executive Committee;
- (iv) the Finance Committee;
- (v) the Board of Studies; and
- (vi) such other authorities as may be declared by the Statutes to be the authorities of the Regional Centre.

**14. Board of Governors.** (1) There shall be a Board of Governors which shall be responsible for the governance of the Regional Centre.

(2) The Board shall be the apex body of the Regional Centre and shall consist of the following members, namely:-

- (a) Secretary to the Government of India in the Ministry of Science and Technology, Department of Biotechnology-ex officio Chairperson;
- (b) three eminent scientists in the relevant field not below the rank of Joint Secretary to the Government of India or equivalent, out of whom at least one shall be a woman, to be nominated by the Central Government-ex officio members;
- (c) a representative of the Director-General of UNESCO;
- (d) two representatives from amongst the other member States of UNESCO, who substantially contribute resources to the running of the Regional Centre, in such manner as may be specified by the Statutes-members.

(3) The Chairperson of the Programme Advisory Committee shall be a permanent invitee of the Board.

(4) The Executive Director of the Regional Centre shall be the Convenor of the meetings of the Board.

(5) The Chairperson shall ordinarily preside over the meetings of the Board.

(6) The Board shall meet at least once in a year and at such times as the Chairperson may decide in such manner as may be specified by the Statutes.

(7) The term of office of the members of the Board, other than ex officio members, shall be such as may be specified by the Statutes.

(8) Subject to the provisions of this Act and the Statutes and the Ordinances made thereunder, the Board may regulate its own procedure (including quorum) for the conduct of meetings and transacting business.

**15. Powers and functions of Board.** Subject to the provisions of this Act, the Board shall have the following powers and functions, namely:-

- (a) to approve the annual plan and budget of the Regional Centre;
- (b) to review, from time to time, the broad policies and programmes of the Regional Centre, and to suggest measures for the improvement and development of the Regional Centre;
- (c) to consider the annual report and the annual accounts of the Regional Centre and the audit report on such accounts;
- (d) to study and approve the internal procedures, including financial procedure and staff regulations of the Regional Centre;

- (e) to approve the organisational structure and number of academic staff and other employees at the Regional Centre;
- (f) to convene special consultative sessions of its members, to which it may invite representatives of other interested countries and international organisations in order to obtain proposals for strengthening the scope of services of the Regional Centre;
- (g) to carry out projects and activities relevant to the Regional Centre, and to expand the fund-raising strategy and capabilities; and
- (h) to frame the Statutes.

**16. Powers and functions of Chairperson.** (1) The Chairperson shall exercise such powers and discharge such functions as may be delegated to him by the Board or as may be specified by the Statutes.

(2) If for any reason, the Chairperson is unable to attend any meeting of the Board, any member of the Board nominated by the Chairperson shall preside over the meeting.

**17. Programme Advisory Committee.** (1) The Programme Advisory Committee shall be the principal academic body of the Regional Centre and shall, subject to the provisions of this Act, advice planning, execution, review and monitoring of the scientific and academic programmes of the Regional Centre.

(2) The Programme Advisory Committee shall consist of the following members, namely:-

- (a) a Chairperson of the Programme Advisory Committee to be nominated by the Board;
- (b) two members to be nominated by the UNESCO;
- (c) three members to be nominated by rotation, from amongst the member States of UNESCO which provide maximum financial assistance;
- (d) two members having expertise and experience in biotechnology policy and legal matters to be nominated by the Central Government;
- (e) six members from amongst the persons being renowned scientist or academician, to be nominated by the Board.

(3) The Executive Director shall be the Member -Secretary, ex officio, to the Programme Advisory Committee.

(4) The Programme Advisory Committee shall be responsible for-

- (a) making recommendations on matters of planning and coordinating of the education, training and research activities;
- (b) recommending modifications or revision of education, training and research programmes of the Regional Centre and submitting reports thereon;
- (c) reviewing annually the programmes of the Regional Centre, evaluating its progress and submitting the reports thereon;
- (d) publishing reports on any matter concerning scientific and technical issues referred to it by the Board or by the Executive Director;
- (e) performing all such duties and to do all such acts as may be necessary for furtherance of education, training and research under this Act;
- (f) framing the Ordinances; and
- (g) performing such other functions as may be specified by the Statutes.

(5) The fees and allowances payable to members of the Programme Advisory Committee and their term of office shall be such as may be specified by the Statutes.

(6) Subject to the provisions of this Act and the Statutes and Ordinances made thereunder, the Programme Advisory Committee may regulate its own procedure (including quorum) for the conduct of meetings and transacting of its business:

Provided that the Programme Advisory Committee shall place the minutes of its meetings before the Board of Governors.

**18. Executive Committee.** (1) The Executive Committee shall be responsible for management of the Regional Centre and implementation of policies and decisions of the Board relating to management.

(2) The constitution, powers and functions of the Executive Committee and the term of office of its members shall be such as may be specified by the Statutes.

**19. Finance Committee.** (1) The Finance Committee shall review finances, consider the annual budget estimates, the statements of accounts and the audit reports and make recommendations thereon, to the Board.

(2) The constitution, powers and functions of the Finance Committee and the term of office of its members shall be such as may be specified by the Statutes.

**20. Other authorities of Regional Centre.** The constitution, powers and functions of other authorities referred to in clause (vi) of section 13, and the term of office of its members shall be such as may be specified by the Statutes.

**21. Board of Studies.** The constitution, powers and functions of the Board of Studies and the term of office of its members shall be such as may be specified by the Statutes.

**22. Officers of Regional Centre.** The following shall be the officers of the Regional Centre, namely:-

- (i) Executive Director;
- (ii) Deans;
- (iii) Sub-Deans;
- (iv) Associate Director (Administration);
- (v) Registrar;
- (vi) Finance Officer; and
- (vii) such other officers as may be declared by the Statutes to be the officers of the Regional Centre.

**23. Executive Director.** (1) The Executive Director shall be appointed on the recommendation of the Board in such manner and on such terms and conditions of service, as may be specified by the Statutes.

(2) The Executive Director shall-

- (a) be the principal executive and academic officer of the Regional Centre;
- (b) direct the work of the Regional Centre in conformity with the programmes and directives established by the Board;
- (c) propose the draft work plan and budget to be submitted to the Board;
- (d) prepare the agenda for the sessions of the Board;
- (e) prepare reports on the Regional Centre's activities for submission to the Board; and
- (f) exercise such other powers and perform such other functions as may be specified by the Statutes.

(3) The financial powers delegated to the Executive Director by the Board shall be such as may be specified by the Statutes.

4) The Executive Director may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the Regional Centre by or under this Act and shall report to such authority at its next meeting the action taken by him on such matter.

**24. Deans and Sub-Deans.** The Deans and Sub-Deans shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be specified by the Statutes.

**25. Associate Director (Administration).** (1) The Associate Director (Administration) shall be appointed in such manner, and on such terms and conditions of service, as may be specified by the Statutes.

(2) The Associate Director (Administration) shall have the power to enter into agreements, sign documents and authenticate records on behalf of the Regional Centre and shall exercise such powers and perform such duties, as may be specified by the Statutes.

**26. Registrar.** The Registrar shall be appointed in such manner and on such terms and conditions of service and shall exercise such powers and perform such duties, as may be specified by the Statutes.

**27. Finance officer.** The Finance officer shall be appointed in such manner and on such terms and conditions of service and shall exercise such powers and perform such duties, as may be specified by the Statutes.

**28. Other officers.** The manner of appointment and powers and duties and terms and conditions of service of other officers of the Regional Centre, referred to in clause (vii) of section 22, shall be such as may be specified by the Statutes.

**29. Grants and loans to Regional Centre.** The Central Government may, after due appropriation made by Parliament by law, in this behalf, make to the Regional Centre grants and loans of such sums of money and in such manner as that Government may consider necessary for being utilised for the fulfilment of the objects and purposes of this Act.

**30. Fund of Regional Centre.** (1) The Regional Centre shall maintain a Fund to which shall be credited-

- (a) all moneys provided by the Central Government;
- (b) all fees and other charges received by the Regional Centre;
- (c) all moneys received by the Regional Centre by way of grants, gifts, donations, benefactions, bequests or transfers; and
- (d) all moneys received by the Regional Centre in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Regional Centre may, with the approval of the Central Government, decide.

