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SERIES I No. 25

# OFFICIAL GOVERNMENT OF GOA GAZETTE



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**GOVERNMENT OF GOA**

Department of Home

Home—General Division

**Notification**

11/14/96-HD(G)

Read: (1) Government Notification No. 11/37/88-HD(G) dated 27-4-1989.  
 (2) Government Notification No. 11/14/96-HD(G) dated 30-12-2004.

The Government of Goa hereby makes the following rules so as to further amend the Goa Freedom Fighters Welfare Rules, 1988, published in the Official Gazette, Series I, No. 8 dated 25-5-1989, namely:—

1. *Short title and commencement.*— (1) These rules may be called the Goa Freedom Fighters Welfare (Amendment) Rules, 2011.

(2) They shall come into force at once.

2. *Omission of rule 10.*— In the Goa Freedom Fighters Welfare Rules, 1988, rule 10 shall be omitted.

By order and in the name of the Governor of Goa.

*Dipak M. Bandekar*, Under Secretary (Home-I).

Porvorim, 14th September, 2011.

**Department of General Administration****Order**

43/1/2011/GAD-III/5311

Sanction of Government is hereby accorded for creation of the following posts to be included in Schedule-I to the Goa Civil Service Rules, 1997, with immediate effect:—

Sr. No.	Name of the post	No. of posts	Scale of the post
1.	Joint Secretary/Additional Secretary to Government	3	PB-3, Rs. 15600-39100 with Grade Pay Rs. 6600/-
2.	Under Secretary to Government	5	PB-3, Rs. 15600-39100 with Grade Pay Rs. 5400/-
3.	Estate Officer	1	PB-3, Rs. 15600-39100 with Grade Pay Rs. 5400/-

The expenditure shall be debited to the Budget Head “2052—Secretariat General Services, 00—, 090—Secretariat (Non-Plan), 01—Department of Personnel & A. R., 01—Salaries”.

This issues with the concurrence of Finance (R&C) Department vide their U.O. No. 1439703/F dated 28-7-2011 and approval of Cabinet and Administrative Reforms Department.

By order and in the name of the Governor of Goa.

*Prabhakar V. Vaingankar*, Under Secretary (G.A.).

Porvorim, 12th September, 2011.

## Department of Law &amp; Judiciary

Legal Affairs Division

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**Notification**

10/2/2010-LA/191

The Tamil Nadu Legislative Council Act, 2010 (Central Act No. 16 of 2010), which has been passed by Parliament and assented to by the President of India on 18-5-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 18-5-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

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THE TAMIL NADU LEGISLATIVE  
COUNCIL ACT, 2010

AN

ACT

*to provide for the creation of Legislative Council for the State of Tamil Nadu and for matters supplemental, incidental and consequential thereto.*

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

1. *Short title.*— (1) This Act may be called the Tamil Nadu Legislative Council Act, 2010.

2. *Definition.*— In this Act, unless the context otherwise requires, each of the words and expressions used herein and not defined but defined in the Representation of the People Act, 1950, shall have 43 of 1950. the same meaning as in that Act.

3. *Creation of Legislative Council for Tamil Nadu.*— (1) As from such date as the President may, by order appoint, there shall be a Legislative Council for the State of Tamil Nadu; and as from that date, in sub-clause (a) of clause (1) of article 168, after the word “Karnataka,” the words “Tamil Nadu”, shall be inserted.

(2) In the said Council, there shall be 78 seats of which—

(a) the numbers to be filled by persons elected by the electorates referred to in sub-clauses (a), (b) and (c) of clause (3) of article 171 shall be 26, 7 and 7 respectively;

(b) the number to be filled by persons elected by the members of the Legislative Assembly of Tamil Nadu in accordance with the provisions of sub-clause (d) of the said clause shall be 26; and

(c) the number to be filled by persons nominated by the Governor of Tamil Nadu in accordance with the provisions of sub-clause (e) of that clause shall be 12.

(3) As soon as may be after the commencement of this Act, the President, after consultation with the Election Commission, shall, by order, determine,—

(a) the constituencies into which the State of Tamil Nadu shall be divided for the purpose of elections to the said Council under each of the sub-clauses (a), (b) and (c) of clause (3) of article 171;

(b) the extent of each constituency; and

(c) the number of seats to be allotted to each constituency.

(4) As soon as may be after such determination, steps shall be taken to constitute the said Council in accordance with the provisions of this Act, the Representation of the

People Act, 1950 and the 43 of 1950.  
Representation of the People Act,  
1951. 43 of 1951.

4. *Amendment of Third Schedule and Fourth Schedule to Act 43 of 1950.*— In the Representation of the People Act, 1950,—

(a) in the Third Schedule, after entry No. 6 relating to Karnataka, the following entry shall be inserted, namely:—

“7. Tamil Nadu 78 26 7 7 26 12”;

(b) in the Fourth Schedule, after the heading “KARNATAKA” and the entries thereunder, the following heading and entries shall be inserted, namely:—

“TAMIL NADU

1. Municipalities, as referred to in article 243Q of the Constitution.
2. Panchayat Union Councils.
3. Cantonment Boards.
4. District Panchayats referred to in the Tamil Nadu Panchayat Act, 1994.”

5. *Amendment of section 15A of Act 43 of 1951.*— In section 15A of the Representation of the People Act, 1951, after the words and figures “under the Andhra Pradesh Legislative Council Act, 2005”, the words and figures “and constituting the Legislative Council of the State of Tamil Nadu under the Tamil Nadu Legislative Council Act, 2010” shall be inserted.

**Notification**

10/2/2010-LA/203

The Salaries and Allowances of Ministers (Amendment) Act, 2009 (Central Act No. 2 of 2010), which has been passed by Parliament and assented to by the President of India on

21-1-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 22-1-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

THE SALARIES AND ALLOWANCES OF  
MINISTERS (AMENDMENT) ACT, 2009

AN

ACT

*further to amend the Salaries and Allowances of Ministers Act, 1952.*

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Salaries and Allowances of Ministers (Amendment) Act, 2009.

(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 6 of Act 58 of 1952.*— In section 6 of the Salaries and Allowances of Ministers Act, 1952, for sub-section (1A), the following sub-section shall be substituted, namely:—

“(1A) A Minister shall be entitled to an amount equal to the fare for a single journey performed by him, during each year, within India, either alone or along with spouse or legitimate or step children, residing with and wholly dependent on him, or any number of companions or relatives, at the same rates at which travelling allowance is payable to such Minister under clause (b) of sub-section (1) in respect of tours referred to in that

clause, subject to a maximum of forty-eight such fares per year:

Provided that the spouse or legitimate or step children residing with and wholly dependent on the Minister, as the case may be, may undertake such journey alone.”.

### Notification

10/2/2010-LA/202

The Rubber (Amendment) Act, 2009 (Central Act No. 4 of 2010), which has been passed by Parliament and assented to by the President of India on 21-1-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 22-1-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

## THE RUBBER (AMENDMENT) ACT, 2009

AN

ACT

*further to amend the Rubber Act, 1947.*

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Rubber (Amendment) Act, 2009.

(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 3.*— In section 3 of the Rubber Act, 1947 24 of 1947. (hereinafter referred to as the principal Act),—

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

“(ga) “processor” means a person who undertakes the processing of rubber;”;

(b) in clause (k), for the words “fifty acres”, the words “ten hectares” shall be substituted.

3. *Amendment of section 4.*— In the principal Act, in section 4, in sub-section (3), after clause (d), the following clause shall be inserted, namely:—

“(da) three members to be nominated by the Central Government of whom two shall be from the Department of Commerce and one from the Department of Agriculture and Co-operation;”.

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

(i) in sub-section (2),—

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

“(da) improving the quality of rubber and implementing the standards for quality, marking, labelling and packing for the rubber produced or processed in, imported into or exported from, India;”;

(b) in clause (e), for the words “and manufactures”, the words “manufacturers and processors” shall be substituted;

(ii) in sub-section (3), in clause (c), for the words “half-yearly reports”, the words “annual report” shall be substituted.

5. *Substitution of new section for sections 9, 9A and 9B.*— In the principal Act, for sections 9, 9A and 9B, the following section shall be substituted, namely:—

“9. *Rubber Development Fund.*— (1) There shall be a fund to be called the Rubber Development Fund and there shall be credited,—

(a) all sums forming the funds of the Board immediately before the commencement of the Rubber (Amendment) Act, 2009;

(b) the proceeds of cess paid to the Board by the Central Government under sub-section (7) of section 12;

(c) any sum of money that may be paid to the Board by way of grants or loans by the Central Government;

(d) internal and extra budgetary resources of the Board;

(e) all moneys received and collected under section 26A; and

(f) any other sum that may be levied and collected under this Act and the rules made thereunder.

(2) The Rubber Development Fund shall be applied—

(a) to meet the expenses of the Board;

(b) to meet the cost of the measures referred to in section 8;

(c) to meet the expenditure incurred in the performance of its functions under this Act or the rules made thereunder;

(d) to meet the expenditure for rehabilitation of small growers; and

(e) for making such grants to rubber estates or for meeting the cost of such other assistance to rubber estates as the Board may think necessary for the development of such estates.”

6. *Omission of section 10.*— Section 10 of the principal Act shall be omitted.

