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SERIES I No. 2

OFFICIAL GOVERNMENT OF GOA GAZETTE



PUBLISHED BY AUTHORITY

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GOVERNMENT OF GOA

Department of Law & Judiciary

Legal Affairs Division

Notification

10/4/2019-LA/98

The Indian Medical Council (Amendment) Ordinance, 2019 (Ordinance No. 2 of 2019), which has been promulgated by the President in the Sixty-ninth Year of the Republic of India and published in the Gazette of India,

Extraordinary, Part II, Section I, dated 12-1-2019, is hereby published for the general information of the public.

Julio B. Noronha, Joint Secretary (Law).

Porvorim, 29th March, 2019.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 12th January, 2019/Pausha 22,1940 (Saka)

THE INDIAN MEDICAL COUNCIL
(AMENDMENT) ORDINANCE, 2019

No. 2 of 2019

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

An Ordinance further to amend the Indian Medical Council Act, 1956.

Whereas the Indian Medical Council (Amendment) Ordinance, 2018 was promulgated by the President on the 26th day of September, 2018;

And whereas the Indian Medical Council (Amendment) Bill, 2018, to replace the Indian Medical Council (Amendment) Ordinance, 2018, has been passed by the House of the People and is pending in the Council of States;

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

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

1. *Short title and commencement.*— (1) This Ordinance may be called the Indian Medical Council (Amendment) Ordinance, 2019.

(2) (A) The provisions of this Ordinance shall, except sub-clause (i) or clause (c) of section 2, be deemed to have come into force on the 26th day of September, 2018; and

(B) sub-clause (i) of clause (c) of section 2 shall come into force at once.

2. *Amendment of section 3A.*— In section 3A of the Indian Medical Council Act, 1956,— 102 of 1956.

(a) in sub-section (1), for the words, brackets and figures “Indian/Medical Council

(Amendment) Act, 2010”, the words, brackets and figures “Indian Medical Council (Amendment) Ordinance, 2019” shall be substituted;

(b) in sub-section (2), for the words “three years”, the words “one year” shall be substituted;

(c) in sub-section (4),—

(i) for the words “seven persons”, the words “twelve persons” shall be substituted;

(ii) for the words “and medical education”, the words “and medical education or proven administrative capacity and experience” shall be substituted;

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

“(7A) The Board of Governors shall be assisted by a Secretary General who shall be appointed by the Central Government on deputation or contract basis and he shall be the head of the secretariat in the Council.”.

3. *Repeal and saving.*— (1) The Indian Medical Council (Amendment) Ordinance, 2018 is hereby repealed.

Ord. 8 of
2018.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Medical Council Act, 1956 as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Act, as amended by this Ordinance. 102 of 1956.

RAM NATH KOVIND
President

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

Notification

10/4/2019-LA/99

The Muslim Women (Protection of Rights on Marriage) Ordinance, 2019 (Ordinance No. 1 of 2019), which has been promulgated by the President in the Sixty-ninth Year of the Republic of India and published in the Gazette of India, Extraordinary, Part II, Section I, dated 12-1-2019, is hereby published for the general information of the public.

Julio B. Noronha, Joint Secretary (Law).

Porvorim, 29th March, 2019.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

*New Delhi, the 12th January, 2019/Pausha
22, 1940 (Saka)*

THE MUSLIM WOMEN (PROTECTION
OF RIGHTS ON MARRIAGE)
ORDINANCE, 2019

No. 1 of 2019

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

An Ordinance to protect the rights of married Muslim women and to prohibit divorce by pronouncing talaq by their husbands and for matters connected therewith or incidental thereto;

Whereas the Muslim Women (Protection of Rights on Marriage) Ordinance, 2018 was promulgated by the President on the 19th day of September, 2018.

And whereas the Muslim Women (Protection of Rights on Marriage) Bill, 2018 replacing the said Ordinance was passed by the House of the People on the 27th day of December, 2018 and is pending in the Council of States;

And whereas Parliament is not in session and the President is satisfied that

circumstances exist which render it necessary for him to take immediate action;

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

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—
(1) This Ordinance may be called the Muslim Women (Protection of Rights on Marriage) Ordinance, 2019.

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

(3) It shall be deemed to have come into force on the 19th day of September, 2018.

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

(a) “electronic form” shall have the same meaning as assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000; 21 of 2000.

(b) “talaq” means talaq-e-biddat or any other similar form of talaq having the effect of instantaneous and irrevocable divorce pronounced by a Muslim husband; and

(e) “Magistrate” means a Judicial Magistrate of the first class exercising jurisdiction under the Code of Criminal Procedure, 1973, in 2 of 1974. the area where the married Muslim woman resides.

CHAPTER II

Declaration of Talaq to be Void and Illegal

3. *Talaq to be void and illegal.*— Any pronouncement of talaq by a Muslim husband upon his wife, by words, either spoken or written or in electronic form or in any other manner whatsoever, shall be void and illegal.

4. *Punishment for pronouncing talaq.*— Any Muslim husband who pronounces *talaq* referred to in section 3 upon his wife shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

CHAPTER III

Protection of Rights of Married Muslim Women

5. *Subsistence allowance.*— Without prejudice to the generality of the provisions contained in any other law for the time being in force, a married Muslim woman upon whom *talaq* is pronounced shall be entitled to receive from her husband such amount of subsistence allowance for her and dependent children as may be determined by the Magistrate.

6. *Custody of minor children.*— Notwithstanding anything contained in any other law for the time being in force, a married Muslim woman shall be entitled to custody of her minor children in the event of pronouncement of *talaq* by her husband, in such manner as may be determined by the Magistrate.

7. *Offence to be cognizable, compoundable, etc.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973,— 2 of 1974.

(a) an offence punishable under this Ordinance shall be cognizable, if information relating to the commission of the offence is given to an officer in charge of a police station by the married Muslim woman upon whom *talaq* is pronounced or any person related to her by blood or marriage;

(b) an offence punishable under this Ordinance shall be compoundable, at the instance of the married Muslim women upon whom *talaq* is pronounced with the permission of the Magistrate, on such terms and conditions as he may determine;

(c) no person accused of an offence punishable under this Ordinance shall be

released on bail unless the Magistrate, on an application filed by the accused and after hearing the married Muslim woman upon whom *talaq* is pronounced, is satisfied that there are reasonable grounds for granting bail to such person.

8. *Repeal and savings.*— (1) The Muslim Women (Protection of Rights on Marriage) Ordinance, 2018 is hereby repealed. Ord. 7 of 2018.

(2) Notwithstanding such repeal, anything done or any action taken under the Muslim Women (Protection of Rights on Marriage) Ordinance, 2018 shall be deemed to have been done or taken under the provisions of this Ordinance. Ord. 7 of 2018.

RAM NATH KOVIND
President

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

Notification

10/4/2019-LA/297

The Companies (Amendment) Ordinance, 2019 (Ordinance No. 3 of 2019), which has been promulgated by the President in the Sixty-ninth Year of the Republic of India and published in the Gazette of India, Extraordinary, Part II, Section I, dated 12-1-2019, is hereby published for the general information of the public.

Julio B. Noronha, Joint Secretary (Law).

Porvorim, 29th March, 2019.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 12th January, 2019/Pausha
22, 1940 (*Saka*)

THE COMPANIES (AMENDMENT)
ORDINANCE, 2019

No. 3 of 2019

Promulgated by the President in the sixty-ninth Year of the Republic of India.

An Ordinance further to amend the Companies Act, 2013.

Whereas the Companies (Amendment) Ordinance, 2018 was promulgated by the President on the 2nd day of November, 2018;

And whereas the Companies (Amendment) Bill, 2019 to replace the Companies (Amendment) Ordinance, 2018 has been passed by the House of People on the 4th day of January, 2019 and is pending in the Council of States;

And whereas the Companies (Amendment) Bill, 2019 could not be taken up for consideration and passing in the Council of States;

And whereas the Companies (Amendment) Ordinance, 2018 will cease to operate on the 21st day of January, 2019;

And whereas it is considered necessary to give continued effect to the provisions of the Companies (Amendment) Ordinance, 2018;

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

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

1. *Short title and commencement.*— (1) This Ordinance may be called the Companies (Amendment) Ordinance, 2019.

(2) It shall be deemed to have come into force on the 2nd day of November, 2018.

2. *Amendment of section 2.*— In section 2 of the Companies Act, 2013 (hereinafter referred to as the principal Act), in clause (41),—

(a) for the first proviso, the following provisos shall be substituted, namely:—

“Provided that where a company or body corporate, which is a holding company or a subsidiary or associate company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Central Government may, on an application made by that company or body corporate in such form and manner as may be prescribed, allow any period as its financial year, whether or not that period is a year:

Provided further that any application pending before the Tribunal as on the date of commencement of the Companies (Amendment) Ordinance, 2019, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement.”;

(b) in the second proviso, for the words “Provided further that”, the words “Provided also that” shall be substituted.