(3) The fund shall be applied for meeting-

- (a) the fees and allowances payable to the Chairperson and members of the Board or Chairperson of the Programme Advisory Committee and members of the other committees and the salaries, allowances and other remunerations payable to the academic staff, officers and other employees of the Regional Centre;
- (b) the expenses of the Regional Centre in the discharge of its functions and for the fulfilment of its objects and for purposes as envisaged under this Act.

**31. Annual report.** (1) The annual report of the Regional Centre shall be prepared under the directions of the Executive Director, which shall include, among other matters, the steps taken by the Regional Centre towards the fulfilment of its objectives and shall be submitted to the Board on or before such date as may be specified by the Statutes and the Board shall consider the report in its annual meeting.

(2) A copy of the annual report, as prepared under sub-section (1), shall be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

**32. Annual accounts.** (1) The annual accounts and the balance sheet of the Regional Centre shall be prepared under the directions of the Board and shall, once at least every year, and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India.

(2) A copy of the accounts together with the audit report shall be submitted to the Central Government along with the observations, if any, of the Board.

(3) A copy of the annual report and annual accounts together with the audit report, shall be submitted to the Central Government which shall, as soon as may be, cause the same to be laid before each House of Parliament.

(4) The audited annual accounts, after having been laid before both Houses of Parliament, shall be published in the Official Gazette.

**33. Returns and information.** The Regional Centre shall furnish to the Central Government such returns or other information with respect to its property or activities as the Central Government may, from time to time, require, within such period as may be specified by the Central Government.

**34. Review of functioning of Regional Centre.** (1) There shall be a review of the functioning of the Regional Centre once in every four years by persons of eminence to be appointed by the Central Government.

(2) The Regional Centre shall meet the expenses for conducting the review under sub-section (1) and upon receipt of the report of such review, the Board may take appropriate action.

(3) In addition to the review under sub-section (1), the Board may conduct review of functioning of administrative and academic wings of the Regional Centre, in such manner and at such intervals, as may be specified by the Statutes.

**35. Appointment and conditions of service of employees of Regional Centre.** (1) All appointments of employees of the Regional Centre shall be made in accordance with the procedure laid down in the Statutes, by-

- (a) the Board of Governors for the Executive Director, Deans and Sub-Deans;
- (b) the Executive Director, in any other case.

(2) The terms and conditions of service of the employees of the Regional Centre, other than the officers referred to in clause (vii) of section 22, shall be such as may be specified by the Statutes.

(3) The terms and conditions of service of the academic staff shall be consistent with such staff engaged in higher education and research at Central Universities.

**36. Meetings.** The meetings of the Board, Programme Advisory Committee, Executive Committee or other committees constituted by the Regional Centre may be held using contemporary tools of information and communication technologies (including video conferencing) without the members necessarily having to be physically present.

**37. Filling of casual vacancies.** All casual vacancies among the members (other than ex officio members) of the authorities under section 13 shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority for the residue of the term for which the person whose place he fills would have been a member.

**38. Proceedings of authorities not invalidated by vacancies.** No act or proceedings of any authority of the Regional Centre shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

**39. Protection of action taken in good faith.** No suit or other legal proceedings shall lie against any officer or employee of the Regional Centre for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act or the Statutes, Ordinances or the Regulations made thereunder.

**40. Arbitration.** Any dispute arising between the Regional Centre and any of its employees shall, at the first instance, be resolved through such grievance redressal mechanism as may be specified by the Statutes.

**41. Power to make Statutes.** (1) The Statutes of the Regional Centre shall be framed by the Board of Governors.

(2) Without prejudice to the provisions contained in sub-section (1), the Executive Committee may make recommendations for framing of Statutes to the Board.

(3) Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:-

- (a) to provide for short-term and long-term training courses in biotechnology on specific issues related to the development, extension, implementation and regulation of biotechnology and related areas, from time to time under clause (b) of sub-section (1) of section 10;
- (b) the manner of conferring honorary degrees or other distinctions under clause (d) of sub-section (1) of section 10;
- (c) the norms for recognition of an institution of higher learning within India and to withdraw such recognition under clause (f) of sub-section (1) of section 10;
- (d) period for appointment of persons working in any other institution, including those located outside the country, as academic staff of the Regional Centre under clause (g) of sub-section (1) of section 10;
- (e) to create administrative, technical and other posts under clause (h) of sub-section (1) of section 10;
- (f) the manner and purposes of co-operation or collaboration or association with any institution, including those located outside the country, under clause (i) of sub-section (1) of section 10;
- (g) to establish and maintain centres and specialised laboratories or other units for research, development and instruction in India or outside India, clause (j) of sub-section (1) of section 10;
- (h) to institute and award fellowships, scholarships, studentships, medals and prizes, under clause (k) of sub-section (1) of section 10;
- (i) the manner of entering into agreements with other institutions, industrial or other organisations, including those located outside the country, for research and advisory services under clause (l) of sub-section (1) of section 10;

- (j) to declare other authorities to be the authorities of the Regional Centre under clause (vi) of section 13;
- (k) the manner of appointment of representatives from amongst the member States of UNESCO, under clause (d) of sub-section (2) of section 14;
- (l) the time and manner in which the Board shall meet under sub-section (5) of section 14;
- (m) the term of office of the members of the Board, under sub-section (6) of section 14;
- (n) such other powers and functions of the Chairperson under sub-section (1) of section 16;
- (o) such other functions of the Programme Advisory Committee under clause (g) of sub-section (4) of section 17;
- (p) the fees and allowances payable to members of the Programme Advisory Committee and their term of office under sub-section (5) of section 17;
- (q) the constitution, powers and functions and the term of office of members of the Executive Committee under sub-section (2) of section 18;
- (r) the constitution, powers and functions and term of office of members of the Finance Committee under sub-section (2) of section 19;
- (s) the constitution, powers and functions and term of office of members of other authorities under section 20;
- (t) the constitution, powers and functions and term of office of members of the Board of Studies under section 21;
- (u) the other officers as may be declared to be the officers of the Regional Centre under clause (vii) of section 22;
- (v) the manner of appointment and terms and conditions of service of the Executive Director under sub-section (1) of section 23;
- (w) the other powers and functions of the Executive Director under clause (f) of sub-section (2) of section 23;
- (x) the financial powers to be delegated to the Executive Director by the Board under sub-section (3) of section 23;
- (y) the manner of appointment, terms and conditions of service and powers and duties of the Deans and Sub-Deans under section 24;
- (z) the manner of appointment and terms and conditions of service of the Associate Director (Administration) under sub-section (1) and powers and duties to be performed by him under sub-section (2) of section 25;
- (za) the manner of appointment, terms and conditions of service and powers and duties of the Registrar under section 26;
- (zb) the manner of appointment, terms and conditions of service and powers and duties of the Finance officer under section 27;
- (zc) the manner of appointment, powers and duties and terms and conditions of service of other officers of the Regional Centre under section 28;
- (zd) the time for submission of the annual report of the Regional Centre to the Board under sub-section (1) of section 31;
- (ze) the manner and frequency of conducting review of the functioning of administrative and academic wings of the Regional Centre by the Board under sub-section (3) of section 34;
- (zf) the procedure for appointment of employees of the Regional Centre under sub-section (1) and their terms and conditions of service under sub-section (2) of section 35;
- (zg) the grievance redressal mechanism for resolution of disputes arising between the Regional Centre and any of its employees under section 40;
- (zh) the manner of making regulations by the authorities of the Regional Centre under section 43; and
- (zi) any other matter which may be required or necessary for the purposes of this Act.

**42. Power to make Ordinances.** (1) Save as otherwise provided in this Act, the Ordinances of the Regional Centre shall be made by the Programme Advisory Committee.