7. *Amendment of section 12.*— In the principal Act, in section 12,—

(i) in sub-section (2),—

(a) for the words “such rubber is used.”, the words “such rubber is used or from the exporter by whom such rubber is exported:” shall be substituted;

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

“Provided that the Central Government may, if considered necessary in the public interest, by order for reasons to be recorded in writing, exempt or reduce the duty of excise on rubber exported on such terms and conditions as it deems fit:

Provided further that the Central Government may, by notification in the Official Gazette, specify zero paisa per kilogram as the rate of duty of excise on natural rubber produced in India and procured for export by the exporters of natural rubber for the period from the 1st April, 1961 to the 31st August, 2003.”;

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

“(3) Subject to the provisions of this Act, every owner, exporter or the manufacturer, as the case may be, shall pay the duty of excise to the Board in the manner and for the period referred to in sub-section (4) and, if he fails to do so, the duty may be recovered with the cost of collection and interest at such rates, as may be prescribed, from the owner, exporter or the manufacturer, as the case may be, as an arrear of the land revenue.”;

(iii) in sub-section (4) in clause (b),—

(a) for the words “fifteen days”, the words “thirty days” shall be substituted;

(b) in sub-clause (ii), for the words “rubber used”, the words “rubber acquired” shall be substituted;

(iv) in sub-section (5),—

(a) for the words “owner or manufacturer”, the words “owner, exporter or manufacturer” shall be substituted;

(b) after the words “as may be prescribed”, the following shall be inserted, namely:—

“and collect the cess from the owner, exporter or the manufacturer, as the case may be, after issuing a notice and after making such enquiry as it considers necessary, with such rate of interest as fixed under sub-section (3):

Provided that where for any reason, the Board finds that an owner, exporter or manufacturer, as the case may be, has paid cess in excess of what is due from him, it shall be adjusted against the future payment, if any, from him or shall be refunded to him.”.

8. *Amendment of section 13.*— In the principal Act, in section 13, in sub-section (1), after the words “The Central Government may”, the words “, if it deems necessary,” shall be inserted.

9. *Substitution of new section for section 17.*— In the principal Act, for section 17, the

following section shall be substituted, namely:—

“17. *Implementation of standards for quality, marking, etc., for rubber.*— (1) The Board shall implement the standards for quality, marking, labelling and packing for various marketable forms of rubber, for the rubber produced or processed in, imported into or exported from India.

(2) Any officer of the Board authorised by the Chairman may at any reasonable time inspect the rubber sold or purchased by any dealer or processor at any factory or other premises of a dealer, processor or manufacturer or exporter for the purpose of ensuring the compliance of the standards under sub-section (1).”.

10. *Omission of section 18.*— Section 18 of the principal Act shall be omitted.

11. *Amendment of section 19.*— In the principal Act, in section 19, for the words and figures “section 15 or section 17”, the words and figures “or section 15” shall be substituted.

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

(a) for the words “any officer of the Board may”, the words “any officer of the Board authorised by the Chairman may” shall be substituted;

(b) for the words “manufacturer, for”, the words “manufacturer or processor, for” shall be substituted.

13. *Insertion of new section 22A.*— In the principal Act, after section 22, the following section shall be inserted, namely:—

“22A. *Power of Central Government to issue directions to Board.*— (1) Without prejudice to the foregoing provisions of this Act, the Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Board shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

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

14. *Insertion of new section 24A.*— In the principal Act, after section 24, the following section shall be inserted, namely:—

“24A. *Power to delegate.*— The Central Government may, by notification in the Official Gazette, direct that any power exercisable and functions performed by it under this Act may be exercised and performed in such cases and subject to such conditions, if any, as may be specified in the notification by such officer or authority as may be specified therein.”.

15. *Amendment of section 25.*— In the principal Act, in section 25, in sub-section (2),—

(a) clause (xx) shall be omitted;

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

“(xxb) the cost of collection and the rate of interest to be recovered in case of delayed payment of duty under sub-section (3) of section 12;”;

(c) in clause (xxi), the words and figures “or section 17” shall be omitted.

16. *Insertion of new section 25A.*— In the principal Act, after section 25, the following section shall be inserted, namely:—

“25A. *Power to make regulations.*— (1) The Board may, with the previous approval of the Central Government, by notification make regulations, not inconsistent with the provisions of this Act and the rules made thereunder, to carry out its functions.

(2) Every regulation made under sub-section (1) shall be laid before each House of Parliament.”.

17. *Amendment of section 26.*— In the principal Act, in section 26, in sub-section (1), for the words “one thousand rupees”, the words “five thousand rupees” shall be substituted.

18. *Insertion of new section 26A.*— In the principal Act, after section 26, the following section shall be inserted, namely:—

“26A. *Compounding of offences.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any 2 of 1974. offence punishable under this Act may, either before the institution of prosecution or with the permission of the Court after the institution of the prosecution, be compounded by the Board on payment to the Board such sum of money as does not exceed the value of the goods in respect of which contravention has been committed.”.



**Notification**

10/2/2010-LA/184

The Industrial Disputes (Amendment) Act, 2010 (Central Act No. 24 of 2010), which has been passed by Parliament and assented to by the President of India on 18-8-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 19-8-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

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**THE INDUSTRIAL DISPUTES  
(AMENDMENT) ACT, 2010**

AN

ACT

*further to amend the Industrial Disputes Act, 1947.*

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

1. *Short title and commencement.*— (1) This Act may be called the Industrial Disputes (Amendment) Act, 2010.

(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 2.*— In the Industrial Disputes Act, 1947 14 of 1947. (hereinafter referred to as the principal Act), in section 2,—

(i) in clause (a),—

(a) in sub-clause (i), for the words “major port, the Central Government, and”, the words “major port, any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the Central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, and” shall be substituted;

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

“(ii) in relation to any other industrial dispute, including the State public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government:

Provided that in case of a dispute between a contractor and the contract labour employed through the contractor in any industrial establishment where such dispute first arose, the appropriate Government shall be the Central Government or the State Government, as the case may be, which has control over such industrial establishment.”;

(ii) in clause (s), in sub-clause (iv), for the words “one thousand six hundred rupees”, the words “ten thousand rupees” shall be substituted.

3. *Amendment of section 2A.*— Section 2A of the principal Act shall be numbered as sub-section (1) thereof and after sub-section

(1) as so numbered, the following sub-sections shall be inserted, namely:—

“(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).”.

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

“(f) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years’ experience in the labour department including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(g) he is an officer of Indian Legal Service in Grade III with three years’ experience in the grade.”.

5. *Amendment of section 7A.*— In section 7A of the principal Act, in sub-section (3), after clause (aa), the following clauses shall be inserted, namely:—

“(b) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years’ experience in the labour department including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(c) he is an officer of Indian Legal Service in Grade III with three years’ experience in the grade.

6. *Substitution of new Chapter for Chapter IIB.*— After section 9B of the principal Act, for Chapter IIB, the following Chapter shall be substituted, namely:—

#### “CHAPTER IIB

##### Grievance Redressal Machinery

9C. *Setting up of Grievance Redressal Machinery.*— (1) Every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.

(2) The Grievance Redressal Committee shall consist of equal number of members from the employer and the workmen.

(3) The chairperson of the Grievance Redressal Committee shall be selected from

the employer and from among the workmen alternatively on rotation basis every year.

(4) The total number of members of the Grievance Redressal Committee shall not exceed more than six:

Provided that there shall be, as far as practicable, one woman member if the Grievance Redressal Committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.

(5) Notwithstanding anything contained in this section, the setting up of Grievance Redressal Committee shall not affect the right of the workman to raise industrial dispute on the same matter under the provisions of this Act.

(6) The Grievance Redressal Committee may complete its proceedings within thirty days on receipt of a written application by or on behalf of the aggrieved party.

(7) The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance Redressal Committee and the employer shall, within one month from the date of receipt of such appeal, dispose off the same and send a copy of his decision to the workman concerned.

(8) Nothing contained in this section shall apply to the workmen for whom there is an established Grievance Redressal Mechanism in the establishment concerned.”.

7. *Amendment of section 11.*— In section 11 of the principal Act, after sub-section (8), the following sub-sections shall be inserted, namely:—

“(9) Every award made, order issued or settlement arrived at by

or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under order 21 of the Code of Civil Procedure, 1908. 5 of 1908.

(10) The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it.”.

8. *Amendment of section 38.*— In section 38 of the principal Act, in sub-section (2),—

(i) clause (ab) shall be omitted;

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

“(c) the salaries and allowances and the terms and conditions for appointment of the presiding officers of the Labour Court, Tribunal and the National Tribunal including the allowances admissible to members of Courts, Boards and to assessors and witnesses;”.

#### Notification

10/2/2010-LA/190

The Plantations Labour (Amendment) Act, 2010 (Central Act No. 17 of 2010), which has been passed by Parliament and assented to by the President of India on 18-5-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 18-5-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

THE PLANTATIONS LABOUR  
(AMENDMENT) ACT, 2010

AN

ACT

*further to amend the Plantations Labour Act, 1951.*

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

1. *Short title and commencement.*— (1) This Act may be called the Plantations Labour (Amendment) Act, 2010.