3. *Insertion of new section 10A.*— After section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. *Commencement of business, etc.*— (1) A company incorporated after the commencement of the Companies (Amendment) Ordinance, 2019 and having a share capital shall not commence any business or exercise any borrowing powers unless—

(a) a declaration is filed by a director within a period of one hundred and eighty days of the date of incorporation of the company in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber

to the memorandum has paid the value of the shares agreed to be taken by him on the date of making of such declaration; and

(b) the company has filed with the Registrar a verification of its registered office as provided in sub-section (2) of section 12.

(2) If any default is made in complying with the requirements of this section, the company shall be liable to a penalty of fifty thousand rupees and every officer who is in default shall be liable to a penalty of one thousand rupees for each day during which such default continues but not exceeding an amount of one lakh rupees.

(3) Where no declaration has been filed with the Registrar under clause (a) of sub-section (1) within a period of one hundred and eighty days of the date of incorporation of the company and the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may, without prejudice to the provisions of sub-section (2), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.

4. *Amendment of section 12.*— In section 12 of the principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

“(9) If the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may cause a physical verification of the registered office of the company in such manner as may be prescribed and if any default is found to be made in complying with the requirements of sub-section (1), he may without prejudice to the provisions of sub-section (8), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.”.

5. *Amendment of section 14.*— In section 14 of the principal Act,—

(i) in sub-section (1), for the second proviso, the following provisos shall be substituted, namely:—

“Provided further that any alteration having, the effect of conversion of a public company into a private company shall not be valid unless it is approved by an order of the Central Government on an application made in such form and manner as may be prescribed:

Provided also that any application pending before the Tribunal, as on the date of commencement of the Companies (Amendment) Ordinance, 2019, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement.”;

(ii) in sub-section (2), for the word “Tribunal”, the words “Central Government” shall be substituted.

6. *Amendment of section 53.*— In section 53 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Where any company fails to comply with the provisions of this section, such company and every officer who is in default shall be liable to a penalty which may extend to an amount equal to the amount raised through the issue of shares at a discount or five lakh rupees, whichever is less, and the company shall also be liable to refund all monies received with interest at the rate of twelve per cent. per annum from the date of issue of such shares to the persons to whom such shares have been issued.”.

7. *Amendment of section 64.*— In section 64 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Where any company fails to comply with the provisions of sub-section (1), such company and every officer who is in default shall be liable to a penalty of one thousand rupees for each day during which such default continues, or five lakh rupees whichever is less.”.

8. *Amendment of section 77.*— In section 77 of the principal Act in sub-section (1), for the first and second provisos, the following provisos shall be substituted, namely:—

“Provided that the Registrar may, on an application by the company, allow such registration to be made—

(a) in case of charges created before the commencement of the Companies (Amendment) Ordinance, 2019, within a period of three hundred days of such creation; or

(b) in case of charges created on or after the commencement of the Companies (Amendment) Ordinance, 2019, within a period of sixty days of such creation,

on payment of such additional fees as may be prescribed:

Provided further that if the registration is not made within the period specified—

(a) in clause (a) to the first proviso, the registration of the charge shall be made within six months from the date of commencement of the Companies (Amendment) Ordinance, 2019, on payment of such additional fees as may be prescribed and different fees may be prescribed for different classes of companies;

(b) in clause (b) to the first proviso, the Registrar may, on an application, allow such registration to be made within a further period of sixty days after payment of such advalorem fees as may be prescribed.”.

9. *Amendment of section 86.*— Section 86 of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) if any person wilfully furnishes any false or incorrect information or knowingly suppresses any material information, required to be registered in accordance with the provisions of section 77, he shall be liable for action under section 447.”.

10. *Substitution of new section for section 87.*— For section 87 of the principal Act, the following section shall be substituted, namely:—

“87. *Rectification by Central Government in Register of charges.*— The Central Government on being satisfied that—

(a) the omission to give intimation to the Registrar of the payment or satisfaction of a charge, within the time required under this Chapter; or

(b) the omission or misstatement of any particulars, in any filing previously made to the Registrar with respect to any charge or modification thereof or with respect to any memorandum of satisfaction or other entry made in pursuance of section 82 or section 83, was accidental or due to inadvertence or some other sufficient cause or it is not of a nature to prejudice the position of creditors or shareholders of the company, it may, on the application of the company or any person interested and on such terms and conditions as it deems just and expedient, direct that the time for the giving of intimation of payment or satisfaction shall be extended or, as the case may require, that the omission or misstatement shall be rectified.”.

11. *Amendment of section 90.*— In section 90 of the principal Act,—

(i) for sub-section (9), the following sub-section shall be substituted, namely:—

“(9) The company or the person aggrieved by the order of the Tribunal may make an application to the Tribunal for relaxation or lifting of the restrictions placed under sub-section (8), within a period of one year from the date of such order:

Provided that if no such application has been filed within a period of one year from the date of the order under sub-section (8), such shares shall be transferred without any restrictions, to the authority constituted under sub-section (5) of section 125, in such manner as may be prescribed;

(ii) in sub-section (10),—

(a) after the word “punishable”, the words “with imprisonment for a term which may extend to one year or” shall be inserted;

(b) after the words “ten lakh rupees”, the words “or with both” shall be inserted;

12. *Amendment of section 92.*— In section 92 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If any company fails to file its annual return under sub-section (4), before the expiry of the period specified therein, such company and its every officer who is in default shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day during which such failure continues, subject to a maximum of five lakh rupees.”.

13. *Amendment of section 102.*— In section 102 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Without prejudice to the provisions of sub-section (4), if any default is made in complying with the provisions of this section, every promoter, director, manager or other key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees or five times the amount of benefit accruing to the promoter, director, manager or other key managerial personnel or any of his relatives, whichever is higher.”.

14. *Amendment of section 105.*— In section 105 of the principal Act, in sub-section (3), for the words “punishable with fine which may extend to five thousand rupees”, the words “liable to a penalty of five thousand rupees” shall be substituted.

15. *Amendment of section 117.*— In section 117 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If any company fails to file the resolution or the agreement under sub-section (1) before the expiry of the period specified therein, such company shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of twenty-five lakh rupees and every officer of the company who is in default including liquidator of the company, if any, shall be liable to a penalty of fifty thousand rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.”.

16. *Amendment of section 121.*— In section 121 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) If the company fails to file the report under sub-section (2) before the expiry of the period specified therein, such company

shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees and every officer of the company who is in default shall be liable to a penalty which shall not be less than twenty-five thousand rupees and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees.”.

17. *Amendment of section 137.*— In section 137 of the principal Act, in sub-section (3),—

(a) for the words “punishable with fine”, the words “liable to a penalty” shall be substituted;

(b) for the portion beginning with “punishable with imprisonment”, and ending with “five lakh rupees or with both”, the words “shall be liable to a penalty of one lakh rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees” shall be substituted.

18. *Amendment of section 140.*— In section 140 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) If the auditor does not comply with the provisions of sub-section (2), he or it shall be liable to a penalty of fifty thousand rupees or an amount equal to the remuneration of the auditor, whichever is less, and in case of continuing failure, with a further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.”.

19. *Amendment of section 157.*— In section 157 of the principal Act, for sub-section (2),

the following sub-section shall be substituted, namely:—

“(2) If any company fails to furnish the Director Identification Number under sub-section (1), such company shall be liable to a penalty of twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees, and every officer of the company who is in default shall be liable to a penalty of not less than twenty-five thousand rupees and in case of continuing failure, with a further penalty of one hundred rupees for each day after the first during which such failure continues, subject to a maximum of one lakh rupees.”.

20. *Substitution of new section for section 159.*— For section 159 of the principal Act, the following section shall be substituted, namely:—

“159. *Penalty for default of certain provisions.*— If any individual or director of a company makes any default in complying with any of the provisions of section 152, section 155 and section 156, such individual or director of the company shall be liable to a penalty which may extend to fifty thousand rupees and where the default is a continuing one, with a further penalty which may extend to five hundred rupees for each day after the first during which such default continues.”.

21. *Amendment of section 164.*— In section 164 of the principal Act, in sub-section (1), after clause (h), the following clause shall be inserted, namely:—

“(i) he has not complied with the provisions of sub-section (1) of section 165.”.

22. *Amendment of section 165.*— In section 165 of the principal Act, in sub-section (6), for the portion beginning with “punishable with fine” and ending with “contravention

continues”, the words “liable to a penalty of five thousand rupees for each day after the first during which such contravention continues” shall be substituted.