(2) Subject to the provisions of this Act and the Statutes made thereunder, the Ordinances of the Regional Centre may provide for all or any of the following matters, namely:-

- (a) admission of students from within India and from the region to the Regional Centre and their enrolment as such;
- (b) the course of study;
- (c) the conditions under which students shall be admitted to the examinations of the Regional Centre and shall be eligible for degrees, diplomas and certificates;
- (d) the conditions for award of fellowships, scholarships, medals and prizes;
- (e) the conditions and manner of appointment, term and duties of examining bodies, examiners and moderators;
- (f) the conduct of examinations;
- (g) the conditions of residence of students of the Regional Centre;
- (h) the maintenance of discipline among the employees and students;
- (i) the courses of study to be laid down for all degrees, diplomas and certificates of the Regional Centre including the medium of instruction and examination;
- (j) the award of degrees and other academic distinctions, and the manner of granting and obtaining of the same;
- (k) the withdrawal of degrees, diplomas, certificates and other academic distinctions;
- (l) the fees to be charged for courses of study and for admission to examinations, degrees and diplomas of the Regional Centre;
- (m) the special arrangements, if any, which may be made for the residence and teaching of women students and prescribing of special courses of studies for them;
- (n) the establishment, management, recognition and abolition of centres of studies, schools, departments, specialised laboratories, halls and institutions; and
- (o) any other matter which by this Act or the Statutes, is to be, or may be, provided for by the Ordinances.

**43. Regulations.** The authorities of the Regional Centre may make Regulations, consistent with the provisions of this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner specified by the Statutes.

**44. Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.** (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

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

**45. Power to make Statutes or Ordinances or Regulations retrospectively.** The power to make Statutes or Ordinances or Regulations under section 41 or section 42 or section 43, as the case may be, shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statutes or Ordinances or Regulations or any of them but no retrospective effect shall be given to any Statutes or Ordinances or Regulations so as to prejudicially affect the interests of any person to whom such Statutes or Ordinances or Regulations may be applicable.

**46. Power to remove difficulties.** (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 appears to it to be necessary or expedient for removing the difficulty:

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

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

**DR. G. NARAYANA RAJU.**

Secretary to the Govt. of India.

**MANOJ KUMAR**

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## MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 3<sup>rd</sup> August, 2016/Shravana 12, 1938 (Saka)

The following Act of Parliament received the assent of the President on the 3<sup>rd</sup> August, 2016, and is hereby published for general information:-

### THE COMPENSATORY AFFORESTATION FUND ACT, 2016

No.38 OF 2016

[3<sup>rd</sup> August, 2016]

An Act to provide for the establishment of funds under the public accounts of India and the public accounts of each State and crediting thereto the monies received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value and all other amounts recovered from such agencies under the Forest (Conservation) Act, 1980; constitution of an authority at national level and at each of the State and Union territory Administration for administration of the funds and to utilise the monies so collected for undertaking artificial regeneration (plantations), assisted natural regeneration, protection of forests, forest related infrastructure development, Green India Programme, wildlife protection and other related activities and for matters connected therewith or incidental thereto.

WHEREAS the Supreme Court in its order in T.N. Godavarman Thirumulpad vs. Union of India and Others [Writ Petition (Civil) No. 202 of 1995], dated the 30th October, 2002, observed that a Compensatory Afforestation Fund be created in which all the monies received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of the diverted forest land or catchment area treatment plan shall be deposited;

AND WHEREAS it had also been observed that the money received from the user agencies in cases where forest land diverted falls within protected areas, that is, the areas notified under the Wild Life (Protection) Act, 1972 (35 of 1972) for undertaking activities related to protection of biodiversity or wildlife shall also be deposited in the Fund;

AND WHEREAS the Supreme Court has directed that, besides artificial regeneration (Plantations), the Fund shall also be utilised for undertaking assisted natural regeneration, protection of forests, infrastructure development, wildlife protection and other related activities and an independent system of concurrent monitoring and evaluation should be evolved and implemented through the Compensatory Afforestation Fund to ensure effective and proper utilisation of funds;

AND WHEREAS the Supreme Court in its judgment dated 26th September, 2005 in the said Writ Petition observed that the Fund generated for protecting ecology and providing regeneration should not be treated as a Fund under article 266 and article 283 of the Constitution;

AND WHEREAS in its direction dated the 5th May, 2006, the Supreme Court had directed that since the Government has not constituted a Compensatory Afforestation Fund Management and Planning Authority (hereinafter referred to as Authority), an ad hoc Authority should be constituted till the Compensatory Afforestation Fund Management and Planning Authority becomes operational and directed to centrally pool the money recovered on behalf of the said Authority lying in the States and Union territories into the ad hoc Compensatory Afforestation Fund Management and Planning Authority;

AND WHEREAS Central Government formulated guidelines dated the 2nd July, 2009 on the subject of State Authority for utilisation of funds lying with the ad hoc Authority;

AND WHEREAS in its direction dated the 10th July, 2009, the Supreme Court had directed that the guidelines and structure of the State Authority prepared by the Central Government may be notified and implemented;

AND WHEREAS in its directions dated the 10th July, 2009, the Supreme Court further directed that till an alternative system is put in place, after obtaining permission from the Supreme Court, the money towards compensatory afforestation, net present value and protected areas (national parks, wildlife sanctuaries) shall continue to be deposited in the ad hoc Authority;

AND WHEREAS in compliance of the directions of the Supreme Court including its order dated the 5th May, 2006, over rupees thirty eight thousand crores as collected by the State Governments and Union territory Administrations have been placed under the ad hoc Authority, and deposited in the nationalised banks;

AND WHEREAS absence of permanent institutional mechanism for utilisation of funds collected by the State Governments and Union territory Administrations is the main reason for accumulation of huge unspent funds in the ad hoc Authority;

Now, THEREFORE, based on the above orders, directions and observations of the Supreme Court to ensure safety, security and expeditious utilisation in a transparent manner of funds accumulated with the ad hoc Authority and the funds to be collected by the State Governments and Union territory Administrations, it is proposed to create a National Compensatory Afforestation Fund and a National Compensatory Afforestation Fund Management and Planning Authority at the national level, and a State Compensatory Afforestation Fund and a State Compensatory Afforestation Fund Management and Planning Authority in each State and Union territory, by an Act of Parliament.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:-

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.** (1) This Act may be called the Compensatory Afforestation Fund Act, 2016.

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

(3) Save as otherwise provided in this Act, it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Definitions.** In this Act, unless the context otherwise requires,-

- (a) "ad hoc Authority" means the ad hoc Compensatory Afforestation Fund Management and Planning Authority constituted under the order dated the 5th May, 2006 of the Supreme Court in T.N. Godavarman Thirumulpad vs. Union of India and Others, [Writ Petition (Civil) No. 202 of 1995];
- (b) "Chairperson, National Authority" means the Chairperson of the governing body of the National Authority;
- (c) "Chairperson, State Authority" means the Chairperson of the governing body of the State Authority;

- (d) "compensatory afforestation" means afforestation done in lieu of the diversion of forest land for non-forestry use under the Forest (Conservation) Act, 1980; (69 of 1980)
- (e) "environmental services" includes-
  - (i) provision of goods such as wood, non-timber forest products, fuel, fodder, water and provision of services such as grazing, tourism, wildlife protection and life support;
  - (ii) regulating services such as flood moderation, carbon sequestration and health of soil, air and water regimes;
  - (iii) supporting such other services necessary for the production of ecosystem services, biodiversity, nutrient cycling and primary production including pollination and seed dispersal;
- (f) "Head of the regional office" means the senior-most officer appointed by the Central Government at regional office to deal with the forest conservation matters under the Forest (Conservation) Act, 1980; (69 of 1980)
- (g) "monitoring group" means a group of experts to monitor the activities undertaken from amounts released from the National Fund and State Fund constituted under sub-section (3) of section 9;
- (h) "National Authority" means National Compensatory Afforestation Fund Management and Planning Authority constituted under section 8;
- (i) "National Fund" means the National Compensatory Afforestation Fund established under sub-section (1) of section 3;
- (j) "net present value" means the quantification of the environmental services provided for the forest area diverted for non- forestry uses, as may be determined by an expert committee appointed by the Central Government from time to time in this regard;
- (k) "penal compensatory afforestation" means afforestation work to be undertaken over and above the compensatory afforestation specified in the guidelines issued under the Forest (Conservation) Act, 1980, in lieu of the extent of area over which non-forestry activities have been carried out without obtaining prior approval of the competent authority under the Forest (Conservation) Act, 1980; (69 of 1980)
- (l) "prescribed" means prescribed by rules made by the Central Government in consultation with the State Governments under this Act;
- (m) "State Authority" means the State Compensatory Afforestation Fund Management and Planning Authority constituted under section 10;
- (n) "State Fund" means the State Compensatory Afforestation Fund established by each State under sub-section (1) of section 4;
- (o) "State Government" includes Union territory Administration;
- (p) "user agency" means any person, organisation or company or department of the Central Government or State Government making a request for diversion or de-notification of forest land for non-forest purpose or using forest land for non-forest purpose in accordance with the provisions contained in the Forest (Conservation) Act, 1980 (69 of 1980) and the rules made and guidelines issued, thereunder.