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

2. *Amendment of section 2.*— In section 2 of the Plantations Labour Act, 1951 (hereinafter referred to as 69 of 1951. the principal Act),—

(a) in clause (e), the following *Explanation* shall be inserted, namely:—

*‘Explanation.*— For the purposes of this clause, “the person who has the ultimate control over the affairs of the plantation” means in the case of a plantation owned or controlled by—

(i) a company, firm or other association of individuals, whether incorporated or not, every director, partner or individual;

(ii) the Central Government or State Government or any local authority, the person or persons appointed to manage the affairs of the plantation; and

(iii) a lessee, the lessee;’;

(b) in clause (ee), for the words “and includes, where the worker is a male, his parents dependent upon him”, the words “and includes parents and widow sister, dependent upon him or her” shall be substituted;

(c) in clause (k),—

(i) in the opening portion, after the words “manual or clerical”, the words “and includes a person employed on contract for more than sixty days in a year” shall be inserted;

(ii) in sub-clause (ii), for the words “rupees seven hundred and fifty”, the words “rupees ten thousand” shall be substituted;

(iii) in sub-clause (iii), for the words “managerial capacity, notwithstanding that his monthly wages do not exceed rupees seven hundred and fifty”, the words “managerial or administrative capacity, notwithstanding that his monthly wages do not exceed rupees ten thousand” shall be substituted.

3. *Amendment of section 7.*— In section 7 of the principal Act, in sub-section (2), in clause (b), for the words “and children are, or are to be”, the word “are” shall be substituted.

4. *Amendment of section 10.*— In section 10 of the principal Act, in sub-section (2), for the words “chief inspector”, the words “State Government upon a request by the chief inspector” shall be substituted.

5. *Insertion of new Chapter IVA.*— After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER IVA

Provisions as to safety

18A. *Safety.*— (1) In every plantation, effective arrangements shall be made by the employer to provide for the safety of workers in connection with the use, handling, storage and transport of insecticides, chemicals and toxic substances.

(2) The State Government may make rules for prohibiting or, restricting employment of women or adolescents in using or handling hazardous chemicals.

(3) The employer shall appoint persons possessing the prescribed qualifications to supervise the use, handling, storage and transportation of insecticides, chemicals and toxic substances in his plantation.

(4) Every employer shall ensure that every worker in plantation employed for handling, mixing, blending and applying insecticides, chemicals and toxic substances, is trained about the hazards involved in different operations in which he is engaged, the various safety measures and safe work practices to be adopted in emergencies arising from spillage of such insecticides, chemicals and toxic substances and such other matters as may be prescribed by the State Government.

(5) Every worker who is exposed to insecticides, chemicals and toxic substances shall be medically examined periodically, in such manner as may be prescribed, by the State Government.

(6) Every employer shall maintain health record of every worker who is exposed to insecticides, chemicals and toxic substances which are used, handled, stored or transported in a plantation, and every such worker shall have access to such record.

(7) Every employer shall provide—

(a) washing, bathing and cloak room facilities; and

(b) protective clothing and equipment,

to every worker engaged in handling insecticides, chemicals or toxic substances in such manner as may be prescribed by the State Government.

(8) Every employer shall display in the plantation a list of permissible concentrations of insecticides, chemicals and toxic substances in the breathing zone of the workers engaged in the handling and application of such insecticides, chemicals and toxic substances.

(9) Every employer shall exhibit such precautionary notices as may be prescribed by the State Government indicating the hazards of insecticides, chemicals and toxic substances.

18B. *Power of State Government to make rules.*— (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter.

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

(a) the restriction on employment of women and adolescents for handling hazardous chemicals under sub-section (2) of section 18A;

(b) the qualifications of supervisor appointed under sub-section (3) of section 18A;

(c) the matters for training of workers under sub-section (4) of section 18A;

(d) the medical examination of workers under sub-section (5) of section 18A.

(e) the facilities and equipment to be provided to the workers engaged in handling insecticides, chemicals and toxic substances under sub-section (7) of section 18A;

(f) the precautionary notices to be exhibited under sub-section (9) of section 18A.”.

6. *Amendment of section 19.*— In section 19 of the principal Act, in sub-section (1), the words “or child” shall be omitted.

7. *Insertion of new section 24.*— After section 23 of the principal Act, the following section shall be inserted, namely:—

“24. *Prohibition of employment of Children.*— No child shall be employed to work in any plantation.”.

8. *Amendment of section 25.*— In section 25 of the principal Act,—

(a) the words “or child” shall be omitted;

(b) in the marginal heading, the words “and children” shall be omitted.

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

(a) in the opening portion, the words “child and no” shall be omitted;

(b) in clause (b), the words “child or” shall be omitted.

10. *Amendment of section 27.*— In section 27 of the principal Act, in sub-section (1), the words “either as a child or” shall be omitted.

11. *Insertion of new section 32C.*— After section 32B of the principal Act, the following section shall be inserted namely:—

“32C. *Compensation.*— The employer shall give compensation to a worker in plantation in case of accident and the memorandum relating to such compensation shall be got registered by the employer with the Commissioner in accordance with the provisions of the Workmen's Compensation Act, 1923.”. 8 of 1923.

12. *Amendment of sections 33, 35 and 36.*— In sections 33, 35 and 36 of the principal Act, for the words “three months, or with fine which may extend to five hundred rupees, or with both”, wherever they occur, the words “six months, or with fine which may extend

to ten thousand rupees, or with both” shall be substituted.

13. *Amendment of section 34.*— In section 34 of the principal Act, for the words “one month, or with fine which may extend to fifty rupees, or with both,” the words “two months, or with fine which may extend to one thousand rupees, or with both” shall be substituted.

14. *Amendment of section 37.*— In section 37 of the principal Act, for the words “six months, or with fine which may extend to one thousand rupees, or with both”, the words “one year, or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees, or with both” shall be substituted.

15. *Substitution of new sections for section 39.*— For section 39 of the principal Act, the following sections shall be substituted, namely:—

“39. *Cognizance of offences.*— No court shall take cognizance of any offence under this Act except on a complaint made by any worker or an office bearer of a trade union of which such worker is a member or an inspector and no court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence punishable under this Act.

39A. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.”.

16. *Amendment of section 43.*— In section 43 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

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

**Notification**

10/2/2010-LA/180

The Energy Conservation (Amendment) Act, 2010 (Central Act No. 28 of 2010), which has been passed by Parliament and assented to by the President of India on 24-8-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 25-8-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

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**THE ENERGY CONSERVATION  
(AMENDMENT) ACT, 2010**

AN

ACT

*to amend the Energy Conservation Act, 2001.*

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

1. *Short title.*— (1) This Act may be called the Energy Conservation (Amendment) Act, 2010.

2. *Amendment of section 2.*— In section 2 of the Energy Conservation Act, 2001 (hereinafter 52 of 2001, referred to as the principal Act),—

(i) in clause (a), for the words “an auditor possessing qualifications specified under”, the words “an energy auditor accredited in accordance with the provisions of” shall be substituted;

(ii) in clause (b), for the words and figures “established under section 30”, the words and figures “referred to in section 30” shall be substituted;

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

‘(c) “building” means any structure or erection or part of structure or erection after the rules relating to energy conservation building codes have been notified under clause (p) of section 14 and clause (a) of section 15 and includes any existing structure or erection or part of structure or erection, which is having a connected load of 100 Kilowatt (kW) or contract demand of 120 Kilo-volt Ampere (kVA) and above and is used or intended to be used for commercial purposes;’;

(iv) after clause (m), the following clauses shall be inserted, namely:—

‘(ma) “energy savings certificate” means any energy savings certificate issued to the designated consumers under sub-section (1) of section 14A;

(maa) “equipment or appliance” means any equipment or appliance which consumes, generates, transmits or supplies energy and includes any device that consumes any form of energy and produces a desired work;’.

3. *Amendment of section 9.*— In section 9 of the principal Act, in sub-section (3), for the words “three years”, the words “five years” shall be substituted.

4. *Amendment of section 10.*— In section 10 of the principal Act, in sub-section (1), for the words “The Central Government”, the words “The Bureau” shall be substituted.

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

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

“(aa) recommend to the Central Government for issuing of the energy savings certificate under section 14A;”;

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

“(p) specify, by regulations, the qualifications, criteria and conditions subject to which a person may be accredited as an energy auditor and the procedure for such accreditation;”;

(iii) in clause (r), for the words “energy managers”, the words “energy auditors and energy managers” shall be substituted;

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

“(sa) conduct examination for capacity building and strengthening of services in the field of energy conservation including certification of energy managers and energy auditors.”.

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

(i) in clause (c), for the proviso, the following provisos shall be substituted, namely:—

“Provided that no notification prohibiting manufacture or sale or purchase or import of equipment or appliance shall be issued within a period of six months from the date of notification issued under clause (a) of this section:

Provided further that the Central Government may, having regard to the market share and the technological development having impact on equipment or appliance, and for reasons to be recorded in writing, extend the said period of six months referred to in the first proviso by a further period not exceeding six months;”;

(ii) in clause (e), for the words “any user or class of users of energy as a designated consumer”, the words “any user or class of users of energy in the energy intensive industries and other establishments as specified in the Schedule as a designated consumer” shall be substituted;

(iii) in clause (m), for the words “energy managers”, the words “energy auditors and energy managers” shall be substituted;

(iv) in clause (o), for the words “such form and manner”, the words “such form, the time within which and the manner” shall be substituted.