23. *Amendment of section 191.*— In section 191 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If a director of the company makes any default in complying with the provisions of this section, such director shall be liable to a penalty of one lakh rupees.”.

24. *Amendment of section 197.*— In section 197 of the principal Act,—

(a) sub-section (7) shall be omitted;

(b) for sub-section (15), the following sub-section shall be substituted, namely:—

“(15) If any person makes any default in complying with the provisions of this section, he shall be liable to a penalty of one lakh rupees and where any default has been made by a company, the company shall be liable to a penalty of five lakh rupees.”.

25. *Amendment of section 203.*— In section 203 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) If any company makes any default in complying with the provisions of this section, such company shall be liable to a penalty of five lakh rupees and every director and key managerial personnel of the company who is in default shall be liable to a penalty of fifty thousand rupees and where the default is a continuing one, with a further penalty of one thousand rupees for each day after the first during which such default continues but not exceeding five lakh rupees.”.

26. *Amendment of section 238.*— In section 238 of the principal Act, in sub-section (3),

for the words “punishable with fine which shall not be less than twenty five thousand rupees but which may extend to five lakh rupees”, the words “liable to a penalty of one lakh rupees” shall be substituted.

27. *Amendment of section 248.*— In section 248 of the principal Act, in sub-section (1),—

(a) in clause (c), for the word and figures “section 455,”, the words and figures “section 455; or” shall be substituted;

(b) after clause (c) and before the long line, the following clauses shall be inserted, namely:—

“(d) the subscribers to the memorandum have not paid the subscription which they had undertaken to pay at the time of incorporation of a company and a declaration to this effect has not been filed within one hundred and eighty days of its incorporation under sub-section (1) of section 10A; or

(e) the company is not carrying on any business or operations, as revealed after the physical verification carried out under sub-section (9) of section 12.”.

28. *Amendment of section 441.*— In section 441 of the principal Act,—

(a) in sub-section (1), in clause (b), for the words “does not exceed five lakh rupees”, the words “does not exceed twenty-five lakh rupees” shall be substituted;

(b) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence which is punishable under this Act with imprisonment only or with imprisonment and also with fine shall not be compoundable.”.

29. *Amendment of section 446B.*— In section 446B of the principal Act, for the portion beginning with “punishable with fine” and ending with “specified in such sections”, the words “liable to a penalty which shall not be more than one half of the penalty specified in such sections” shall be substituted.

30. *Amendment of section 447.*— In section 447 of the principal Act, in the second proviso, for the words “twenty lakh rupees”, the words “fifty lakh rupees” shall be substituted.

31. *Amendment of section 454.*— In section 454 of the principal Act,—

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

“(3) The adjudicating officer may, by an order—

(a) impose the penalty on the company, the officer who is in default, or any other person, as the case may be, stating therein any non-compliance or default under the relevant provisions of this Act; and

(b) direct such company, or officer who is in default, or any other person, as the case may be, to rectify the default, wherever he considers fit.”;

(ii) in sub-section (4), for the words “such company and the officer who is in default”, the words “such company, the officer who is in default or any other person” shall be substituted;

(iii) in sub-section (8),—

(a) in clause (i), for the words “does not pay the penalty imposed by the adjudicating officer, or the Regional Director”, the words, brackets and figures “fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be,” shall be substituted;

(b) in clause (ii)—

(i) for the words “Where an officer of a company” the words “Where an officer of a company or any other person” shall be substituted;

(ii) for the words “does not pay the penalty”, the words, brackets and figures “fails to comply with the order made under sub-section (3) or sub-section (7), as the case may be,” shall be substituted.

32. *Insertion of new section 454A.*— After section 454 of the principal Act, the following section shall be inserted, namely:—

“454A. *Penalty for repeated default.*— Where a company or an officer of a company or any other person having already been subjected to penalty for default under any provisions of this Act, again commits such default within a period of three years from the date of order imposing such penalty passed by the adjudicating officer or the Regional Director, as the case may be, it or he shall be liable for the second or subsequent defaults for an amount equal to twice the amount of penalty provided for such default under the relevant provisions of this Act.”.

33. *Repeal and Saving.*— (1) The Companies (Amendment) Ordinance, 2018 is hereby repealed. Ord. 9 of 2018.

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

RAM NATH KOVIND
President

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

Notification

10/6/2018-LA-47

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018 (Central Act No. 27 of 2018), which has been passed by Parliament and assented to by the President on 17-08-2018 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 17-08-2018, is hereby published for the general information of the public.

Julio Barbosa Noronha, Joint Secretary (Law).
Porvorim, 29th January, 2019.

THE SCHEDULED CASTES AND THE
SCHEDULED TRIBES (PREVENTION OF
ATROCITIES) AMENDMENT ACT, 2018

AN

ACT

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

Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2018.

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

2. *Insertion of new section 18A.*— After section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, ^{33 of 1989.} the following section shall be inserted, namely:—

“18A. *No enquiry or approval required.*—
(1) For the purposes of this Act,—

(a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or

(b) the investigating officer shall not require approval for the arrest, if necessary, of any person,

against whom an accusation of having committed an offence under this Act has been made and no procedure other than that provided under this Act or the Code shall apply.

(2) The provisions of section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court.”.

Notification

10/6/2018-LA-46

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018 (Central Act No. 28 of 2018), which has been passed by Parliament and assented to by the President on 20-08-2018 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 21-08-2018, is hereby published for the general information of the public.

Julio Barbosa Noronha, Joint Secretary (Law).
Porvorim, 29th January, 2019.

THE COMMERCIAL COURTS, COMMERCIAL
DIVISION AND COMMERCIAL APPELLATE
DIVISION OF HIGH COURTS (AMENDMENT)
ACT, 2018

AN

ACT

to amend the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018.

(2) Save as otherwise provided, it shall be deemed to have come into force on the 3rd day of May, 2018.

2. *Amendment of long title.*— In the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 4 of 2016. (hereinafter referred to as the principal Act), in the long title, after the words “Commercial Courts”, the words “Commercial Appellate Courts,” shall be inserted.

3. *Amendment of section 1.*— In section 1 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) This Act may be called the Commercial Courts Act, 2015.”

4. *Amendment of section 2.*— In section 2 of the principal Act, in sub-section (1),—

(I) clause (a) shall be renumbered as clause (aa) thereof, and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—

‘(a) “Commercial Appellate Courts” means the Commercial Appellate Courts designated under section 3A;’;

(II) in clause (i), for the words “which shall not be less than one crore rupees”, the words “which shall not be less than three lakh rupees” shall be substituted.

5. *Substitution of Chapter heading.*— In the principal Act, in Chapter II, for the Chapter heading, the following Chapter heading shall be substituted, namely:—

“Commercial Courts, Commercial Appellate Courts, Commercial Divisions and Commercial Appellate Divisions”.

6. *Amendment of section 3.*— In section 3 of the principal Act,—

(a) in sub-section (1), for the proviso, the following provisos shall be substituted, namely:—

“Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.”;

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

“(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.”;

(c) in sub-section (3),—

(i) for the words “State Government shall”, the words “State Government may” shall be substituted;

(ii) for the words “Commercial Court, from amongst the cadre of Higher Judicial Service in the State”, the following words shall be substituted, namely:—

“Commercial Court either at the level of District Judge or a court below the level of a District Judge”.

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

“3A. *Designation of Commercial Appellate Courts.*— Except the territories

over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act.”.

8. *Amendment of section 4.*— In section 4 of the principal Act, in sub-section (1), for the words “ordinary civil jurisdiction”, the words “ordinary original civil jurisdiction” shall be substituted.

9. *Omission of section 9.*— Section 9 of the principal Act shall be omitted.

10. *Amendment of section 12.*— In section 12 of the principal Act, in sub-section (1),—

(i) in clause (c), after the words “Specified Value;”, the word “and” shall be inserted;

(ii) in clause (d), the word “and”, occurring at the end, shall be omitted;

(iii) clause (e) shall be omitted.

11. *Insertion of new Chapter IIIA.*— After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER IIIA

Pre-Institution Mediation and Settlement

12A. *Pre-Institution Mediation and Settlement.*— (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987, for the purposes of pre-^{39 of 1987.} institution mediation.

(3) Notwithstanding anything contained in the Legal Services

Authorities Act, 1987, the^{39 of 1987.} Authority authorised by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1).

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963.

36 of 1963.

(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996.”.

26 of 1996.

12. *Amendment of section 13.*— In section 13 of the principal Act, for sub-section (1), the following shall be substituted, namely:—

“(1) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996.”.

5 of 1908.

26 of 1996.

13. *Amendment of section 14.*— In section 14 of the principal Act, for the words “Commercial Appellate Division”, the words “Commercial Appellate Court and the Commercial Appellate Division” shall be substituted.