## CHAPTER II

### ESTABLISHMENT, MANAGEMENT AND UTILISATION OF NATIONAL COMPENSATORY AFFORESTATION FUND AND STATE COMPENSATORY AFFORESTATION FUNDS

**3. Establishment of National Fund.** (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act, a special Fund to be called the "National Compensatory Afforestation Fund" under the public account of India.

(2) The National Fund shall be under the control of the Central Government and managed by the National Authority in such manner as may be prescribed.

(3) On the date of establishment of the National Fund, all monies collected by the State Governments and Union territory Administrations which has been placed under the ad hoc Authority and deposited in the nationalised banks shall be transferred to the National Fund.

(4) There shall also be credited into the National Fund, by each State on yearly basis, ten per cent. of the funds realised from the user agencies in respect of the forest land diverted in their favour, which have been credited directly into the State Fund.

(5) There shall also be credited to the National Fund-

- (a) grants-in-aid received, if any, by the National Authority;
- (b) any loan taken or any borrowings made by the National Authority;
- (c) any other sums received by the National Authority by way of benefaction, gift or donations.

(6) The monies received in the National Fund shall be an interest bearing fund under public accounts of India.

(7) The balance in the National Fund shall be non-lapsable and get interest as per the rate declared by the Central Government on year to year basis.

**4. Establishment of State Fund.** (1) With effect from such date as each State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act, a special Fund to be called the "State Compensatory Afforestation Fund.....(name of State)" under public accounts of such State:

Provided that in case of Union territory having no legislature, such fund shall be established under the public account of Union of India with effect from such date as the Union territory Administration may, by notification in the Official Gazette, appoint in this behalf.

(2) The State Fund in each State shall be under the control of the State Government of such State and managed by the State Authority of such State, in such manner as may be prescribed.

(3) There shall be credited into the State Fund of a State-

- (i) the unspent balance of all monies which has been transferred by ad hoc Authority to the State Compensatory Afforestation Compensatory Afforestation Funds Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009;
- (ii) all monies transferable from the National Fund under clause (a) of section 5;
- (iii) all monies realised from user agencies by such State towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value, catchment area treatment plan or any money for compliance of conditions stipulated by the Central Government while according approval under the provisions of the Forest (Conservation) Act, 1980; (69 of 1980) and
- (iv) the funds recoverable from user agencies by such State in cases where forest land diverted falls within the protected areas, that is, areas notified under sections 18, 26A or 35 of the Wild Life (Protection) Act, 1972 (53 of 1972) for undertaking activities relating to the protection of biodiversity and wildlife.

(4) A State Government may also credit to the State Fund constituted by it-

- (i) grants-in-aid received, if any, by the State Authority;
- (ii) any loan taken or any borrowings made by the State Authority;
- (iii) any other sums received by the State Authority by way of benefaction, gift or donations.

(5) The monies received in the State Fund shall be an interest bearing fund under public accounts.

(6) The balance in each State Fund shall be non-lapsable and get interest as per the rate declared by the Central Government on year to year basis.

**5. Disbursement and utilisation of National Fund.** Save as otherwise provided in this Act, the monies available in the National Fund shall be disbursed and utilised in the following manner, namely:-

- (a) ninety per cent. of the all monies collected by a State, which has been placed under the ad hoc Authority and the interest accrued thereon, shall be transferred to the State Fund established in such state under sub-section (1) of section 4;
- (b) the balance ten per cent. of all monies collected by the States and Union territory Administrations, which has been placed under the ad hoc Authority and the interest accrued thereon, and all fresh accrual to the National Fund, as provided in sub-section (4) of section 3, and the interest accrued thereon, shall be utilised for meeting--
  - (i) the non-recurring and recurring expenditure for the management of the National Authority including the salary and allowances payable to its officers and other employees;

- (ii) the expenditure incurred on monitoring and evaluation of works executed by the National Authority and each State Authority;
- (iii) the expenditure incurred on specific schemes approved by governing body of the National Authority.

Explanation.-For the purposes of this section, "scheme" includes any institute, society, centre of excellence in the field of forest and wildlife, pilot schemes, standardisation of codes and guidelines and such other related activities for the forestry and wildlife sector.

**6. Disbursement and utilisation of State Fund.** Save as otherwise provided in this Act, the monies available in a State Fund shall be disbursed and utilised in the following manner, namely:-

- (a) the money received for compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, catchment area treatment plan and for any other site specific scheme may be used as per site-specific schemes submitted by the State along with the approved proposals for diversion of forest land under the Forest (Conservation) Act, 1980; (69 of 1980)
- (b) the monies received towards net present value and penal net present value shall be used for artificial regeneration (plantation), assisted natural regeneration, forest management, forest protection, forest and wildlife related infrastructure development, wildlife protection and management, supply of wood and other forest produce saving devices and other allied activities in the manner as may be prescribed;
- (c) the interest accrued on funds available in a State Fund and the interest accrued on all monies collected by the State Governments, which has been placed under the ad hoc Authority and deposited in the nationalised banks, in compliance of the directions of the Supreme Court dated the 5th May, 2006, shall be used for conservation and development of forest and wildlife in the manner as may be prescribed;
- (d) all monies realised from the user agencies in accordance with the decision taken by the Standing Committee of the National Board for Wild Life constituted under section 5A of the Wild Life (Protection) Act, 1972 (35 of 1972) or the orders of the Supreme Court involving cases of diversion of forest land in protected areas shall form the corpus and the income therefrom shall be used exclusively for undertaking protection and conservation activities in protected areas of the State including facilitating voluntary relocation from such protected areas and in exceptional circumstance, a part of the corpus may also be used subject to prior approval of the National Authority;
- (e) ten per cent. of amount realised from the user agencies, which has been credited directly into the State Fund in a year shall be transferred to the National Fund to meet expenditure as provided in clause (b) of section 5;
- (f) the non-recurring and recurring expenditure for the management of a State Authority including the salary and allowances payable to its officers and other employees may be met from a part of the interest accrued on the amounts available in the State Fund, in the manner as may be prescribed;
- (g) in case of trans-boundary forestry or environmental implication of diversion of forest land for non-forest purposes in a particular State, if found expedient and necessary by the National Authority, it may, in consultation with the concerned State Authorities order that such sum as may be justified for reparation of the trans-boundary effects, be transferred to State Fund of such State or States;
- (h) State Authority shall release monies to agencies identified for execution of activities in pre-determined installments as per the annual plan of operation finalised by steering committee of such State Authority and executive committee of the National Authority.

**7. Accounting procedure.** The accounting procedure to regulate the manner of crediting the monies to the National Fund and State Fund in a year shall be in such manner as may be prescribed.

### CHAPTER III

#### CONSTITUTION OF NATIONAL AUTHORITY AND STATE AUTHORITIES

**8. Constitution of National Authority.** (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a National Authority to be called the "National Compensatory Afforestation Fund Management and Planning Authority".

(2) The National Authority shall manage and utilise the National Fund for the purposes of this Act.

(3) The National Authority shall consist of a governing body and shall be assisted by an executive committee, monitoring group and administrative support mechanism.

(4) The governing body of the National Authority shall consist of the following, namely:-

- (i) Minister for Environment, Forest and Climate Change, Government of India-Chairperson, ex officio;
- (ii) Secretaries of Ministries dealing with Environment, Forest, Climate Change, Finance (Expenditure), Rural Development, Land Resources, Agriculture, Panchayati Raj, Tribal Development, Science, Technology, Space and Earth Sciences and Chief Executive Officer, National Institution for Transforming India Ayog, Government of India-Members, ex officio;
- (iii) Director General of Forests and Special Secretary, Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (iv) Additional Director General of Forests (Forest Conservation), Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (v) Additional Director General of Forests (Wildlife), Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (vi) Mission Director, National Mission for a Green India, Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (vii) Financial Adviser, Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (viii) five Principal Chief Conservator of Forests, not more than one from each of the ten regions, to be nominated by the Ministry of Environment, Forest and Climate Change, Government of India on rotation basis for a period of two years, at a time- Members, ex officio;
- (ix) Inspector General of Forests (Forest Conservation), Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (x) five experts, one each from environmentalists, conservationists, scientists, economists, and social scientists appointed by the Central Government for a period of two years subject to not more than two consecutive terms-Members.