7. *Insertion of new sections 14A and 14B.*— After section 14 of the principal Act, the following sections shall be inserted, namely:—

“14A. *Power of Central Government to issue energy savings certificate.*— (1) The Central Government may issue the energy savings certificate to the designated consumer whose energy consumption is less than the prescribed norms and standards in accordance with the procedure as may be prescribed.

(2) The designated consumer whose energy consumption is more than the prescribed norms and standards shall be entitled to purchase the energy savings certificate to comply with the prescribed norms and standards.

14B. *Power of Central Government to specify value of energy.*— The Central Government may, in consultation with the Bureau, prescribe the value of per metric ton of oil equivalent of energy consumed for the purposes of this Act.”.

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

(a) in sub-section (1),—

(i) the words, brackets and letter “or clause (n)” shall be omitted;

(ii) for the words “ten thousand rupees”, the words “ten lakh rupees” shall be substituted;

(iii) for the words “one thousand rupees”, the words “ten thousand rupees” shall be substituted;



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

“(1A) If any person fails to comply with the provisions of clause (n) of section 14, he shall be liable to a penalty which shall not exceed ten lakh rupees and, in the case of continuing failure, with an additional penalty which shall not be less than the price of every metric ton of oil equivalent of energy, prescribed under this Act, that is in excess of the prescribed norms.”.

9. *Substitution of new section for section 30.*— For section 30 of the principal Act, the following section shall be substituted, namely:—

“30. *Appellate Tribunal.*— The Appellate Tribunal established under section 110 of the Electricity Act, 2003 shall, 36 of 2003. without prejudice to the provisions of the Electricity Act, 2003, be the Appellate Tribunal for the purposes of this Act and hear appeals against the orders of the adjudicating officer or the Central Government or the State Government or any other authority under this Act.”.

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

“31A. *Procedure and powers of Appellate Tribunal.*— The provisions of sections 120 to 123 (both inclusive) of the Electricity Act, 2003 shall, *mutatis* 36 of 2003. *mutandis*, apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its function under the Electricity Act, 2003.”.

11. *Omission of sections 32 to 43.*— Sections 32 to 43 of the principal Act shall be omitted.

12. *Amendment of section 54.*— In section 54 of the principal Act, the words “Chairperson of the Appellate Tribunal or the Members of the Appellate Tribunal or officers or employees of the Appellate Tribunal or the Members of the State Commission or the” shall be omitted.

13. *Amendment of section 56.*— In section 56 of the principal Act, in sub-section (2),—

(i) in clause (j), for the words “energy managers”, the words “energy auditors and energy managers” shall be substituted;

(ii) after sub-clause (l), the following clauses shall be inserted, namely:—

“(la) prescribing the procedure for issuing the energy savings certificate under sub-section (1) of section 14A;

(laa) the value of per metric ton of oil equivalent of energy consumed under section 14B.”.

(iii) clauses (s), (t) and (u) shall be omitted.

14. *Amendment of section 58.*— In section 58 of the principal Act, in sub-section (2),—

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

“(f) the qualifications, criteria and conditions subject to which a person may be accredited as an energy auditor and the procedure for such accreditation under clause (p) of sub-section (2) of section 13;”;

(b) in clause (h), for the words “energy managers”, the words “energy auditors and energy managers” shall be substituted.

15. *Amendment of the Schedule.*— In the Schedule to the principal Act, in the heading, the words “specified as designated consumers” shall be omitted.

16. *Amendment of certain enactment.*— The enactment specified in the Schedule to this Act shall be amended in the manner specified therein.

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THE SCHEDULE

(See section 16)

Amendment to the Electricity Act, 2003

(36 of 2003)

*Amendment of section 110.*— In section 110, for the words “under this Act”, the words “under this Act or any other law for the time being in force” shall be substituted.

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**Notification**

10/2/2010-LA/181

The State Bank of India (Amendment) Act, 2010 (Central Act No. 27 of 2010), which has been passed by Parliament and assented to by the President of India on 24-8-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 25-8-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

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THE STATE BANK OF INDIA  
(AMENDMENT) ACT, 2010

AN

ACT

*further to amend the State Bank of India Act, 1955.*

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

1. *Short title and commencement.*— (1) This Act may be called the State Bank of India (Amendment) Act, 2010.

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

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. *Amendment of section 2.*— In section 2 of the State Bank of India Act, 1955 (hereinafter referred to as the principal Act), clause (i) shall be omitted.

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

“4. *Authorised capital.*— Subject to the provisions of this Act, the authorised capital of the State Bank shall be five thousand crores of rupees divided into five hundred crores of fully paid-up shares of ten rupees each:

Provided that the Central Board may reduce the nominal or face value of the shares, and divide the authorised capital into such denomination as it may decide with the approval of the Reserve Bank:

Provided further that the Central Government may, in consultation with the Reserve Bank, increase or reduce the authorised capital so however that the shares in all cases shall be fully paid-up shares.”.

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

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

“(2) The issued capital of the State Bank shall consist of equity shares or equity and preference shares:

Provided that the issue of preference shares shall be in accordance with the guidelines framed by the Reserve Bank specifying the class of preference shares, the extent of issue of each class of such preference shares (whether perpetual or irredeemable or redeemable) and the terms and conditions subject to which, each class of preference shares may be issued:

Provided further that the Central Board may from time to time increase, with the previous approval of the Reserve Bank and the Central Government, whether by public issue or rights issue or preferential allotment or private placement, in accordance with the procedure as may be prescribed, the issued capital by the issue of equity or preference shares:

Provided also that the Central Government shall, at all times, hold not less than fifty-one per cent. of the issued capital consisting of equity shares of the State Bank.”;

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

“(4) Subject to the provisions contained in sub-section (2), the Central Board may increase from time to time, by way of issuing bonus shares to existing equity shareholders, the issued capital in such manner as the Central Government may, after consultation with the Reserve Bank, direct.

(5) The State Bank may, accept the money in respect of shares issued towards increase in the issued capital in instalments, make calls, forfeit unpaid shares and re-issue them, in such manner as may be prescribed.”.

5. *Amendment of section 10.*— In section 10 of the principal Act, in sub-section (2), for the words “fifty-five per cent. of the issued capital”, the words “fifty-one per cent. of the issued capital consisting of equity shares,” shall be substituted.

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

“10A. *Right of registered shareholders to nominate.*— (1) Every individual registered shareholder may, at any time, nominate, in the prescribed manner, an individual to whom all his rights in the shares shall vest in the event of his death.

(2) Where the shares are registered in the name of more than one individual jointly, the joint holders may together nominate in the prescribed manner, an individual to whom all their rights in the shares shall vest in the event of the death of all the joint holders.

(3) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, where a nomination in respect of shares is made in the prescribed manner and which purports to confer on the nominee the right to vest the shares, the nominee shall, on the death of the shareholder or, as the case may be, on the death of all the joint holders, become entitled to all the rights of the shareholder or, as the case may be, of all the joint holders in relation to such shares and all other persons shall be excluded unless the nomination is varied or cancelled in the prescribed manner.

(4) Where the nominee is a minor, it shall be lawful for the individual registered holder of the shares to make nomination to appoint, in the prescribed manner, any person to become entitled to the shares in the event of his death during the minority of the nominee.”.

7. *Amendment of section 11.*— In section 11 of the principal Act, after the proviso, the following provisos shall be inserted, namely:—

“Provided further that the shareholder holding any preference share capital in the

State Bank shall, in respect of such capital, have a right to vote only on resolutions placed before the State Bank which directly affect the rights attached to his preference shares:

Provided also that no preference shareholder, other than the Central Government, shall be entitled to exercise voting rights in respect of preference shares held by him in excess of ten per cent. of total voting rights of all the shareholders holding preference share capital only.”.

8. *Amendment of section 13.*— In section 13 of the principal Act, in sub-section (2), for the words “in computer floppies or diskettes”, the words “in computer floppies or diskettes or any other electronic form” shall be substituted.

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

(a) in sub-section (1), for the word “Bombay”, the words “Mumbai, and shall also be known as Corporate Centre” shall be substituted;

(b) in sub-section (2), for the words “Bombay, Calcutta and Madras”, the words “Mumbai, Kolkata and Chennai” shall be substituted.

10. *Amendment of section 19.*— In section 19 of the principal Act,—

(a) in clause (a), the words “and a vice-chairman” shall be omitted;

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

“(b) such number of managing directors not exceeding four, as may be appointed by the Central Government in consultation with the Reserve Bank;”;

(c) clause (bb) shall be omitted;

(d) in clause (d), the words “in consultation with the Reserve Bank,” shall be omitted;

(e) for clause (f), the following clause shall be substituted, namely:—

“(f) one director, possessing necessary expertise and experience in matters relating to regulation or supervision of commercial banks to be nominated by the Central Government on the recommendation of the Reserve Bank.”.

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

“19A. *Qualifications for election of directors elected by shareholders.*— (1) The directors elected under clause (c) of section 19 shall—

(a) have special knowledge or experience in respect of one or more of the following areas, namely:—

- (i) agriculture and rural economy,
- (ii) banking,
- (iii) co-operation,
- (iv) economics,
- (v) finance,
- (vi) law,
- (vii) small-scale industry,

(viii) any other area the special knowledge of, and experience in, which in the opinion of the Reserve Bank shall be useful to the State Bank;

(b) represent the interests of depositors; or

(c) represent the interests of farmers, workers and artisans.