14. *Amendment of section 15.*— In section 15 of the principal Act, in sub-section (4), for the words, figures and letter “with Order XIV-A”, the words, figures and letter “with Order XV-A” shall be substituted.

15. *Amendment of section 17.*— In section 17 of the principal Act, for the words “Commercial Courts” and “Commercial Court”, wherever they occur, the words “Commercial Courts, Commercial Appellate Courts” shall be substituted.

16. *Amendment of section 20.*— In section 20 of the principal Act, for the words “Commercial Court”, the words “Commercial Courts, Commercial Appellate Courts” shall be substituted.

17. *Insertion of new section 21A.*— After section 21 of the principal Act, the following section shall be inserted, namely:—

“21A. *Power of Central Government to make rules.*— (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

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

(a) the manner and procedure of pre-institution mediation under sub-section (1) of section 12A;

(b) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules made by the Central Government.

(3) Every rule made by the Central Government 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.”.

18. *Amendment of Schedule.*— In the Schedule to the principal Act,—

(i) in Paragraph 4, in sub-paragraph (D), in item (iv),—

(a) in the opening portion, the words “after the first proviso,” shall be omitted;

(b) for the words “Provided further that”, the words “Provided that” shall be substituted;

(ii) in Paragraph 11, for the words “Commercial Court”, the words “Commercial Court, Commercial Appellate Court” shall be substituted;

(iii) after Paragraph 11, the following shall be inserted and shall be deemed to have been inserted with effect from the 23rd October, 2015, namely:—

‘12. After Appendix H, the following Appendix shall be inserted, namely:—

“APPENDIX-I

Statement of Truth

(Under First Schedule, Order VI-Rule 15A and Order XI-Rule 3)

I the deponent do hereby solemnly affirm and declare as under:

1. I am the party in the above suit and competent to swear this affidavit.

2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.

3. I say that the statements made in paragraphs are true to my knowledge and statements made in paragraphs are based on information received which I believe to be correct and statements made in paragraphs are based on legal advice.

4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.

5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.

6. I say that the above-mentioned pleading comprises of a total of pages, each of which has been duly signed by me.

7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.

8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law for the time being in force.

Place:

Date:

DEPONENT

VERIFICATION

I, do hereby declare that the statements made above are true to my knowledge.

Verified at [place] on this [date]

DEPONENT.".'. .

19. *Application of provisions of this Act on cases filed on or after its commencement.*— Save as otherwise provided, the provisions of this Act shall apply only to cases relating to commercial disputes filed on or after the date of commencement of this Act.

20. *Repeal and savings.*— (1) The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018 is hereby repealed.

Ord 3 of
2018.

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

Notification

10/6/2018-LA-48

The Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 (Central Act No. 26 of 2018), which has been passed by Parliament and assented to by the President on 17-08-2018 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 17-08-2018, is hereby published for the general information of the public.

Julio Barbosa Noronha, Joint Secretary (Law).

Porvorim, 29th January, 2019.

THE INSOLVENCY AND BANKRUPTCY CODE (SECOND AMENDMENT) ACT, 2018

AN

ACT

further to amend the Insolvency and Bankruptcy Code, 2016.

Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 6th day of June, 2018.

2. *Amendment of section 3.*— In the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the principal Act), in section 3, in clause (12), for the word “repaid”, the word “paid” shall be substituted.

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

(i) after clause (5), the following clause shall be inserted, namely:—

‘(5A) “corporate guarantor” means a corporate person who is the surety in a contract of guarantee to a corporate debtor;’;

(ii) in clause (8), in sub-clause (f), the following *Explanation* shall be inserted, namely:—

‘*Explanation.*— For the purposes of this sub-clause,—

(i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and

(ii) the expressions, “allottee” and “real estate project” shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016;’;

(iii) in clause (12), the following proviso shall be inserted, namely:—

“Provided that where the interim resolution professional is not appointed in the order admitting application under section 7, 9 or section 10, the insolvency commencement date shall be the date on which such interim resolution professional is appointed by the Adjudicating Authority;”;

(iv) in clause (21), for the word “repayment”, the word “payment” shall be substituted;

(v) after clause (24), the following clause shall be inserted, namely:—

‘(24A) “related party”, in relation to an individual, means—

(a) a person who is a relative of the individual or a relative of the spouse of the individual;

(b) a partner of a limited liability partnership, or a limited liability partnership or a partnership firm, in which the individual is a partner;

(c) a person who is a trustee of a trust in which the beneficiary of the trust includes the individual, or the terms of the trust confers a power on the trustee which may be exercised for the benefit of the individual;

(d) a private company in which the individual is a director and holds along with his relatives, more than two per cent. of its share capital;

(e) a public company in which the individual is a director and holds along with relatives, more than two per cent. of its paid-up share capital;

(f) a body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of the individual;

(g) a limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, act on the advice, directions or instructions of the individual;

(h) a person on whose advice, directions or instructions, the individual is accustomed to act;

(i) a company, where the individual or the individual along with its related party, own more than fifty per cent. of the share capital of the company or

controls the appointment of the board of directors of the company.

Explanation.— For the purposes of this clause,—

(a) “relative”, with reference to any person, means anyone who is related to another, in the following manner, namely:—

- (i) members of a Hindu Undivided Family,
- (ii) husband,
- (iii) wife,
- (iv) father,
- (v) mother,
- (vi) son,
- (vii) daughter,
- (viii) son’s daughter and son,
- (ix) daughter’s daughter and son,
- (x) grandson’s daughter and son,
- (xi) granddaughter’s daughter and son,
- (xii) brother,
- (xiii) sister,
- (xiv) brother’s son and daughter,
- (xv) sister’s son and daughter,
- (xvi) father’s father and mother,
- (xvii) mother’s father and mother,
- (xviii) father’s brother and sister,
- (xix) mother’s brother and sister, and

(b) wherever the relation is that of a son, daughter, sister or brother, their spouses shall also be included;’.

4. *Amendment of section 7.*— In section 7 of the principal Act, in sub-section (1), for the words “other financial creditors”, the words “other financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government,” shall be substituted.

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

(a) in sub-section (2),—

(i) in clause (a), for the words “if any, and”, the words “if any, or” shall be substituted;

(ii) in clause (b), for the word “repayment”, the word “payment” shall be substituted;

(b) in the *Explanation*, for the word “repayment”, the word “payment” shall be substituted.

6. *Amendment of section 9.*— In section 9 of the principal Act,—

(a) in sub-section (3),—

(i) in clause (c), for the words “by the corporate debtor; and”, the words “by the corporate debtor, if available;” shall be substituted;

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

“(d) a copy of any record with information utility confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available; and

(e) any other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information, as may be prescribed.”;

(b) in sub-section (5),—

(A) in clause (i), in sub-clause (b), for the word “repayment”, the word “payment” shall be substituted;

(B) in clause (ii), in sub-clause (b), for the word “repayment”, the word “payment” shall be substituted.

7. *Amendment of section 10.*— In section 10 of the principal Act,—

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

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

(a) the information relating to its books of account and such other

documents for such period as may be specified;

(b) the information relating to the resolution professional proposed to be appointed as an interim resolution professional; and

(c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.”;

(b) in sub-section (4),—

(i) in clause (a), after the words “if it is complete”, the words “and no disciplinary proceeding is pending against the proposed resolution professional” shall be inserted;

(ii) in clause (b), after the words “if it is incomplete”, the words “or any disciplinary proceeding is pending against the proposed resolution professional” shall be inserted.

8. *Amendment of section 12.*— In section 12 of the principal Act, in sub-section (2), for the word “seventy-five”, the word “sixty-six” shall be substituted.

9. *Insertion of new section 12A.*— After section 12 of the principal Act, the following section shall be inserted, namely:—

“12A. *Withdrawal of application admitted under sections 7, 9 or 10.*— The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made by the applicant with the approval of ninety per cent. voting share of the committee of creditors, in such manner as may be specified.”.

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

“(3) The provisions of sub-section (1) shall not apply to—

(a) such transaction as may be notified by the Central Government in consultation with any financial regulator;

(b) a surety in a contract of guarantee to a corporate debtor.”.

11. *Amendment of section 15.*— In section 15 of the principal Act, in sub-section (1), in clause (c), for the word “claims”, the words “claims, as may be specified” shall be substituted.

12. *Amendment of section 16.*— In section 16 of the principal Act, in sub-section (5), for the words “shall not exceed thirty days from date of his appointment”, the words and figures “shall continue till the date of appointment of the resolution professional under section 22” shall be substituted.

13. *Amendment of section 17.*— In section 17 of the principal Act, in sub-section (2),—

(i) in clause (d), for the words “may be specified.”, the words “may be specified; and” shall be substituted;

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

“(e) be responsible for complying with the requirements under any law for the time being in force on behalf of the corporate debtor.”.