(5) The Central Government may appoint an officer of the rank of an Additional Director General of Forests as the Chief Executive Officer of the National Authority who shall be the Member- Secretary of the governing body and the executive committee of the National Authority.

**9. Executive committee and monitoring group of National Authority.** (1) The governing body of the National Authority shall, in performance of its functions and powers under the Act, be assisted by the executive committee and the monitoring group.

(2) The executive committee of the National Authority shall consist of the following, namely:-

- (i) Director General of Forests and Special Secretary, Ministry of Environment, Forest and Climate Change, Government of India-Chairperson, ex officio;
- (ii) Additional Director General of Forests (Forest Conservation), Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (iii) Additional Director General of Forests (Wildlife), Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (iv) Mission Director, National Mission for a Green India, Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (v) Financial Adviser, Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (vi) Head of all regional offices of the Ministry of Environment, Forest and Climate Change, Government of India - Members, ex officio;
- (vii) Inspector General of Forests (Forest Conservation), Ministry of Environment, Forest and Climate Change, Government of India-Member, ex officio;
- (viii) a professional ecologist, not being from the Central Government, to be appointed by the Central Government-Member;
- (ix) three experts, one each in the fields of forestry, tribal development, forest economy development, not being from the Central Government, to be appointed by the Central Government- Members;

(x) Chief Executive Officer of the National Authority-Member-Secretary.

(3) The monitoring group shall consist of six experts in the field of environment, economics, wildlife, forest, remote sensing and geographical information system and social sector and the Director General, Forest Survey of India, Ministry of Environment, Forest and Climate Change, Government of India.

(4) The following officers shall be appointed by the National Authority for a period not exceeding five years, to assist the executive committee in performance of its functions and powers under the Act, namely:-

- (i) Joint Chief Executive Officer of the rank of Inspector General of Forests;
- (ii) Financial Advisor and Chief Accounts Officer of the rank of Director in the Government of India; and
- (iii) Deputy Chief Executive Officers of the rank of Deputy Inspector General of Forests.

(5) The governing body of the National Authority may with the prior concurrence of the Central Government create posts in the National Authority at the level of Assistant Inspector General of Forests and other officials to assist the executive committee and monitoring group in performance of its functions under the Act.

**10. Constitution of State Authority.** (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be constituted a State Authority to be called the "State Compensatory Afforestation Fund Management and Planning Authority" in each State.

(2) The Central Government may, if so desires, appoint different dates for constitution of State Authority in each of the States.

(3) The State Authority constituted in a State shall be responsible for the management of the State Fund of such State and its utilisation for the purposes of the Act.

(4) The State Authority shall consist of a governing body and shall be assisted by a steering committee and an executive committee.

(5) The governing body of a State Authority shall consist of the following, namely:-

- (i) Chief Minister of the State and in case of a Union territory having no legislature, the Lieutenant Governor or the Administrator, as the case may be-Chairperson, ex officio;
- (ii) Minister of Forests-Member, ex officio;
- (iii) Chief Secretary-Member, ex officio;
- (iv) Principal Secretaries of the Departments dealing with Environment, Finance, Planning, Rural Development, Revenue, Agriculture, Tribal Development, Panchayati Raj, Science and Technology-Members, ex officio;
- (v) Principal Chief Conservator of Forests (Head of Forest Force )-Member, ex officio;
- (vi) Chief Wildlife Warden-Member, ex officio;

(6) Principal Secretary in -charge of the Forest Department in a State shall be Member Secretary of the State Authority in such State.

(7) The State Government shall appoint an officer of the rank not below the rank of a Chief Conservator of Forests as the Chief Executive Officer of the State Authority who shall be the Member-Secretary of the steering committee and the executive committee of the State Authority.

**11. Steering committee and executive committee of State Authority.** (1) The governing body of the State Authority shall, in performance of its functions and powers under the Act, be assisted by the steering committee and the executive committee.

(2) The steering committee of a State Authority shall consist of the following, namely:-

- (i) Chief Secretary-Chairperson, ex officio;
- (ii) Principal Secretaries of the Departments dealing with Forests, Environment, Finance, Planning, Rural Development, Revenue, Agriculture, Tribal Development, Panchayati Raj, Science and Technology-Members, ex officio;
- (iii) Principal Chief Conservator of Forests (Head of Forest Force)-Member, ex officio;
- (iv) Chief Wildlife Warden-Member, ex officio;
- (v) Nodal Officer, the Forest (Conservation) Act, 1980 (69 of 1980) -Member, ex officio;

- (vi) Head of the concerned regional office of the Ministry of Environment, Forest and Climate Change-Member, ex officio;
- (vii) Nodal Officer, State Forest Development Agency-Member, ex officio;
- (viii) an expert on tribal matters or a representative of tribal communities to be appointed by the State Government-Member;
- (ix) Chief Executive Officer, State Authority-Member-Secretary.

(3) The executive committee of a State Authority shall consist of the following, namely:-

- (i) Principal Chief Conservator of Forests (Head of Forest Force )-Chairperson, ex officio;
- (ii) Chief Wildlife Warden-Member, ex officio;
- (iii) an officer not below the rank of a Chief Conservator of Forests dealing with forest and wildlife related schemes-Member, ex officio;
- (iv) an officer not below the rank of a Chief Conservator of Forests dealing with forestry research-Member, ex officio;
- (v) Nodal Officer, State Forest Development Agency-Member, ex officio;
- (vi) a representative each of the Departments dealing with Environment, Finance, Planning, Rural Development, Revenue, Agriculture, Tribal Development, Panchayati Raj, Science and Technology-Members, ex officio;
- (vii) Financial Controller or Financial Adviser, to be nominated by the Finance Department-Member, ex officio;
- (viii) two eminent non- government organisations to be appointed by the State Government-Members;
- (ix) two representatives of district level Panchayati Raj Institutions to be appointed by the State Government-Members;
- (x) an expert on tribal matters or a representative of tribal community to be appointed by the State Government-Member;
- (xi) Chief Executive Officer, State Authority-Member-Secretary.

(4) The State Authority may appoint the following officers for a period not exceeding five years, to assist the steering committee and executive committee in performance of its functions under the Act, namely:-

- (i) Joint Chief Executive Officer of the rank not below the rank of a Conservator of Forests;
- (ii) Financial Advisor and Chief Accounts Officer of the rank not below the rank of a Deputy Secretary in the State Government;
- (iii) Deputy Chief Executive Officer of the rank not below the rank of a Deputy Conservator of Forests.

(5) The governing body of the State Authority may with the prior concurrence of the State Government create posts in the State Authority at the level of Assistant Conservator of Forests and other officials to assist the steering committee and executive committee in performance of its functions under the Act.

**12. Term of office and conditions of service of members.** Save as otherwise provided in this Act, the terms of office and other conditions of the service of the members of the National Authority, executive committee, monitoring group, Chief Executive Officer and officials appointed by the National Authority, members of State Authority, steering committee and executive committee of each State Authority shall be such as may be prescribed.

**13. Disqualifications.** A person shall be disqualified for being appointed as a member of the National Authority, executive committee of the National Authority, a State Authority, steering committee and executive committee of a State Authority, monitoring group, if he-

- (i) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (ii) is an undischarged insolvent; or
- (iii) is of unsound mind and stands so declared by the competent court; or
- (iv) has been removed or dismissed from the service of the Government or organisation or undertaking owned by the Government; or
- (v) has, in the opinion of the Central Government, such financial or other interest in the National Authority or the concerned State Authority as is likely to affect the duties discharged by him of his function as a member.

CHAPTER IV

POWERS AND FUNCTIONS OF NATIONAL AUTHORITY AND STATE AUTHORITIES

**14. Powers and functions of National Authority.** (1) The governing body of the National Authority shall-

- (i) formulate broad policy framework for functioning of the National Authority and State Authorities as may be notified by the Central Government;
- (ii) approve the annual report and audited accounts of the National Authority;
- (iii) review reports on decision taken by executive committee and monitoring group of the National Authority including investment decisions;
- (iv) approve the proposal for the schemes specified in sub-clause (iii) of clause (b) of section 5;
- (v) approve the proposals for creation of posts in the National Authority, subject to prior permission of the Central Government;
- (vi) provide a mechanism to State Authorities to resolve issues of inter-State or Centre-State character;
- (vii) formulate such procedures for delegation of financial and administrative powers to the National Authority and State Authorities as may be notified by the Central Government.