(2) Without prejudice to the provisions of sub-section (1) and notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no person shall be eligible to be

elected as director under clause (c) of section 19 unless he is a person having fit and proper status based upon track record, integrity and such other criteria as the Reserve Bank may notify from time to time in this regard and the Reserve Bank may specify in the notification issued under this sub-section, the authority to determine the fit and proper status, the manner of such determination, the procedure to be followed for such determinations and such other matters as may be considered necessary or incidental thereto.

(3) Where the Reserve Bank is of the opinion that any director of the State Bank elected under clause (c) of section 19 does not fulfil the requirements of sub-sections (1) and (2), it may, after giving to such director and the State Bank a reasonable opportunity of being heard, by order, remove such director.

(4) On the removal of a director under sub-section (3), the Central Board shall co-opt any other person fulfilling the requirements of sub-sections (1) and (2), as a director in place of the person so removed, till a director is duly elected by the shareholders of the State Bank in the next annual general meeting; and the person so co-opted shall be deemed to have been duly elected by the shareholders of the State Bank as a director.

19B. *Power of Reserve Bank to appoint additional directors.*— (1) If the Reserve Bank is of the opinion that in the interest of banking policy or in the public interest or in the interests of the State Bank or its depositors, it is necessary so to do, it may, from time to time and by order in writing appoint, with effect from such date as may be specified in the order, one or more persons as additional directors of the State Bank.

(2) Any person appointed as additional director under sub-section (1) shall,—

(a) hold office during the pleasure of the Reserve Bank and subject thereto for

a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may, by order, specify;

(b) not incur any obligation or liability by reason only of his being an additional director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(c) not be required to hold qualification shares in the State Bank.

(3) For the purpose of reckoning any proportion of the total number of directors of the State Bank, any additional director appointed under this section shall not be taken into account.”.

12. *Amendment of section 20.*— In section 20 of the principal Act,—

(a) in sub-section (1), the words “,vice-chairman” shall be omitted;

(b) in sub-section (1A), the word “, vice-chairman”, occurring at both the places, shall be omitted;

(c) in sub-section (3A), the words “and thereafter until his successor shall have been duly appointed or nominated”, shall be omitted.

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

(a) in sub-section (1)—

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

“(a) the chairman, *ex officio* or the managing director nominated by the chairman;”;

(ii) in clause (c), the words “in consultation with the Reserve Bank” shall be omitted;

(b) in sub-section (5), for the words "Governor of the Reserve Bank", the words "Central Government" shall be substituted.

14. *Substitution of new section for section 21B.*— For section 21B of the principal Act, the following section shall be substituted, namely:—

"21B. *Powers of Local Board.*— In respect of the area falling within the jurisdiction of the local head office for which the Local Board has been constituted, a Local Board shall, subject to such general or special direction as the Central Board may give from time to time, exercise such powers and perform such duties and functions as may be entrusted or delegated to it by the Central Board."

15. *Amendment of section 21C.*— In section 21C of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The chairman or the managing director nominated by him shall be an *ex officio* member of every such Local Committee."

16. *Amendment of section 22.*— In section 22 of the principal Act, in sub-section (1),—

(a) in clause (d), the word "vice-chairman" shall be omitted;

(b) for clause (h), the following clause shall be substituted, namely:—

"(h) in the case of an elected director, he is not registered as a holder in his own right of unencumbered shares in the State Bank, either as sole holder or as first named holder when jointly held, of a nominal value of at least five thousand rupees:"

17. *Amendment of section 23.*— In section 23 of the principal Act, in clause (b), the word "vice-chairman" shall be omitted.

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

(a) in sub-section (1), the word "vice-chairman" shall be omitted;

(b) in sub-section (3), the words "after consulting the Reserve Bank," shall be omitted.

19. *Insertion of new section 24A.*— After section 24 of the principal Act, the following section shall be inserted, namely:—

"24A. *Supersession of Central Board in certain cases.*— (1) Where the Central Government, on the recommendation of the Reserve Bank is satisfied that in the public interest or for preventing the affairs of the State Bank being conducted in a manner detrimental to the interest of the depositors or the State Bank or for securing the proper management of the State Bank, it is necessary so to do, the Central Government may, for reasons to be recorded in writing, by order, supersede the Central Board for a period not exceeding six months as may be specified in the order:

Provided that the period of supersession of the Central Board may be extended from time to time, so, however, that the total period shall not exceed twelve months.

(2) On supersession of the Central Board under sub-section (1), the Central Government may, in consultation with the Reserve Bank, appoint an Administrator (not being an officer of the Central Government or a State Government) who has experience in law, finance, banking, economics or accountancy, for such period as it may determine.

(3) The Central Government may issue such directions to the Administrator as it may consider necessary and the Administrator shall be bound to follow such directions.

(4) Notwithstanding anything contained in this Act, upon making the order of supersession of the Central Board—

(a) the chairman, managing director and other directors shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act or any other law for the time being in force, be exercised and discharged by or on behalf of the Central Board, or by a resolution passed in the general meeting of the State Bank, shall, until the Central Board is reconstituted, be exercised and discharged by the Administrator appointed under sub-section (2):

Provided that the powers exercised by the Administrator shall be valid notwithstanding that such power is also exercisable by a resolution passed in the general meeting of the State Bank.

(5) The Central Government may, in consultation with the Reserve Bank, constitute a committee of three or more persons who have experience in law, finance, banking, economics or accountancy to assist the Administrator in the discharge of his duties.

(6) The committee shall meet at such times and places and observe such rules of procedure as may be specified by the rules made under this Act.

(7) The salary and allowances of the Administrator and the members of the committee shall be such as may be specified by the rules made under this Act and be payable by the State Bank.

(8) On and before the expiration of two months before the expiry of the period of supersession of the Central Board, the Administrator of the State Bank shall call the general meeting of the State Bank to elect new directors and re-constitute the said Board.

(9) Notwithstanding anything contained in any other law for the time being in force

or in any contract, no person shall be entitled to claim any compensation for the loss or termination of his office on supersession of the Central Board.

(10) The Administrator appointed under sub-section (2) shall vacate office immediately after the re-constitution of the Central Board.”.

20. *Amendment of section 25.*— In section 25 of the principal Act,—

(a) in sub-section (1), the word “, vice-chairman” shall be omitted;

(b) in sub-section (2),—

(i) the word “, vice-chairman” shall be omitted;

(ii) in clause (b), the words “in consultation with the Reserve Bank” shall be omitted.

21. *Omission of section 28.*— Section 28 of the principal Act shall be omitted.

22. *Amendment of section 29.*— In section 29 of the principal Act, in sub-section (1),—

(a) in clause (a), the word “and” shall be omitted;

(b) in clause (b),—

(i) the words “and the vice-chairman,” shall be omitted;

(ii) at the end, the word “; and” shall be inserted;

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

“(c) when authorised by the chairman, shall preside at the meetings of the Central Board in his absence.”.

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

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) The Central Board shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed; and the meeting of the Central Board may be held by participation of the directors of the Central Board through video-conferencing or such other electronic means, as may be prescribed, which are capable of recording and recognising the participation of the directors and the proceedings of such meetings are capable of being recorded and stored:

Provided that the Central Government may in consultation with the Reserve Bank, by notification in the Official Gazette, specify the matters which shall not be discussed in a meeting of the Central Board held through videoconferencing or such other electronic means.

(2) All questions at the meeting shall be decided by a majority of the votes of the directors present in the meeting or through videoconferencing or such other electronic means and in the case of equality of votes the chairman or, in his absence, the managing director authorised by the chairman shall have a second or casting vote.”;

(b) in sub-section (4), for the word “vice-chairman”, the words “managing director authorised by the chairman” shall be substituted.

24. *Amendment of section 31A.*— In section 31A of the principal Act, in sub-section (5), for the words “the vice-chairman, if he is a member of the Local Board”, the words “the managing director authorised by the chairman” shall be substituted.

25. *Insertion of new section 38A.*— After section 38 of the principal Act, the following section shall be inserted, namely:—

‘38A. *Transfer of unpaid or unclaimed dividend.*— (1) Where, after the commencement of the State Bank of India (Amendment) Act, 2010, a dividend has been declared by the State Bank but which has not been paid to a shareholder or claimed by any shareholder entitled to it, within thirty days from the date of declaration, the State Bank shall, within seven days from the date of expiry of the said period of thirty days, transfer the total amount of dividend which remains unpaid, or unclaimed, to a special account to be named, the “unpaid dividend account” maintained by it.

*Explanation.*— In this sub-section, the expression “dividend which remains unpaid” means any dividend the warrant in respect thereof has not been encashed or which has otherwise not been paid or claimed.

(2) Where the whole or any part of any dividend, declared by the State Bank before the commencement of the State Bank of India (Amendment) Act, 2010, remains unpaid at such commencement, the State Bank shall, within a period of six months from such commencement, transfer such unpaid amount to the account referred to in sub-section (1).

(3) Any money transferred to the unpaid dividend account of the State Bank, in pursuance of this section which remains unpaid or unclaimed for a period of seven years from the date of such transfer shall be transferred by the State Bank to the Investor Education and Protection Fund established under sub-section (1) of section 205C of the Companies Act, 1956 for being utilised for the purpose and in the manner specified in that section.’