14. *Amendment of section 18.*— In section 18 of the principal Act, in the *Explanation*, for the word “sub-section”, the word “section” shall be substituted.

15. *Amendment of section 21.*— In section 21 of the principal Act,—

(i) in sub-section (2),—

(a) in the proviso, for the words “related party to whom a corporate debtor owes a financial debt”, the words, brackets, figures and letter “financial creditor or the authorised representative of the financial creditor referred to in sub-section (6) or sub-section (6A) or sub-section (5) of section 24, if it is a related party of the corporate debtor,” shall be substituted;

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

“Provided further that the first proviso shall not apply to a financial creditor, regulated by a financial sector regulator, if it is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.”;

(ii) in sub-section (3), for the word “Where”, the words, brackets, figures and letter “Subject to sub-sections (6) and (6A), where” shall be substituted;

(iii) in sub-section (6), in the opening portion, the words “or issued as securities” shall be omitted;

(iv) after sub-section (6), the following sub-sections shall be inserted, namely:—

“(6A) Where a financial debt—

(a) is in the form of securities or deposits and the terms of the financial debt provide for appointment of a trustee or agent to act as authorised representative for all the financial creditors, such trustee or agent shall act on behalf of such financial creditors;

(b) is owed to a class of creditors exceeding the number as may be specified, other than the creditors covered under clause (a) or sub-section (6), the interim resolution professional shall make an application to the Adjudicating Authority along with the list of all financial creditors, containing the name of an insolvency professional, other than the interim resolution professional, to act as their authorised representative who shall be appointed by the Adjudicating Authority prior to the first meeting of the committee of creditors;

(c) is represented by a guardian, executor or administrator, such person shall act as authorised representative on behalf of such financial creditors,

and such authorised representative under clause (a) or clause (b) or clause (c) shall attend the meetings of the committee of creditors, and vote on behalf of each financial creditor to the extent of his voting share.

(6B) The remuneration payable to the authorised representative—

(i) under clauses (a) and (c) of sub-section (6A), if any, shall be as per the terms of the financial debt or the relevant documentation; and

(ii) under clause (b) of sub-section (6A) shall be as specified which shall form part of the insolvency resolution process costs.”;

(v) for sub-sections (7) and (8), the following sub-sections shall be substituted, namely:—

“(7) The Board may specify the manner of voting and the determining of the voting share in respect of financial debts covered under sub-sections (6) and (6A).

(8) Save as otherwise provided in this Code, all decisions of the committee of creditors shall be taken by a vote of not less than fifty-one per cent. of voting share of the financial creditors:

Provided that where a corporate debtor does not have any financial creditors, the committee of creditors shall be constituted and shall comprise of such persons to exercise such functions in such manner as may be specified.”.

16. *Amendment of section 22.*— In section 22 of the principal Act,—

(a) in sub-section (2), for the word, “seventy-five”, the word “sixty-six” shall be substituted;

(b) in sub-section (3),—

(i) in clause (a), after the words “resolution professional”, the words “subject to a written consent from the interim resolution professional in the specified form” shall be inserted;

(ii) in clause (b), after the words “appointment of the proposed resolution professional”, the words “along with a written consent from the proposed resolution professional in the specified form” shall be inserted.

17. *Amendment of section 23.*— In section 23 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that the resolution professional shall, if the resolution plan under sub-section (6) of section 30 has been submitted, continue to manage the operations of the corporate debtor after the expiry of the corporate insolvency resolution process period until an order is passed by the Adjudicating Authority under section 31.”.

18. *Amendment of section 24.*— In section 24 of the principal Act,—

(i) in sub-section (3), in clause (a), for the words “Committee of creditors”, the words, brackets, figures and letter “committee of creditors, including the authorised representatives referred to in sub-sections (6) and (6A) of section 21 and sub-section (5)” shall be substituted;

(ii) in sub-section (5), for the words “Any creditor”, the words, brackets, figures and letters “Subject to sub-sections (6), (6A) and (6B) of section 21, any creditor” shall be substituted.

19. *Insertion of new section 25A.*— After section 25 of the principal Act, the following section shall be inserted, namely:—

‘25A. *Rights and duties of authorised representative of financial creditors.*— (1) The authorised representative under sub-section (6) or sub-section (6A) of section 21 or sub-section (5) of section 24 shall have the right to participate and vote in meetings of the committee of creditors on behalf of the financial creditor he represents in accordance with the prior voting instructions of such creditors obtained through physical or electronic means.

(2) It shall be the duty of the authorised representative to circulate the agenda and

minutes of the meeting of the committee of creditors to the financial creditor he represents.

(3) The authorised representative shall not act against the interest of the financial creditor he represents and shall always act in accordance with their prior instructions:

Provided that if the authorised representative represents several financial creditors, then he shall cast his vote in respect of each financial creditor in accordance with instructions received from each financial creditor, to the extent of his voting share:

Provided further that if any financial creditor does not give prior instructions through physical or electronic means, the authorised representative shall abstain from voting on behalf of such creditor.

(4) The authorised representative shall file with the committee of creditors any instructions received by way of physical or electronic means, from the financial creditor he represents, for voting in accordance therewith, to ensure that the appropriate voting instructions of the financial creditor he represents is correctly recorded by the interim resolution professional or resolution professional, as the case may be.

Explanation.— For the purposes of this section, the “electronic means” shall be such as may be specified.’.

20. *Amendment of section 27.*— In section 27 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The committee of creditors may, at a meeting, by a vote of sixty-six per cent. of voting shares, resolve to replace the resolution professional appointed under section 22 with another resolution professional, subject to a written consent from the proposed resolution professional in the specified form.”.

21. *Amendment of section 28.*— In section 28 of the principal Act, in sub-section (3), for

the word, “seventy-five”, the word “sixty-six” shall be substituted.

22. *Amendment of section 29A.*— In section 29A of the principal Act,—

(i) in clause (c),—

(A) for the words “has an account,”, the words “at the time of submission of the resolution plan has an account,” shall be substituted;

(B) after the words and figures “the Banking Regulation Act, 1949”, the words “or ^{10 of 1949.} the guidelines of a financial sector regulator issued under any other law for the time being in force,” shall be inserted;

(C) after the proviso, the following shall be inserted, namely:—

‘Provided further that nothing in this clause shall apply to a resolution applicant where such applicant is a financial entity and is not a related party to the corporate debtor.

Explanation I.— For the purposes of this proviso, the expression “related party” shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date.

Explanation II.— For the purposes of this clause, where a resolution applicant has an account, or an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified as non-performing asset and such account was acquired pursuant to a prior resolution plan approved under this Code, then, the provisions of this clause shall not apply to such resolution applicant for a period of three years from the date of approval

of such resolution plan by the Adjudicating Authority under this Code;’;

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

“(d) has been convicted for any offence punishable with imprisonment—

(i) for two years or more under any Act specified under the Twelfth Schedule; or

(ii) for seven years or more under any other law for the time being in force:

Provided that this clause shall not apply to a person after the expiry of a period of two years from the date of his release from imprisonment:

Provided further that this clause shall not apply in relation to a connected person referred to in clause (iii) of *Explanation I*;’;

(iii) in clause (e), the following proviso shall be inserted, namely:—

“Provided that this clause shall not apply in relation to a connected person referred to in clause (iii) of *Explanation I*;’;

(iv) in clause (g), the following proviso shall be inserted, namely:—

“Provided that this clause shall not apply if a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place prior to the acquisition of the corporate debtor by the resolution applicant pursuant to a resolution plan approved under this Code or pursuant to a scheme or plan approved by a financial sector regulator or a court, and such resolution applicant has not otherwise contributed to the preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction;’;

(v) in clause (h),—

(A) for the words “an enforceable guarantee”, the words “a guarantee” shall be substituted;

(B) after the words “under this Code”, the words “and such guarantee has been invoked by the creditor and remains unpaid in full or part” shall be inserted;

(vi) in clause (i), for the words “has been”, the word “is” shall be substituted;

(vii) the *Explanation* occurring after clause (j) shall be numbered as

Explanation I, and in *Explanation I* as so numbered, for the proviso, the following provisos shall be substituted, namely:—

‘Provided that nothing in clause (iii) of *Explanation I* shall apply to a resolution applicant where such applicant is a financial entity and is not a related party of the corporate debtor:

Provided further that the expression “related party” shall not include a financial entity, regulated by a financial sector regulator, if it is a financial creditor of the corporate debtor and is a related party of the corporate debtor solely on account of conversion or substitution of debt into equity shares or instruments convertible into equity shares, prior to the insolvency commencement date;’;

(viii) after *Explanation I* as so numbered, the following *Explanation* shall be inserted, namely:—

Explanation II.— For the purposes of this section, “financial entity” shall mean the following entities which meet such criteria or conditions as the Central Government may, in consultation with the financial sector regulator, notify in this behalf, namely:—

(a) a scheduled bank;

(b) any entity regulated by a foreign central bank or a securities market regulator or other financial sector regulator of a jurisdiction

outside India which jurisdiction is compliant with the Financial Action Task Force Standards and is a signatory to the International Organisation of Securities Commissions Multilateral Memorandum of Understanding;

(c) any investment vehicle, registered foreign institutional investor, registered foreign portfolio investor or a foreign venture capital investor, where the terms shall have the meaning assigned to them in regulation 2 of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident Outside India) Regulations, 2017 made under the Foreign Exchange Management Act, 1999;

42 of 1999.