(2) The governing body of the National Authority shall meet at least once in six months.

(3) The governing body and executive committee of the National Authority and the monitoring group of the National Authority shall meet at such places and shall observe such rules and procedures in regard to transaction of business at its meeting, including the quorum thereat, as may be prescribed.

**15. Powers and functions of executive committee of National Authority.** (1) The executive committee of the National Authority shall-

- (i) approve within three months from the date of receipt, annual plan of operations of State Authorities, with such amendments as it deems fit and proper;
- (ii) formulate proposals for schemes specified in sub-clause (iii) of clause (b) of section 5;
- (iii) execute schemes specified in sub-clause (iii) of clause (b) of section 5;
- (iv) deploy staff on contract or on deputation basis to the posts in the National Authority;
- (v) formulate proposals for creation of posts in the National Authority at the level of Assistant Inspector General of Forests and other officers;
- (vi) invest surplus amounts available in the National Fund;
- (vii) execute other day-to-day work in respect of receipt of amounts in the National Fund;
- (viii) maintain books of account and such other records;
- (ix) facilitate scientific, technological and other assistance that may be required by State Authorities;
- (x) present its decisions to the governing body of the National Authority for information;
- (xi) maintain and update a public information system on the National Authority and present all information on its transaction in the public domain;
- (xii) undertake any other work as may be assigned by the governing body of the National Authority or the Central Government, from time to time.

(2) The executive committee of the National Authority shall meet at least once in every three months.

**16. Functions of monitoring group.** (1) The monitoring group shall-

- (i) evolve independent system for concurrent monitoring and evaluation of the works implemented in the States and Union territories utilising the funds released by the National Authority and State Authorities to ensure effective and proper utilisation of funds by utilising the services of the regional offices, of the Central Government in the Ministry of Environment, Forest and Climate Change:

Provided that the Central Government may also undertake third party monitoring and evaluation of the works implemented in the States and Union territories utilising the funds released by the National Authority and State Authorities through individual and institutional experts including remote sensing agencies;

- (ii) inspect and undertake financial audit of works executed by utilising the funds released by the National Authority and State Authorities in the State and Union territories;
- (iii) devise measures for transparency and accountability.

(2) The monitoring group shall meet at least once in three months.

**17. Powers and functions of State Authority.** (1) The governing body of a State Authority shall-

- (i) lay down the broad policy framework for the functioning of such State Authority within the overall framework notified by the Central Government on the recommendations of the National Authority;
- (ii) review the working of the State Authority from time to time.

(2) The governing body of a State Authority shall meet at least once in six months.

(3) The governing body, steering committee and executive committee of a State Authority shall meet at such places and shall observe such rules and procedures in regards to transaction of business at its meeting, including the quorum thereat, as may be prescribed.

**18. Powers and functions of steering committee of State Authority.** (1) The steering committee of a State Authority shall-

- (i) scrutinise and approve with such amendments as it may deems fit and proper the annual plan of operations prepared by the executive committee of such State Authority and send the same to the executive committee of the National Authority for final approval;
- (ii) monitor the progress of the utilisation of funds released from the State Fund;
- (iii) review reports on decision taken by executive committee including investment decisions;
- (iv) approve, subject to prior concurrence of the State Government, proposals formulated by the executive committee for creation of posts in the State Authority;
- (v) approve annual report of the State Authority and send the same to the State Government to lay it, each year, in each House of the State Legislature;
- (vi) ensure inter-departmental coordination.

(2) The steering committee of a State Authority shall meet at least once in every three months.

**19. Functions and power of executive committee of State Authority.** (1) The executive committee of a State Authority shall-

- (i) formulate and submit annual plan of operations to the steering committee of the State Authority for its concurrence;
- (ii) undertake qualitative and quantitative supervision, monitoring and evaluation of the works being implemented from amounts available in the State Fund;
- (iii) invest surplus amounts available in the State Fund of such State;
- (iv) maintain books of account and other records;
- (v) submit reports to the steering committee of the State Authority;
- (vi) prepare annual report of the State Authority;
- (vii) deploy staff on contractual basis or on deputation to the posts in the State Authority;
- (viii) formulate proposals for creation of posts in the State Authority;
- (ix) be responsible for delegation of financial or administrative powers;

- (x) be responsible for other day-to-day working in respect of the State Authority;
- (xi) maintain and update public information system on the State Authority and present all information on its transaction in the public domain;
- (xii) undertake any other work as may be assigned by the governing body or steering committee of the State Authority or the State Government, from time to time.

(2) The executive committee of a State Authority shall meet at least once in every three months.

## CHAPTER V

### FINANCE, ACCOUNTS, AUDIT AND ANNUAL REPORT

**20. Budget of National Authority.** (1) The National Authority shall prepare its budget for the next financial year, showing the estimated receipts and expenditure of the National Authority and forward the same to the Central Government, in such form and at such time in each financial year as may be prescribed.

(2) The National Authority, shall adopt financial regulation and procedures, in particular the procedure for drawing up and implementing the budget of the National Authority as may be prescribed.

**21. Investment of funds by National Authority.** The National Authority may invest its funds, including any reserve fund, in the securities of the Central Government and in scheduled banks in such manner as may be prescribed:

Provided that the grants received from the Central Government shall not be invested and shall be utilised for the purposes and in the manner attached to it.

**22. Accounts and audit of National Authority.** (1) The National Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

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

(3) The Comptroller and Auditor-General and any other person appointed by him in connection with the audit of the accounts of the National Authority shall have the same right and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the National Authority.

(4) The accounts of the National Authority as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the National Authority.

(5) The Comptroller and Auditor-General shall, within a period of six months from the date of commencement of the Act, audit the accounts of the all monies collected by the State Governments and Union territory Administrations, which has been placed under the ad hoc Authority and deposited in the nationalised banks and submit the report to the Central Government under this section.

(6) The Central Government shall have the power to conduct the special audit or performance audit of the National Fund and of the National Authority through the Comptroller and Auditor- General.

**23. Annual report of National Authority.** (1) The National Authority shall prepare, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government, in such form and at such time, for each financial year, as may be prescribed.

(2) The annual report shall, inter alia, provide for-

- (i) the summary of monitoring and evaluation of activities undertaken from amounts released from the National Fund and State Funds during the year;
- (ii) the summary of specific schemes specified in sub-clause (iii) of clause (b) of section 5 executed during the year;
- (iii) the amount of money received and expended.

**24. Annual report and audit report of National Authority to be laid before Parliament.** The Central Government shall cause the annual report and audit report together with a memorandum of action taken on the recommendations contained therein to be laid as soon as may be after the reports are received before each House of Parliament.

**25. Budget of State Authority.** (1) Each State Authority shall prepare its budget for the next financial year, showing the estimated receipts and expenditure of the State Authority and forward the same to the State Government, in such form and at such time, in each financial year, as may be prescribed.

(2) Each State Authority shall adopt financial regulation and procedures, in particular the procedure for drawing up and implementing the budget of the State Authority as may be prescribed.

**26. Investment of funds by State Authority.** State Authority may invest funds available in the State Fund of such State in the securities of the Central Government and in scheduled banks in such manner as may be prescribed:

Provided that the grants received from the State Government shall not be invested and shall be utilised for the purpose and in the manner prescribed.

**27. Accounts and audit of State Authority.** (1) Each State Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

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

(3) The Comptroller and Auditor-General and any other person appointed by him in connection with the audit of the accounts of the State Authority shall have the same right and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, other documents and papers and to inspect the office of the State Authority.

(4) The Accounts of the State Authority as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the State Government by the State Authority.

(5) The Comptroller and Auditor-General shall, within a period of six months from the date of commencement of the Act, audit the accounts of all the monies which have been transferred by the ad hoc Authority to the State Compensatory Afforestation Fund Management and Planning Authorities constituted in the States in compliance of guidelines dated the 2nd July, 2009 and submit the report to the State Government under this section.

(6) The Central Government and the State Government concerned shall have the power to conduct the special audit or performance audit of the State Fund and of the State Authority through the Comptroller and Auditor-General.

**28. Annual report of State Authority.** (1) Each State Authority shall prepare its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the concerned State Government, in such form and at such time, for each financial year, as may be prescribed.