26. *Amendment of section 39.*— In section 39 of the principal Act, for the word “December”, the word “March” shall be substituted.

27. *Amendment of section 40.*— In section 40 of the principal Act,—

(a) in sub-section (1), for the word “December”, the word “March” shall be substituted;

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

“(2) The balance sheet and the profit and loss account shall be signed by the chairman, managing directors and at least three other directors of the Central Board.”.

28. *Amendment of section 41.*— In section 41 of the principal Act,—

(a) in sub-section (1), for the words “the Reserve Bank in consultation with the Central Government”, the words “the State Bank with the previous approval of the Reserve Bank” shall be substituted;

(b) in sub-section (5), for the words “the Reserve Bank”, the words “the State Bank with the previous approval of the Reserve Bank” shall be substituted.

29. *Substitution of new section for section 42.*— For section 42 of the principal Act, the following section shall be substituted, namely:—

“42. *Balance sheet, etc. of State Bank may be discussed at general meeting.*— (1) An annual general meeting shall be held in each financial year at the Corporate Centre or at such other place in Mumbai other than the Corporate Centre or at such other place in India and at such time, as shall from time to time be specified by the Central Board and a general meeting other than an annual general meeting may be convened by the State Bank at any other time and at such place in India as shall from time to time be specified by the Central Board:

Provided that such annual general meeting shall be held before the expiry of six weeks from the date on which the balance sheet together with the profit and loss account and auditors’ report, under sub-section (1) of section 40, is forwarded to the Central Government or to the Reserve Bank, whichever date is earlier.

(2) The shareholders present at an annual general meeting shall be entitled to discuss and adopt the balance sheet and the profit and loss account of the State Bank made up to the previous 31st day of March or the date specified under section 39, as the case may be, the report of the Central Board on the working and activities of the State Bank for the period covered by the accounts and the auditors’ report on the balance sheet and accounts.”.

30. *Amendment of section 43.*— In section 43 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The officers, advisers and employees of the State Bank shall individually or jointly or with other officers, advisers and employees in a Local Committee exercise such powers and perform such duties as may by general or special order, be entrusted or delegated to them by the Central Board or its executive committee.”.

31. *Amendment of section 49.*— In section 49 of the principal Act, in sub-section (2), after clause (c), the following clauses shall be inserted, namely:—

“(d) the time and place of meeting of the Committee and the rules of procedure to be observed by it under sub-section (6) of section 24A;

(e) the salary and allowances of the Administrator and the members of the committee under sub-section (7) of section 24A.”.

32. *Amendment of section 50.*— In section 50 of the principal Act, in sub-section (2),—

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

“(aa) the procedure for increasing issued capital by the issue of equity or preference shares under sub-section (2) and the manner of accepting money for issued capital, forfeiture and re-issue of shares under sub-section (5) of section 5;

(ab) the manner of nominating an individual by one individual under sub-section (1), the manner of nominating an individual by the joint holders under sub-section (2), the manner of varying or cancellation of nomination under sub-section (3), and the manner of nominating a minor under sub-section (4) of section 10A;”;

(ii) in clause (b), for the words “floppies or diskettes”, the words “floppies or diskettes or any other electronic form” shall be substituted.

33. *Amendment of enactment.*— The enactment specified in the Schedule is hereby amended to the extent and in the manner as given below:—

THE SCHEDULE  
(See section 33)

Short title

The State Bank of India (Subsidiary Banks)  
Act, 1959

(38 of 1959)

In section 26, in sub-section (2A), the words “and thereafter until his successor shall have been duly appointed” shall be omitted.

Notification

10/2/2010-LA/189

The Employees’ State Insurance  
(Amendment) Act, 2010 (Central Act No. 18 of

2010), which has been passed by Parliament and assented to by the President of India, on 24-05-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 25-05-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary  
(Law).

Porvorim, 25th August, 2011.

THE EMPLOYEES’ STATE INSURANCE  
(AMENDMENT) ACT, 2010

AN

ACT

Further to amend the *Employees’ State Insurance Act, 1948*.

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

1. *Short title and commencement.*— (1) This Act may be called the Employees’ State Insurance (Amendment) Act, 2010.

(2) Section 18 shall be deemed to have come into force on the 3rd day of July, 2008 and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 1.*— In the Employees’ State Insurance Act, 1948 (hereinafter referred to as the principal Act), in section 1, in sub-section (5), for the words “six months”, the words “one month’s” shall be substituted.

3. *Amendment of section 2.*— In section 2 of the principal Act,—

(A) in clause (6A),—

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

“(i) a widow, a legitimate or adopted son who has not attained the age of twenty-five years, an unmarried legitimate or adopted daughter,”;

(b) in sub-clause (ii), for the words “eighteen years”, the words “twenty-five years” shall be substituted;

(B) in clause (9), for the words “or under the standing orders of the establishment;”, the words “and includes such person engaged as apprentice whose training period is extended to any length of time” shall be substituted;

(C) in clause (11), for sub-clause (v), the following sub-clauses shall be substituted, namely:—

“(v) dependant parents, whose income from all sources does not exceed such income as may be prescribed by the Central Government;

(vi) in case the insured person is unmarried and his or her parents are not alive, a minor brother or sister wholly dependant upon the earnings of the insured person;”;

(D) for clause (12), the following clause shall be substituted, namely:—

“(12) “factory” means any premises including the precincts thereof whereon ten or more persons are employed or were employed on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1952 or a railway running shed;’.

4. *Amendment of section 10.* — In section 10 of the principal Act, in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) the Director General, the Employees’ State Insurance Corporation, *ex officio* as Chairman;

(b) the Director General, Health Services, *ex officio* as Co-chairman;”.

5. *Amendment of section 12.*— In section 12 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) A person referred to in clause (i) of section 4 shall cease to be a member on becoming a Minister or Speaker or Deputy Speaker of the House of the People or Deputy Chairman of the Council of States or when he ceases to be a member of Parliament.”.

6. *Amendment of section 17.*— In section 17 of the principal Act, in sub-section (2), in clause (a), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that this sub-section shall not apply to appointment of consultants and specialists in various fields appointed on contract basis.”.

7. *Amendment of section 37.*— In section 37 of the principal Act, for the words “five years”, the words “three years” shall be substituted.

8. *Amendment of section 45.*— In section 45 of the principal Act,—

(a) for the words “Inspectors” and “Inspector”, wherever they occur, the words “Social Security Officers” and “Social Security Officer” shall respectively be substituted;

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

“(4) Any officer of the Corporation authorised in this behalf by it may, carry out re-inspection or test inspection of the records and returns submitted under section 44 for the purpose of verifying the correctness and quality of the inspection carried out by a Social Security Officer.”.

9. *Amendment of section 45A.*— In section 45A of the principal Act, in sub-section (1),—

(i) for the word “Inspector”, the words “Social Security Officer” shall be substituted;

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

“Provided further that no such order shall be passed by the Corporation in respect of the period beyond five years from the date on which the contribution shall become payable.”.

10. *Insertion of new section 45AA.*— After section 45A of the principal Act, the following section shall be inserted, namely:—

“45AA. *Appellate authority.*— If an employer is not satisfied with the order referred to in section 45A, he may prefer an appeal to an appellate authority as may be provided by regulation, within sixty days of the date of such order after depositing twenty-five per cent. of the contribution so ordered or the contribution as per his own calculation, whichever is higher, with the Corporation:

Provided that if the employer finally succeeds in the appeal, the Corporation shall refund such deposit to the employer together with such interest as may be specified in the regulation.”.

11. *Amendment of sections 51A and 51B.*— In the principal Act, in sections 51A and 51B, for the words “an insured person’s”, the words “an employee’s” shall be substituted.

12. *Amendment of sections 51C and 51D.*— In the principal Act, in sections 51C and 51D, for the words “insured person”, the word “employee” shall be substituted.

13. *Insertion of new section 51E.*— After section 51D of the principal Act, the following section shall be inserted, namely:—

“51E. *Accidents happening while commuting to the place of work and vice*

*versa.*— An accident occurring to an employee while commuting from his residence to the place of employment for duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.”.

14. *Amendment of section 56.*— In section 56 of the principal Act, in sub-section (3), for the third proviso, the following proviso shall be substituted, namely:—

“Provided also that an insured person who has attained the age of superannuation, a person who retires under a Voluntary Retirement Scheme or takes premature retirement, and his spouse shall be eligible to receive medical benefits subject to payment of contribution and such other conditions as may be prescribed by the Central Government.”.

15. *Amendment of section 58.*— In section 58 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

(5) The State Government may, in addition to the Corporation under this Act, with the previous approval of the Central Government, establish such organisation (by whatever name called) to provide for certain benefits to employees in case of sickness, maternity and employment injury:

Provided that any reference to the State Government in the Act shall also include reference to the organisation as and when such organisation is established by the State Government.

(6) The organisation referred to in sub-section (5) shall have such structure and discharge functions, exercise powers and undertake such activities as may be prescribed.”.

16. *Amendment of section 59.*— In section 59 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Corporation may also enter into agreement with any local authority, local body or private body for commissioning and running Employees’ State Insurance hospitals through third party participation for providing medical treatment and attendance to insured persons and where such medical benefit has been extended to their families, to their families.”.