(d) an asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; 54 of 2002.

(e) an Alternate Investment Fund registered with the Securities and Exchange Board of India;

(f) such categories of persons as may be notified by the Central Government.’

23. *Amendment of section 30.*— In section 30 of the principal Act,—

(i) in sub-section (1), after the words “resolution plan”, the words, figures and letter “along with an affidavit stating that he is eligible under section 29A” shall be inserted;

(ii) in sub-section (2),—

(A) in clauses (a) and (b), for the word “repayment” at both the places where it occurs, the word “payment” shall be substituted;

(B) after clause (f), the following *Explanation* shall be inserted, namely:—

“*Explanation.*— For the purposes of clause (e), if any approval of shareholders is required under the Companies Act, 2013 or any ^{18 of 2013.} other law for the time being in force for the implementation of actions under the resolution plan, such approval shall be deemed to have been given and it shall not be a contravention of that Act or law.”;

(iii) in sub-section (4),—

(a) for the word “seventy-five”, the word “sixty-six” shall be substituted;

(b) after the third proviso, the following proviso shall be inserted, namely:—

“Provided also that the eligibility criteria in section 29A as amended by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 shall apply to the resolution applicant who has not submitted resolution plan as on the date of commencement of the Insolvency and Bankruptcy Code (Amendment) ^{Ord. 6 of 2018.} Ordinance, 2018.”.

24. *Amendment of section 31.*— In section 31 of the principal Act,—

(a) in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that the Adjudicating Authority shall, before passing an order for approval of resolution plan under this

sub-section, satisfy that the resolution plan has provisions for its effective implementation.”;

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

“(4) The resolution applicant shall, pursuant to the resolution plan approved under sub-section (1), obtain the necessary approval required under any law for the time being in force within a period of one year from the date of approval of the resolution plan by the Adjudicating Authority under sub-section (1) or within such period as provided for in such law, whichever is later:

Provided that where the resolution plan contains a provision for combination as referred to in section 5 of the Competition Act, 2002, the ^{12 of 2003.} resolution applicant shall obtain the approval of the Competition Commission of India under that Act prior to the approval of such resolution plan by the committee of creditors.”.

25. *Amendment of section 33.*— In section 33 of the principal Act, in sub-section (2), after the words “decision of the committee of creditors”, the words “approved by not less than sixty-six per cent. of the voting share” shall be inserted.

26. *Amendment of section 34.*— In section 34 of the principal Act,—

(a) in sub-section (1), for the words and figures “Chapter II shall”, the words and figures “Chapter II shall, subject to submission of a written consent by the resolution professional to the Adjudicatory Authority in specified form,” shall be substituted;

(b) in sub-section (4),—

(i) in clause (b), for the words “in writing”, the words “in writing; or” shall be substituted;

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

“(c) the resolution professional fails to submit written consent under sub-section (1).”;

(c) in sub-section (5), for the word, brackets and letter “clause (a)”, the words, brackets and letters “clauses (a) and (c)” shall be substituted;

(d) in sub-section (6), after the words “another insolvency professional”, the words “along with written consent from the insolvency professional in the specified form,” shall be inserted.

27. *Amendment of section 42.*— In section 42 of the principal Act, after the words “of the liquidator”, the words “accepting or” shall be inserted.

28. *Amendment of section 45.*— In section 45 of the principal Act, in sub-section (1), the words and figures “of section 43” shall be omitted.

29. *Amendment of section 60.*— In section 60 of the principal Act,—

(a) in sub-section (2), for the words “bankruptcy of a personal guarantor of such corporate debtor”, the words “liquidation or bankruptcy of a corporate guarantor or personal guarantor, as the case may be, of such corporate debtor” shall be substituted;

(b) in sub-section (3), for the words “bankruptcy proceeding of a personal guarantor of the corporate debtor”, the words “liquidation or bankruptcy proceeding of a corporate guarantor or personal guarantor, as the case may be, of the corporate debtor” shall be substituted.

30. *Amendment of section 69.*— In section 69 of the principal Act, for the words “On or after the insolvency commencement date, if”, the word “If” shall be substituted.

31. *Amendment of section 76.*— In section 76 of the principal Act,—

(a) in the marginal heading, for the word “repayment”, the word “payment” shall be substituted;

(b) in clause (a), for the word “repayment”, the word “payment” shall be substituted.

32. *Amendment of section 196.*— In section 196 of the principal Act, in sub-section (1),—

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

“(aa) promote the development of, and regulate, the working and practices of, insolvency professionals, insolvency professional agencies and information utilities and other institutions, in furtherance of the purposes of this Code;”;

(ii) in clause (c), for the words “for the registration”, the words “for carrying out the purposes of this Code, including fee for registration and renewal” shall be substituted.

33. *Amendment of section 231.*— In section 231 of the principal Act, for the words “Adjudicating Authority” at both the places where they occur, the words “Adjudicating Authority or the Board” shall be substituted.

34. *Inserting of new section 238A.*— After section 238 of the principal Act, the following section shall be inserted, namely:—

“238A. *Limitation.*— The provisions of the Limitation Act, 1963 shall, as far as may be, apply ^{36 of 1963.} to the proceedings or appeals before the Adjudicating Authority, the National Company Law Appellate Tribunal, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be.”.

35. *Amendment of section 239.*— In section 239 of the principal Act, in sub-section (2), after clause (e), the following clause shall be inserted, namely:—

“(ea) other proof confirming that there is no payment of an unpaid operational debt by the corporate debtor or such other information under clause (e) of sub-section (3) of section 9;”.

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

(i) clause (g) shall be omitted;

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

(ja) the last date for submission of claims under clause (c) of sub-section (1) of section 15;”;

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

“(na) the number of creditors within a class of creditors under clause (b) of sub-section (6A) of section 21;

(nb) the remuneration payable to authorised representative under clause (ii) of the proviso to sub-section (6B) of section 21;

(nc) the manner of voting and determining the voting share in respect of financial debts under sub-section (7) of section 21;”.

37. *Inserting of new section 240A.*— After section 240 of the principal Act, the following section shall be inserted, namely:—

‘240A. *Application of this Code to micro, small and medium enterprises.*— (1) Notwithstanding anything to the contrary contained in this Code, the provisions of clauses (c) and (h) of section 29A shall not apply to the resolution applicant in respect of corporate insolvency resolution process of any micro, small and medium enterprises.

(2) Subject to sub-section (1), the Central Government may, in the public interest, by notification, direct that any of the provisions of this Code shall—

(a) not apply to micro, small and medium enterprises; or

(b) apply to micro, small and medium enterprises, with such modifications as may be specified in the notification.

(3) A draft of every notification proposed to be issued under sub-section (2), shall be laid 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.

(4) If both Houses agree in disapproving the issue of notification or both Houses agree in making any modification in the notification, the notification shall not be issued or shall be issued only in such modified form as may be agreed upon by both the Houses, as the case may be.

(5) The period of thirty days referred to in sub-section (3) shall not include any period during which the House referred to in sub-section (4) is prorogued or adjourned for more than four consecutive days.

(6) Every notification issued under this section shall be laid, as soon as may be after it is issued, before each House of Parliament.

Explanation.— For the purposes of this section, the expression “micro, small and medium enterprises” means any class or classes of enterprises classified as such under sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006.’. 27 of 2006.