(2) The annual report of a State Authority shall, inter alia, provide for-

- (i) the number and location of each reforestation, afforestation and conservation activity subject to the requirement of this section;
- (ii) the amount and location of lands in hectares, cleared, conserved and planted in connection with the activity; and
- (iii) the amount of afforestation money collected and expended.

**29. Annual report and audit report of State Authority to be laid before State Legislature.** The State Government shall cause the annual report and the audit report together with a memorandum of action taken on the recommendations contained therein to be laid as soon as may be after the reports are received before each House of the State Legislature:

Provided that in case of a Union territory having no legislature, the Central Government shall cause the annual report and the audit report together with a memorandum of action taken on the recommendations contained therein to be laid as soon as may be after the reports are received before each House of the Parliament.

## CHAPTER VI

### MISCELLANEOUS

**30. Power to make rules.** (1) The Central Government in consultation with the State Governments 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) the management of the National Fund by the National Authority under sub-section (2) of section 3;
- (b) the management of State Fund by the State Authorities under sub-section (2) of section 4;
- (c) the manner of using the money for purposes specified in clause (b) of section 6;
- (d) the manner of utilising the money for purposes specified in clause (c) of section 6;
- (e) the manner of payment of the salary and allowances payable to the officers and other employees of the State Authority under clause (f) of section 6;
- (f) the accounting procedure regulating the manner of crediting the monies to the National Fund and State Funds under section 7;
- (g) the terms of office and other conditions of the service of the members of the National Authority, executive committee, monitoring group, Chief Executive Officer and officials appointed by the National Authority, members of State Authority, steering committee and executive committee of each State Authority under section 12;
- (h) the rules and procedures in respect of the transaction of business of the governing body and executive committee of the National Authority and monitoring group of the National Authority and the place of meeting, including the quorum under sub-section (3) of section 14;
- (i) the rules and procedures in respect of the transaction of business of the governing body, steering committee and executive committee of a State Authority and the place of meeting, including the quorum under sub-section (3) of section 17;
- (j) the preparation of the budget of the National Authority under sub-section (1) of section 20;
- (k) the financial regulation and procedures, in particular the procedure for drawing up and implementing the budget of the National Authority under sub-section (2) of section 20;
- (l) the investment of the funds of the National Authority under section 21;
- (m) the maintenance of the accounts and other relevant records and preparation of an annual statement of accounts by the National Authority under sub-section (1) of section 22;
- (n) the preparation of the annual report by the National Authority under sub-section (1) of section 23;
- (o) the preparation of the budget of the State Authority under sub-section (1) of section 25;
- (p) the financial regulation and procedures, in particular the procedure for drawing up and implementing the budget of the State Authorities under sub-section (2) of section 25;
- (q) the investment of funds by the State Authorities under section 26;
- (r) the maintenance of the accounts and other relevant records and preparation of annual statement of accounts by each State Authority under sub-section (1) of section 27;

- (s) the preparation of the annual report by the State Authorities under sub-section (1) of section 28; and
- (t) any other matter which is required to be, or may be prescribed.

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

**31. Transfer of assets liabilities, etc.** (1) On and from the date of constitution of the National Authority-

- (i) all the assets and liabilities of the ad hoc Authority shall stand transferred to, and vested in, the National Authority;

Explanation.- The assets of the ad hoc Authority shall be deemed to include all rights and powers, all properties, whether movable or immovable, including in particular, cash balances, deposits, and all other interests and rights in, or arising of, such properties as may be in the possession of the ad hoc Authority and all books of account and other documents relating to the same, and liabilities shall include all debts, liabilities and obligations of whatever kind;

- (ii) without prejudice to the provisions of clause (i), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the ad hoc Authority immediately before constitution of the National Authority, for or in connection with the purpose of the ad hoc Authority, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the National Authority;
- (iii) all sums of money due to the ad hoc Authority immediately before constitution of the National Authority shall be due to the National Authority;
- (iv) all suits and legal proceedings instituted or which could have been instituted by or against the ad hoc Authority may be continued or may be instituted by or against the National Compensatory Authority.

(2) On and from the date of constitution of a State Authority-

- (i) all the assets and liabilities of the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 shall stand transferred to, and vested in, the State Authority.

Explanation.-The assets of the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 shall be deemed to include all rights and powers, all properties, whether movable or immovable, including in particular, cash balances, deposits, and all other interests and rights in, or arising of, such properties as may be in the possession of the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 and all books of account and other documents relating to the same, and liabilities shall include all debts, liabilities and obligations of whatever kind;

- (ii) without prejudice to the provisions of clause (i), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 before this Act came into force, for or in connection with the purpose of the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the State Authority;
- (iii) all sums of money due to the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 before constitution of the State Authority shall be due to the State Authority;
- (iv) all suits and legal proceedings instituted or which could have been instituted by or against the State Compensatory Afforestation Fund Management and Planning Authority constituted in such State in compliance of guidelines dated the 2nd July, 2009 may be continued or may be instituted by or against the State Authority.

**32. Validation.** (1) Notwithstanding anything contained in any judgment, decree or order of any court, the amount credited to the National Fund shall be deemed to be credited and shall always be deemed to have been credited to the public account of India within the meaning of articles 266 and 283 of the Constitution, and it shall be regulated by law made by Parliament in this behalf.

(2) Notwithstanding anything contained in any judgment or order of any court, all the monies collected by the State Governments and the Union territory Administrations which has been placed under the ad hoc Authority and deposited in the nationalised banks and the interest accrued thereon shall stand transferred to the National Fund.

(3) Notwithstanding anything contained in any judgment or any order of any court, the amount credited to the State Fund shall be deemed to be credited and shall always be deemed to have been credited to the public account of the State within the meaning of articles 266 and 283 of the Constitution, and it shall be regulated by law made by the State Legislature in this behalf.

**33. Powers of Central Government to issue directions.** (1) The Central Government may, if it finds necessary or expedient in the public interest, issue such policy directives to the National Authority or any State Authority, in writing and such policy directives shall be binding upon the National Authority or the State Authority, as the case may be.

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

**DR. G. NARAYANA RAJU.**

Secretary to the Govt. of India.

### CORRIGENDA

In the Appropriation Acts (Repeal) Act, 2016, (No. 22 of 2016) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 9th May, 2016 (Issue No. 25),-

| Page No. | Column | Line(s) No. | For                                                      | Read                                                   |
|----------|--------|-------------|----------------------------------------------------------|--------------------------------------------------------|
| 8        | 3      | 3           | The Appropriation (Railways) (Vote on Account) Act, 1972 | The Appropriation (Railways) Vote on Account Act, 1972 |
| 10       | 3      | 51          | The Appropriation No.3 Act, 1983                         | The Appropriation (No.3) Act, 1983                     |
| 10       | 3      | 2           | The Appropriation No.4 Act, 1983                         | The Appropriation (No.4) Act, 1983                     |
| 11       | 3      | 15          | The Appropriation (Vote on Account) 1985                 | The Appropriation (Vote on Account) Act, 1985          |

**MANOJ KUMAR**

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ՀՀԱԲ 30-07-2016 թվականի 15-րդ հունիսի 15-րդ հրապարակման (1) ցուցակի համաձայն  
 ՀՀԱԲ The Child Labour (Prohibition and Regulation) Amendment Act, 2016 (No. 35 of 2016) ՀՀԱԲ: 29-07-2016 ՀՀԱԲ  
 ՀՀԱԲ 15-րդ հունիսի 15-րդ հրապարակման (1) ցուցակի համաձայն

**MINISTRY OF LAW AND JUSTICE**

(Legislative Department)

**New Delhi, the 30<sup>th</sup> July, 2016/Shravana 8, 1938 (Saka)**

The following Act of Parliament received the assent of the President on the 29<sup>th</sup> July, 2016, and is hereby published for general information:-

## THE CHILD LABOUR (PROHIBITION AND REGULATION) (AMENDMENT) ACT, 2016

**No.35 OF 2016**

**[29<sup>th</sup> July, 2016]**

An Act further to amend the Child Labour (Prohibition and Regulation) Act, 1986.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:-

**1. Short title and commencement.** (1) This Act may be called the Child Labour (Prohibition and Regulation) Amendment Act, 2016.

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

**2. Amendment of long title.** In the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986) (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:-

"An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto."