17. *Insertion of new section 59B.*— After section 59A of the principal Act, the following section shall be inserted, namely:—

“59B. *Medical and para-medical education.*— The Corporation may establish medical colleges, nursing colleges and training institutes for its para-medical staff and other employees with a view to improve the quality of services provided under the Employees’ State Insurance Scheme.”.

18. *Substitution of new Chapter for Chapter VA.*— For Chapter VA of the principal Act, the following Chapter shall be substituted, namely:—

#### ‘CHAPTER VA

##### Scheme for other beneficiaries

73A. *Definitions.*— In this Chapter,—

(a) “other beneficiaries” means persons other than the person insured under this Act;

(b) “Scheme” means any Scheme framed by the Central Government from time to time under section 73B for the medical facility for other beneficiaries;

(c) “underutilised hospital” means any hospital not fully utilised by the persons insured under this Act;

(d) “user charges” means the amount which is to be charged from the other beneficiaries for medical facilities as may be

notified by the Corporation in consultation with the Central Government from time to time.

73B. *Power to frame Schemes.*— Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, frame Scheme for other beneficiaries and the members of their families for providing medical facility in any hospital established by the Corporation in any area which is underutilised on payment of user charges.

73C. *Collection of user charges.*— The user charges collected from the other beneficiaries shall be deemed to be the contribution and shall form part of the Employees’ State Insurance Fund.

73D. *Scheme for other beneficiaries.*— The Scheme may provide for all or any of the following matters, namely:—

(i) the other beneficiaries who may be covered under this Scheme;

(ii) the time and manner in which the medical facilities may be availed by the other beneficiaries;

(iii) the form in which the other beneficiary shall furnish particulars about himself and his family whenever required as may be specified by the Corporation;

(iv) any other matter which is to be provided for in the Scheme or which may be necessary or proper for the purpose of implementing the Scheme.

73E. *Power to amend Scheme.*— The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind the Scheme.

73F. *Laying of Scheme framed under this Chapter.*— Every Scheme framed under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be

comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or to 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 Scheme.’.

19. *Validation.*— All things done, or, omitted to be done, and all actions or measures taken or not taken during the period beginning on or after the 3rd day of July, 2008 and ending immediately before the date of commencement of the Employees’ State Insurance (Amendment) Act, 2010, shall in so far as they are in conformity with the provisions of this Act, as amended by the Employees’ State Insurance (Amendment) Act, 2010, be deemed to have been done, or taken, or not taken, under the provisions of this Act, as amended by the Employees’ State Insurance (Amendment) Act, 2010, as if such provisions were in force at the time such things were done or omitted to be done and actions or measures taken or not taken during the said period.

20. *Amendment of section 87.*— In section 87 of the principal Act, the following provisos shall be inserted at the end, namely:—

“Provided that such exemptions may be granted only if the employees in such factories or establishments are otherwise in receipt of benefits substantially similar or superior to the benefits provided under this Act:

Provided further that an application for renewal shall be made three months before the date of expiry of the exemption period and a decision on the same shall be taken by the appropriate Government within two months of receipt of such application.”.

21. *Amendment of section 91A.*— In section 91A of the principal Act, for the words “either prospectively or retrospectively”, the word “prospectively” shall be substituted.

22. *Insertion of new section 91AA.*— After section 91A of the principal Act, the following section shall be inserted, namely:—

“91AA. *Central Government to be appropriate Government.*— Notwithstanding anything contained in this Act, in respect of establishments located in the States where medical benefit is provided by the Corporation, the Central Government shall be the appropriate Government.”.

23. *Amendment of section 95.*— In section 95 of the principal Act, in sub-section (2),—

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

“(eff) the income of dependant parents from all sources;”;

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

“(ehh) the conditions under which the medical benefits shall be payable to the insured person and spouse of an insured person who has attained the age of superannuation, the person who retires under Voluntary Retirement Scheme and the person who takes pre-mature retirement;”.

24. *Amendment of section 96.*— In section 96 of the principal Act, in sub-section (1), after clause (e), the following clause shall be inserted, namely:—

“(ee) the organisational structure, functions, powers, activities and other matters for the establishment of the organisation;”.

25. *Amendment of section 97.*— In section 97 of the principal Act, in sub-section (2),—

(i) in clause (xx), for the word “Inspectors”, the words “Social Security Officers” shall be substituted;

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

“(xxa) the constitution of the appellate authority and the interest on amount deposited by the employer with the Corporation.”.

—————  
**Notification**

10/2/2010-LA/183

The Foreign Trade (Development and Regulation) Amendment Act, 2010 (Central Act No. 25 of 2010), which has been passed by Parliament and assented to by the President of India on 19-8-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 20-8-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

—————  
**THE FOREIGN TRADE (DEVELOPMENT  
AND REGULATION) AMENDMENT  
ACT, 2010**

AN

ACT

*to amend the Foreign Trade (Development and Regulation) Act, 1992.*

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

1. *Short title and commencement.*— (1) This Act may be called the Foreign Trade (Development and Regulation) Amendment Act, 2010.

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

Provided that different dates may be appointed for different provisions of this Act

and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. *Amendment of section 2.*— In section 2 of the Foreign Trade (Development and Regulation) Act, 1992 (hereinafter referred to as the 22 of 1992. principal Act),—

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

‘(e) “import” and “export” means,—

(I) in relation to goods, bringing into, or taking out of, India any goods by land, sea or air;

(II) in relation to services or technology,—

(i) supplying, services or technology—

(A) from the territory of another country into the territory of India;

(B) in the territory of another country to an Indian service consumer;

(C) by a service supplier of another country, through commercial presence in India;

(D) by a service supplier of another country, through presence of their natural persons in India;

(ii) supplying, services or technology—

(A) from India into the territory of any other country;

(B) in India to the service consumer of any other country;

(C) by a service supplier of India, through commercial presence in the territory of any other country;

(D) by a service supplier of India, through presence of Indian natural persons in the territory of any other country:

Provided that “import” and “export” in relation to the goods, services and technology regarding Special Economic Zone or between two Special Economic Zones shall be governed in accordance with the provisions contained in the Special Economic Zones Act, 2005;’; 28 of 2005.

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

‘(j) “services” means service of any description which is made available to potential users and includes all the tradable services specified under the General Agreement on Trade in Services entered into amongst India and other countries who are party to the said Agreement:

Provided that, this definition shall not apply to the domain of taxation;

(k) “service supplier” means any person who supplies a service and who intends to take benefit under the foreign trade policy;

(l) “specified goods or services or technology” means the goods or services or technology, the export, import, transfer, re-transfer, transit and trans-shipment of which is prohibited or restricted because of imposition of conditions on the grounds of their being pertinent or relevant to India as a Nuclear Weapon State, or to the national security of India, or to the furtherance of its foreign policy or its international obligations under any bilateral, multilateral or international treaty, covenant, convention or arrangement relating to

weapons of mass destruction or their means of delivery to which India is a party or its agreement with a foreign country under the foreign trade policy formulated and notified under section 5 of the Act;

(m) “technology” means any information (including information embodied in software), other than information in the public domain, that is capable of being used in—

(i) the development, production or use of any goods or software;

(ii) the development of, or the carrying out of, an industrial or commercial activity or the provision of service of any kind.

*Explanation.*— For the purpose of this clause—

(a) when technology is described wholly or partly by reference to the uses to which it (or the goods to which it relates) may be put, it shall include services which are provided or used, or which are capable of being used in the development, production or use of such technology or goods;

(b) “public domain” shall have the same meaning as assigned to it in clause (i) of section 4 of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005.’. 21 of 2005.

3. *Amendment of title of Chapter II.*— In the principal Act, in sub-heading below “Chapter II”, for the words “EXPORT AND IMPORT POLICY”, the words “FOREIGN TRADE POLICY” shall be substituted.

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

(a) in sub-section (2),—



(i) for the words “import or export of goods”, the words “import or export of goods or services or technology” shall be substituted;

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

“Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies.”.

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

“(4) without prejudice to anything contained in any other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except, as may be required under this Act, or rules or orders made thereunder.”.

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

“5. *Foreign Trade Policy.*— The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, in like manner, amend that policy:

Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette.”.

6. *Amendment of section 6.*— In section 6 of the principal Act, in sub-section (2), for the words “export and import policy”, the words “foreign trade policy” shall be substituted.

7. *Amendment of section 7.*— In section 7 of the principal Act, the following proviso shall be inserted, namely:—

“Provided that in case of import or export of services or technology, the Importer-exporter Code Number shall be necessary only when the service or technology provider is taking benefits under the foreign trade policy or is dealing with specified services or specified technologies.”.

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

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

“(1) Where—

(a) any person has contravened any of the provisions of this Act or any rules or orders made thereunder or the foreign trade policy or any other law for the time being in force relating to Central excise or customs or foreign exchange or has committed any other economic offence under any other law for the time being in force as may be specified by the Central Government by notification in the Official Gazette; or

(b) the Director General or any other officer authorised by him has reason to believe that any person has made an export or import in a manner prejudicial to the trade relations of India with any foreign country or to the interests of other persons engaged in imports or exports or has brought disrepute to the credit or the goods of, or services or technology provided from, the country; or

(c) any person who imports or exports specified goods or services or

technology, in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy,

the Director General or any other officer authorised by him may call for the record or any other information from that person and may, after giving to that person a notice in writing informing him of the grounds on which it is proposed to suspend or cancel the Importer-exporter Code Number and after giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice and, if that person so desires, of being heard, suspend for a period, as may be specified in the order, or cancel the Importer-exporter Code Number granted to that person.”;

(B) in sub-section (2), for the words “import or export any goods”, the words “import or export any goods or services or technology” shall be substituted.