38. *Insertion of new Schedule.*— After the Eleventh Schedule to the principal Act, the following Schedule shall be inserted, namely:—

“THE TWELFTH SCHEDULE

(See clause (d) of section 29A)

Acts for the Purposes of Clause (d) of Section 29A

(1) The Foreign Trade (Development and Regulation) Act, 1922 (22 of 1922);

(2) The Reserve Bank of India Act, 1934 (2 of 1934);

(3) The Central Excise Act, 1944 (1 of 1944);

(4) The Prevention of Food Adulteration Act, 1954 (37 of 1954);

(5) The Essential Commodities Act, 1955 (10 of 1955);

(6) The Securities Contracts (Regulation) Act, 1956 (42 of 1956);

(7) The Income-tax Act, 1961 (43 of 1961);

(8) The Customs Act, 1962 (52 of 1962);

(9) The Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(10) The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974);

(11) The Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981);

(12) The Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);

(13) The Environment (Protection) Act, 1986 (29 of 1986);

(14) The Prohibition of Benami Property Transactions Act, 1988 (45 of 1988);

(15) The Prevention of Corruption Act, 1988 (49 of 1988);

(16) The Securities and Exchange Board of India Act, 1992 (15 of 1992);

(17) The Foreign Exchange Management Act, 1999 (42 of 1999);

(18) The Competition Act, 2002 (12 of 2003);

(19) The Prevention of Money-laundering Act, 2002 (15 of 2003);

(20) The Limited Liability Partnership Act, 2008 (6 of 2009);

(21) The Foreign Contribution (Regulation) Act, 2010 (42 of 2010);

(22) The Companies Act, 2013 (18 of 2013) or any previous company law;

(23) The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015);

(24) The Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(25) The Central Goods and Services Tax Act, 2017 (12 of 2017) and respective State Acts imposing State goods and services tax;

(26) such other Acts as may be notified by the Central Government.

Every notification issued under this Schedule shall be laid, as soon as may be after it is issued, before each House of Parliament.”.

39. *Amendment of section 434 of Act 18 of 2013.*— In section 434 of the Companies Act, 2013, [as substituted by paragraph 34 of the Eleventh Schedule to the Insolvency and Bankruptcy Code, 2016], in sub-section (1), in clause (c), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that any party or parties to any proceedings relating to the winding up of companies pending before the any Court immediately before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, may file an application for transfer of such proceedings and the Court may by order transfer such proceedings to the Tribunal and the proceedings so transferred shall be dealt with by the Tribunal as an application for initiation of corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016.”.

31 of 2016.

40. *Repeal and savings.*— (1) The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 is hereby repealed.

Ord. 6 of 2018.

(2) Notwithstanding such repeal, anything done or any action taken under the Insolvency and Bankruptcy Code, 2016, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Code, as amended by this Act.

31 of 2016.

Notification

10/6/2018-LA-29

The National Commission for Backward Classes (Repeal) Act, 2018 (Central Act No. 24 of 2018), which has been passed by Parliament and assented to by the President on 14-08-2018 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 14-08-2018, is hereby published for the general information of the public.

Julio Barbosa Noronha, Joint Secretary (Law).

Porvorim, 29th January, 2019.

THE NATIONAL COMMISSION FOR
BACKWARD CLASSES (REPEAL)
ACT, 2018

AN

ACT

to repeal the National Commission for Backward Classes Act, 1993.

Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the National Commission for Backward Classes (Repeal) Act, 2018.

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

2. *Repeal and savings.*— (1) The National Commission for Backward Classes Act, 1993 is hereby repealed ^{27 of 1993.} and the National Commission for Backward Classes constituted under sub-section (1) of section 3 of the said Act shall stand dissolved.

(2) The repeal of the National Commission for Backward Classes Act, 1993 shall, however, not ^{27 of 1993.} affect,—

(i) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or

(iii) any penalty, confiscation or punishment incurred in respect of any contravention under the Act so repealed; or

(iv) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, confiscation or punishment as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty, confiscation or punishment may be imposed or made as if that Act had not been repealed.

(3) The mention of the particular matters referred to in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of ^{10 of 1897.} repeal.

Notification

10/6/2018-LA-43

The Goods and Services Tax (Compensation to States) Amendment Act, 2018 (Central Act No. 34 of 2018), which has been passed by Parliament and assented to by the President on 29-08-2018 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 30-08-2018, is hereby published for the general information of the public.

Julio Barbosa Noronha, Joint Secretary (Law).

Porvorim, 29th January, 2019.

THE GOODS AND SERVICES TAX
(COMPENSATION TO STATES)
AMENDMENT ACT, 2018

AN

ACT

further to amend the Goods and Services Tax (Compensation to States) Act, 2017.

Be it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goods and Services Tax (Compensation to States) Amendment Act, 2018.

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

2. *Amendment of section 7.*— In section 7 of the Goods and Services Tax (Compensation to States) Act, 2017, (hereinafter referred to as the principal Act), in sub-section (4), in clause (b), in sub-clause (ii), for the words “Central Board of Excise and Customs”, the words “Central Board of Indirect Taxes and Customs” shall be substituted.

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

(3A) Notwithstanding anything contained in sub-section (3), fifty per cent. of such amount, as may be recommended by the Council, which remains unutilised in the Fund, at any point of time in any financial year during the transition period shall be transferred to the Consolidated Fund of India as the share of Centre, and the balance fifty per cent. shall be distributed amongst the States in the ratio of their base year revenue determined in accordance with the provisions of section 5:

Provided that in case of shortfall in the amount collected in the Fund against the requirement of compensation to be released under section 7 for any two months' period, fifty per cent. of the same, but not exceeding the total amount transferred to the Centre and the States as recommended by the Council, shall be recovered from the Centre and the balance fifty per cent. from the States in the ratio of their base year revenue determined in accordance with the provisions of section 5.”

Notification

10/6/2018-LA-31

The Criminal Law (Amendment) Act, 2018 (Central Act No. 22 of 2018), which has been passed by Parliament and assented to by the President on 11-08-2018 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 11-08-2018, is hereby published for the general information of the public.

Julio Barbosa Noronha, Joint Secretary (Law).

Porvorim, 29th January, 2019.

THE CRIMINAL LAW (AMENDMENT) ACT, 2018

AN

ACT

further to amend the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012.

Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title and commencement.*— (1) This Act may be called the Criminal Law (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 21st day of April, 2018.

CHAPTER II

Amendments to the Indian Penal Code

2. *Amendment of section 166A.*— In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 166A, in clause (c), for the words, figures and letters “section 376B, section 376C, section 376D”, the words, figures and letters “section 376AB, section

376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

3. *Amendment of section 228A.*— In section 228A of the Penal Code, in sub-section (1), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

4. *Amendment of section 376.*— In section 376 of the Penal Code,—

(a) in sub-section (1), for the words "shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine", the words "shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine" shall be substituted;

(b) in sub-section (2), clause (i) shall be omitted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim."

5. *Insertion of new section 376AB.*— After section 376A of the Penal Code, the following section shall be inserted, namely:—

"376AB. *Punishment for rape on woman under twelve years of age.*— Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim."

6. *Insertion of new sections 376DA and 376DB.*— After section 376D of the Penal Code, the following sections shall be inserted, namely:—

"376DA. *Punishment for gang rape on woman under sixteen years of age.*— Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

376DB. *Punishment for gang rape on woman under twelve years of age.*— Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the

offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine, or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.”.

7. *Amendment of section 376E.*— In section 376E of the Penal Code, for the word, figures and letter “section 376D”, the words, figures and letters “section 376AB or section 376D or section 376DA or section 376DB,” shall be substituted.

CHAPTER III

Amendments to the Indian Evidence Act, 1872

8. *Amendment of section 53A.*— In section 53A of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), for the words, figures and letters “section 376A, section 376B, section 376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB” shall be substituted.

9. *Amendment of section 146.*— In section 146 of the Evidence Act, in the proviso, for the words, figures and letters “section 376A, section 376B, section 376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB” shall be substituted.

CHAPTER IV

Amendments to the Code of Criminal Procedure, 1973

10. *Amendment of section 26.*— In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in clause (a), in the proviso, for the words, figures and letters “section 376A, section 376B, section 376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB” shall be substituted.

11. *Amendment of section 154.*— In section 154 of the Code of Criminal Procedure, in sub-section (1),—

(i) in the first proviso, for the words, figures and letters “section 376A, section 376B, section 376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB,” shall be substituted;

(ii) in the second proviso, in clause (a), for the words, figures and letters “section 376A, section 376B, section 376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB,” shall be substituted.

12. *Amendment of section 161.*— In section 161 of the Code of Criminal Procedure, in sub-section (3), in the second proviso, for the words, figures and letters “section 376A, section 376B, section 376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB” shall be substituted.

13. *Amendment of section 164.*— In section 164 of the Code of Criminal Procedure, in sub-section (5A), in clause (a), for the words, figures and letters “section 376A, section 376B, section 376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section

376D, section 376DA, section 376DB” shall be substituted.

14. *Amendment of section 173.*— In section 173 of the Code of Criminal Procedure,—

(i) in sub-section (1A), for the words “rape of a child may be completed within three months”, the words, figures and letters “an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code shall be completed within two months” shall be substituted;

(ii) in sub-section (2), in clause (i), in sub-clause (h), for the word, figures and letters “section 376, 376A, 376B, 376C, 376D”, the word, figures and letters “sections, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB” shall be substituted.