**3. Amendment of short title.** In section 1 of the principal Act, in sub-section (1), for the words, brackets and figures "the Child Labour (Prohibition and Regulation) Act, 1986", (61 of 1986) the words, brackets and figures "the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986" shall be substituted.

**4. Amendment of section 2.** In section 2 of the principal Act,-

- (a) clause (i) shall be renumbered as clause (ia) thereof and before clause (ia) as so renumbered, the following clause shall be inserted, namely:-

- (i) "adolescent" means a person who has completed his fourteenth year of age but has not completed his eighteenth year;

- (b) for clause (ii), the following clause shall be substituted, namely:-

- '(ii) "child" means a person who has not completed his fourteenth year of age or such age as may be specified in the Right of Children to Free and Compulsory Education Act, 2009, (35 of 2009) whichever is more;'

**5. Substitution of new section for section 3.** For section 3 of the principal Act, the following section shall be substituted, namely:-

**"3. Prohibition of employment of children in any occupation and process.** (1) No child shall be employed or permitted to work in any occupation or process.

(2) Nothing in sub-section (1) shall apply where the child,-

- (a) helps his family or family enterprise, which is other than any hazardous occupations or processes set forth in the Schedule, after his school hours or during vacations;
- (b) works as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any such other entertainment or sports activities except the circus, subject to such conditions and safety measures, as may be prescribed:

Provided that no such work under this clause shall effect the school education of the child.

Explanation.-For the purposes of this section, the expression,

- (a) "family" in relation to a child, means his mother, father, brother, sister and father's sister and brother and mother's sister and brother;
- (b) "family enterprise" means any work, profession, manufacture or business which is performed by the members of the family with the engagement of other persons;
- (c) "artist" means a child who performs or practices any work as a hobby or profession directly involving him as an actor, singer, sports person or in such other activity as may be prescribed relating to the entertainment or sports activities falling under clause (b) of sub-section (2)." .

**6. Insertion of new section 3A.** After section 3 of the principal Act, the following section shall be inserted, namely:-

**"3A. Prohibition of employment of adolescents in certain hazardous occupations and processes.** No adolescent shall be employed or permitted to work in any of the hazardous occupations or processes set forth in the Schedule:

Provided that the Central Government may, by notification, specify the nature of the non-hazardous work to which an adolescent may be permitted to work under this Act." .

**7. Amendment of section 4.** In section 4 of the principal Act, for the words "add any occupation or process to the Schedule", the words "add to, or, omit from, the Schedule any hazardous occupation or process" shall be substituted.

**8. Amendment of section 5.** In section 5 of the principal Act,-

- (i) in the marginal heading, for the words "Child Labour Technical Advisory Committee", the words "Technical Advisory Committee" shall be substituted;
- (ii) in sub-section (1), for the words "Child Labour Technical Advisory Committee" , the words "Technical Advisory Committee" shall be substituted.

**9. Amendment of Part III.** In the heading of Part III of the principal Act, for "CHILDREN" substitute "ADOLESCENTS." .

**10. Amendment of section 6.** In section 6 of the principal Act, for the word and figure "section 3", the word, figure and letter "section 3A" shall be substituted.

**11. Amendment of section 7.** In section 7 of the principal Act, for the word "child", wherever it occurs, the word "adolescent" shall be substituted.

**12. Amendment of section 8.** In section 8 of the principal Act, for the word "child", the word "adolescent" shall be substituted.

**13. Amendment of section 9.** In section 9 of the principal Act, for the word "child", at both the places, where it occurs, the word "adolescent" shall be substituted.

**14. Amendment of section 10.** In section 10 of the principal Act, for the word "child", at both the places, where it occurs, the word "adolescent" shall be substituted.

**15. Amendment of section 11.** In section 11 of the principal Act,-

- (a) for the word "children", the word "adolescent" shall be substituted.
- (b) for the word "child", wherever it occurs the word "adolescent" shall be substituted.

**16. Amendment of section 12.** In section 12 of the principal Act,-

- (a) in the marginal heading, for the words and figures "sections 3 and 14" the words, figures and letter "sections 3A and 14" shall be substituted;
- (b) for the words and figures "sections 3 and 14", the words, figures and letter "sections 3A and 14" shall be substituted.

**17. Amendment of section 13.** In section 13 of the principal Act, for the word "children", wherever it occurs, the word "adolescent" shall be substituted.

**18. Amendment of section 14.** In section 14 of the principal Act,-

- (a) for sub-section (1), the following sub-sections shall be substituted, namely:-

"(1) Whoever employs any child or permits any child to work in contravention of the provisions of section 3 shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years, or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:

Provided that the parents or guardians of such children shall not be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3.

(1A) Whoever employs any adolescent or permits any adolescent to work in contravention of the provisions of section 3A shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years or with fine which shall not be less than twenty thousand rupees but which may extend to fifty thousand rupees, or with both:

Provided that the parents or guardians of such adolescent shall not be punished unless they permit such adolescent to work in contravention of the provisions of section 3A.

(1B) Notwithstanding anything contained in sub-sections (1) and (1A) the parents or guardians of any child or adolescent referred to in section 3 or section 3A, shall not be liable for punishment, in case of the first offence."

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

"(2) Whoever, having been convicted of an offence under section 3 or section 3A commits a like offence afterwards, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years.

(2A) Notwithstanding anything contained in sub-section (2), the parents or guardian having been convicted of an offence under section 3 or section 3A, commits a like offence afterwards, he shall be punishable with a fine which may extend to ten thousand rupees."

- (c) clauses (a), (b) and (c) of sub-section (3) shall be omitted.

**19. Insertion of new sections 14A, 14B, 14C and 14D.** After section 14 of the principal Act, the following sections shall be inserted, namely:-

**"14A. Offences to be Cognizable.** Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) any offence committed by an employer and punishable under section 3 or section 3A shall be cognizable.

**14B. Child and Adolescent Labour Rehabilitation Fund.** (1) The appropriate Government shall constitute a Fund in every district or for two or more districts to be called the Child and Adolescent Labour Rehabilitation Fund to which the amount of the fine realized from the employer of the child and adolescent, within the jurisdiction of such district or districts, shall be credited.

(2) The appropriate Government shall credit an amount of fifteen thousand rupees to the Fund for each child or adolescent for whom the fine amount has been credited under sub-section (1).

(3) The amount credited to the Fund under sub-sections (1) and (2) shall be deposited in such banks or invested in such manner, as the appropriate Government may decide.

(4) The amount deposited or invested, as the case may be under sub-section (3), and the interest accrued on it, shall be paid to the child or adolescent in whose favour such amount is credited, in such manner as may be prescribed.

Explanation:- For the purposes of appropriate Government, the Central Government shall include the Administrator or the Lieutenant Governor of a Union territory under article 239 A of the Constitution.

**14C. Rehabilitation of rescued child or adolescent.** The child or adolescent, who is employed in contravention of the provisions of this Act and rescued, shall be rehabilitated in accordance with the laws for the time being in force.

**14D. Compounding of offences.** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974) the District Magistrate may, on the application of the accused person, compound any offence committed for the first time by him, under sub-section (3) of section 14 or any offence committed by an accused person being parent or a guardian, in such manner and on payment of such amount to the appropriate Government, as may be prescribed.

(2) If the accused fails to pay such amount for composition of the offence, then, the proceedings shall be continued against such person in accordance with the provisions of this Act.

(3) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(4) Where the composition of any offence is made after the institution of any prosecution, such composition shall be brought in writing, to the notice of the Court in which the prosecution is pending and on the approval of the composition of the offence being given, the person against whom the offence is so compounded, shall be discharged."

**20. Insertion of new sections 17A and 17B.** After section 17, the following sections shall be inserted, namely:-

**"17A. District Magistrate to implement the provisions.** The appropriate Government may confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

**17B. Inspection and monitoring.** The appropriate Government shall make or cause to be made periodic inspection of the places at which the employment of children is prohibited and hazardous occupations or processes are carried out at such intervals as it thinks fit, and monitor the issues, relating to the provisions of this Act."

**21. Amendment of section 18.** In section 18 of the principal Act, in sub-section (2),-

- (i) clause (a) shall be relettered as clause (b) thereof and before clause (b), as so relettered, the following clause shall be inserted, namely:-
  - (a) the conditions and the safety measures under clause (b) of sub-section (2) and other activities under clause (b) to Explanation of sub-section (2) of section 3;