15. *Amendment of section 197.*— In section 197 of the Code of Criminal Procedure, in sub-section (1), in the *Explanation*, for the words, figures and letters “section 376A, section 376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB” shall be substituted.

16. *Amendment of section 309.*— In section 309 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words, figures and letters “section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible,” the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA or section 376DB of the Indian Penal Code, the inquiry or trial shall,” shall be substituted.

17. *Amendment of section 327.*— In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters “section 376A, section 376B, section

376C, section 376D”, the words, figures and letters “section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB” shall be substituted.

18. *Amendment of section 357B.*— In section 357B of the Code of Criminal Procedure, for the words, figures and letters “under section 326A or section 376D of the Indian Penal Code”, the words, figures and letters “under section 326A, section 376AB, section 376D, section 376DA and section 376DB of the Indian Penal Code” shall be substituted.

19. *Amendment of section 357C.*— In section 357C of the Code of Criminal Procedure, for the figures and letters “376A, 376B, 376C, 376D”, the figures and letters “376A, 376AB, 376B, 376C, 376D, 376DA, 376DB” shall be substituted.

20. *Amendment of section 374.*— In section 374 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.”.

21. *Amendment of section 377.*— In section 377 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or

section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.”.

22. *Amendment of section 438.*— In section 438 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code.”. 45 of 1860.

23. *Amendment of section 439.*— In section 439 of the Code of Criminal Procedure,—

(a) in sub-section (1), after the first proviso, the following proviso shall be inserted, namely:—

24. *Amendment of First Schedule.*— In the First Schedule to the Code of Criminal Procedure, under the heading “I.— OFFENCES UNDER THE INDIAN PENAL CODE”,—

(a) for the entries relating to section 376, the following entries shall be substituted, namely:—

“Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.”;

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

“(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code.”.

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what Court triable
1	2	3	4	5	6
“376	Rape.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.

1	2	3	4	5	6
	on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.				
	Persons committing offence of rape on a woman under sixteen years of age.	Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.";

(b) after the entries relating to section 376A, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"376AB	Person committing an offence of rape on a woman under twelve years of age.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session.";

(c) after the entries relating to section 376D, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"376DA	Gang rape on a woman under sixteen years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
376DB	Gang rape on woman under twelve years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session."

CHAPTER V

Amendment to the Protection of Children
from Sexual Offences Act, 2012

25. *Amendment of section 42 of Act No. 32 of 2012.*— In section 42 of the Protection of Children from Sexual Offences Act, 2012, for the figures and letters “376A, 376C, 376D”, the figures and letters “376A, 376AB, 376B, 376C, 376D, 376DA, 376DB” shall be substituted.

26. *Repeal and savings.*— (1) The Criminal Law (Amendment) Ordinance, 2018 is hereby repealed. Ord. No. 2 of 2018.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act. 45 of 1860. 1 of 1872. 2 of 1974. 32 of 2012.

Notification

10/6/2018-LA-30

The Homoeopathy Central Council (Amendment) Act, 2018 (Central Act No. 23 of 2018), which has been passed by Parliament and assented to by the President on 13-08-2018 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 13-08-2018, is hereby published for the general information of the public.

Julio Barbosa Noronha, Joint Secretary (Law).
Porvorim, 29th January, 2019.

THE HOMOEOPATHY CENTRAL COUNCIL
(AMENDMENT) ACT, 2018

AN

ACT

further to amend the Homoeopathy Central Council Act, 1973.

Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Homoeopathy Central Council (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 18th day of May, 2018.

2. *Insertion of new sections 3A, 3B and 3C.*— In the Homoeopathy Central Council Act, 1973 (hereinafter referred to as the principal Act), after section 3, the following sections shall be inserted, namely:— 59 of 1973.

“3A. *Power of Central Government to supersede Central Council and to constitute a Board of Governors.*— (1) On and from the date of commencement of the Homoeopathy Central Council (Amendment) Act, 2018, the Central Council shall stand superseded and the President, Vice-President and other members of the Central Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

(2) The Central Council shall be reconstituted in accordance with the provisions of section 3 within a period of one year from the date of supersession of the Central Council under sub-section (1).

(3) Upon the supersession of the Central Council under sub-section (1) and until a new Council is constituted in accordance with section 3, the Board of Governors constituted under sub-section (4) shall exercise the powers and perform the functions of the Central Council under this Act.

(4) The Central Government shall, by notification in the Official Gazette, constitute a Board of Governors which shall consist of not more than seven persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of Homoeopathy and Homoeopathy education,

and eminent administrators, and who may be either nominated member or members, *ex officio*, to be appointed by the Central Government, one of whom shall be selected by the Central Government as the Chairperson of the Board of Governors.

(5) The Chairperson and the other members, other than the members, *ex officio*, shall be entitled to such sitting fee and travelling and other allowances as may be determined by the Central Government.

(6) The Board of Governors shall meet at such time and such place and shall observe such rules of procedure in regard to the transaction of business at its meetings as is applicable to the Central Council.

(7) Two-third of the members of the Board of Governors shall constitute the quorum of its meetings.

(8) No act or proceedings of the Board of Governors shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board of Governors; or

(b) any irregularity in the procedure of the Board of Governors not affecting the merits of the case.

(9) A member having any financial or other interest in any matter coming before the Board of Governors for decision, shall disclose his interest in the matter before he may, if allowed by the Board of Governors, participate in such proceedings.

(10) The Chairperson and other members of the Board of Governors shall hold office during the pleasure of the Central Government.

3B. *Certain modifications of Act.*— During the period when the Central Council stands superseded,—

(a) the provisions of the Act shall be construed as if for the words “Central Council”, the words “Board of Governors” were substituted;

(b) the Board of Governors shall exercise the powers and discharge the functions of

the Central Council under this Act and for this purpose, the provisions of this Act shall have effect subject to the modification that references therein to the Central Council shall be construed as references to the Board of Governors.

3C. *Power of Central Government to give directions.*— (1) Without prejudice to the provisions of this Act, the Board of Governors or the Central Council after its reconstitution shall, in exercise of its powers and in the performance of its functions under this Act, be bound by such directions on question of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Board of Governors or the Central Council, after its reconstitution shall, as far as practicable, be given an opportunity to express its view before any direction is given under this sub-section.

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

3. *Insertion of new section 12C.*— After section 12B of the principal Act, the following section shall be inserted, namely:—

“12C. *Time for seeking permission for certain existing medical colleges.*— (1) If any person has established a Homoeopathy Medical College or any Homoeopathy Medical College has opened a new or higher course of study or training or increased the admission capacity on or before the date of commencement of the Homoeopathy Central Council (Amendment) Act, 2018, such person or Homoeopathy Medical College, as the case may be, shall seek, within a period of one year from the said commencement, permission of the Central Government, in accordance with the provisions specified in the regulations made by the Central Council.

(2) If any person or Homoeopathy Medical College, as the case may be, fails to seek permission under sub-section (1), the

provisions of section 12B shall apply, as far as may be, as if the Central Government has been refused.”.

4. *Repeal and saving.*— (1) The Homoeopathy Central Council Ord. 4 of (Amendment) Ordinance, 2018 is 2018. 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 principal Act as amended by this Act.

Notification

10/6/2018-LA-35

The Negotiable Instruments (Amendment) Act, 2018 (Central Act No. 20 of 2018), which has been passed by Parliament and assented to by the President on 02-08-2018 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 02-08-2018, is hereby published for the general information of the public.

Julio Barbosa Noronha, Joint Secretary (Law).
Porvorim, 29th January, 2019.

THE NEGOTIABLE INSTRUMENTS (AMENDMENT) ACT, 2018

AN

ACT

further to amend the Negotiable Instruments Act, 1881.

Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Negotiable Instruments (Amendment) Act, 2018.

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

2. *Insertion of new section 143A.*—

In the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), after section 143, the following section shall be inserted, namely:—

“143A. *Power to direct interim compensation.*— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant—

(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and

(b) in any other case, upon framing of charge.

(2) The interim compensation under sub-section (1) shall not exceed twenty per cent. of the amount of the cheque.

(3) The interim compensation shall be paid within sixty days from the date of the order under sub-section (1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque.

(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973.

(6) The amount of fine imposed under section 138 or the amount of

compensation awarded under section 357 of the Code of Criminal Procedure, 1973, shall be reduced by the amount paid or recovered as interim compensation under this section.”

3. *Insertion of new section 148.*— In the principal Act, after section 147, the following section shall be inserted, namely:—

“148. *Power of Appellate Court to order payment pending appeal against conviction.*— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent. of the fine or compensation awarded by the trial Court:

Provided that the amount payable under this sub-section shall be in addition to any interim

compensation paid by the appellant under section 143A.

(2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.”

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