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

(a) in sub-sections (1), (3), (4) and (5), for the word “licence”, wherever it occurs, the words “licence, certificate, scrip, or any instrument bestowing financial or fiscal benefits” shall be substituted;

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

“(2) The Director General or an officer authorised by him may, on an application and after making such inquiry as he may think fit, grant or renew or refuse to grant or renew a licence to import or export such class or classes of goods or services or technology as may be prescribed and, grant or renew or refuse to grant or renew a certificate, scrip or any instrument bestowing financial or fiscal benefit, after recording in writing his reasons for such refusal.”.

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

#### ‘CHAPTER IIIA

##### Quantitative Restrictions

9A. *Power of Central Government to impose quantitative restrictions.*— (1) If the Central Government, after conducting such enquiry as it deems fit, is satisfied that any goods are imported into India in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic industry, it may, by notification in the Official Gazette, impose such quantitative restrictions on the import of such goods as it may deem fit:

Provided that no such quantitative restrictions shall be imposed on any goods originating from a developing country so long as the share of imports of such goods from that country does not exceed three per cent. or where such goods originate from more than one developing country, then, so long as the aggregate of the imports from all such countries taken together does not exceed nine per cent. of the total imports of such goods into India.

(2) The quantitative restrictions imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition:

Provided that if the Central Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the quantitative restrictions should continue to be imposed to prevent such injury or threat and to facilitate the adjustments, it may extend the said period beyond four years:

Provided further that in no case the quantitative restrictions shall continue to be imposed beyond a period of ten years from the date on which such restrictions were first imposed.

(3) The Central Government may, by rules provide for the manner in which goods, the import of which shall be subject to quantitative restrictions under this section, may be identified and the manner in which the causes of serious injury or causes of threat of serious injury in relation to such goods may be determined.

(4) For the purposes of this section—

(a) “developing country” means a country notified by the Central Government in the Official Gazette, in this regard;

(b) “domestic industry” means the producers of goods (including producers of agricultural goods)—

(i) as a whole of the like goods or directly competitive goods in India; or

(ii) whose collective output of the like goods or directly competitive goods in India constitutes a major share of the total production of the said goods in India;

(c) “serious injury” means an injury causing significant overall impairment in the position of a domestic industry;

(d) “threat of serious injury” means a clear and imminent danger of serious injury.’

11. *Amendment of section 10.*— In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Central Government may, by notification in the Official Gazette, authorise any person for the purposes of exercising such powers with respect to,—

(a) entering such premises where the goods are kept, stored or processed, manufactured, traded or supplied or

received for the purposes of import or export and searching, inspecting and seizing of such goods, documents, things and conveyances connected with such import and export of goods;

(b) entering such premises from which the services or technology are being provided, supplied, received, consumed or utilised and searching, inspecting and seizing of such goods, documents, things and conveyances connected with such import and export of services and technology,

subject to such requirements and conditions and with the approval of such officer, as may be prescribed:

Provided that the provisions of clause (b) shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefit under the foreign trade policy or is dealing with specified services or specified technologies.”.

12. *Substitution of new section for section 11.*— For section 11 of the principal Act, the following section shall be substituted namely:—

“11. *Contravention of provisions of this Act, rules, orders and foreign trade policy.*—

(1) No export or import shall be made by any person except in accordance with the provisions of this Act, the rules and orders made thereunder and the foreign trade policy for the time being in force.

(2) Where any person makes or abets or attempts to make any export or import in contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy, he shall be liable to a penalty of not less than ten thousand rupees and not more than five times the value of the goods or services or technology in respect of which any contravention is made or attempted to be made, whichever is more.

(3) Where any person signs or uses, or causes to be made, signed or used, any declaration, statement or document submitted to the Director General or any officer authorised by him under this Act, knowing or having reason to believe that such declaration, statement or document is forged or tampered with or false in any material particular, he shall be liable to a penalty of not less than ten thousand rupees or more than five times the value of the goods or services or technology in respect of which such declaration, statement or document had been submitted, whichever is more.

(4) Where any person, on a notice to him by the Adjudicating Authority, admits any contravention, the Adjudicating Authority may, in such class or classes or cases and in such manner as may be prescribed, determine, by way of settlement, an amount to be paid by that person.

(5) A penalty imposed under this Act may, if it is not paid by any person, be recovered by any one or more of the following modes, namely:—

(a) the Director General may deduct or require any officer subordinate to him to deduct the amount payable under this Act from any money owing to such person which may be under the control of such officer; or

(b) the Director General may require any officer of customs to deduct the amount payable under this Act from any money owing to such person which may be under the control of such officer of customs, as if the said amount is payable under the Customs Act, 1962; or 52 of 1962.

(c) the Director General may require the Assistant Commissioner of Customs or Deputy Commissioner of

Customs or any other officer of Customs to recover the amount so payable by detaining or selling any goods (including the goods connected with services or technology) belonging to such person which are under the control of the Assistant Commissioner of Customs or Deputy Commissioner of Customs or any other officer of Customs, as if the said amount is payable under the Customs Act, 1962; 52 of 1962 or

(d) if the amount cannot be recovered from such person in the manner provided in clauses (a), (b) and (c),—

(i) the Director General or any officer authorised by him may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on business and the said Collector on receipt of such certificate shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue; or

(ii) the Director General or any officer authorised by him (including an officer of Customs who shall then exercise his powers under the Customs Act, 1962) and 52 of 1962 in accordance with the rules made in this behalf, detain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid, as if the said amount is payable under the Customs Act, 1962; and in case, any part of the said amount

payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and costs including cost of sale remaining unpaid and shall render the surplus, if any to such person.

(6) Where the terms of any bond or other instrument executed under this Act or any rules made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (5), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

(7) Without prejudice to the provisions contained in this section, the Importer-exporter Code Number of any person who fails to pay any penalty imposed under this Act, may be suspended by the Adjudicating Authority till the penalty is paid or recovered, as the case may be.

(8) Where any contravention of any provision of this Act or any rules or orders made thereunder or the foreign trade policy has been, is being, or is attempted to be, made, the goods (including the goods connected with services or technology) together with any package, covering or receptacle and any conveyances shall, subject to such conditions and requirements as may be prescribed, be liable to confiscation by the Adjudicating Authority.

(9) The goods (including the goods connected with services or technology) or the conveyance confiscated under sub-section (8) may be released by the Adjudicating Authority, in such manner and subject to such conditions as may be prescribed, on payment by the person

concerned of the redemption charges equivalent to the market value of the goods or conveyance, as the case may be.”.

13. *Insertion of new sections 11A and 11B.*— After section 11 of the principal Act, the following sections shall be inserted, namely:—

“11A. *Crediting sums realised by way of penalties in Consolidated Fund of India.*— All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

11B. *Empowering Settlement Commission for regularisation of export obligation default.*— Settlement of customs duty and interest thereon as ordered by the Settlement Commission as constituted under section 32 of the Central Excise Act, 1944, shall be deemed to be a settlement under this Act.”.

14. *Amendment of section 14.*— In section 14 of the principal Act, for the word “goods” at both the places where it occurs, the words and brackets “goods (including the goods connected with services or technology)” shall be substituted.

15. *Insertion of a new Chapter IVA.*— After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

#### “CHAPTER IVA

Controls on Export of Specified Goods, Services and Technology

14A. *Controls on export of specified goods, services and technology.*— (1) In regard to controls on export of specified goods, services and technology referred to in this Chapter, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall apply to exports, transfers, re-transfers, brought in transit, trans-shipment

of, and brokering in specified goods, technology or services.

(2) All terms, expressions or provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 shall apply 21 of 2005. to the specified goods, services or technology with such exceptions, modifications and adaptations as may be specified by the Central Government by notification in the Official Gazette.

(3) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Chapter—

(a) shall not apply to any goods, services or technologies, or

(b) shall apply to any goods, services or technologies with such exceptions, modifications and adaptations as may be specified in the notification.

14B. *Transfer controls.*— (1) The Central Government may, by notification in the Official Gazette, make rules in conformity with the provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 for, or, in 21 of 2005. connection with, the imposition of controls in relation to transfer of specified goods, services or technology.

(2) No goods, services or technology notified under this Chapter shall be exported, transferred, re-transferred, brought in transit or trans-shipped except in accordance with the provisions of this Act, the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 or any other 21 of 2005. relevant Act.

14C. *Catch-all controls.*— No person shall export any material, equipment or technology knowing that such material, equipment or technology is intended to be used in the design or manufacture of a biological weapon, chemical weapon, nuclear weapon or other nuclear explosive device, or in their missile delivery systems.

14D. *Suspension or cancellation of a licence.*— The Director General or an officer authorised by him may, by order, suspend or cancel a licence to import or export of specified goods or services or technology without giving the holder of the licence a reasonable opportunity of being heard but such person shall be given a reasonable opportunity of being heard within six months of such order and thereupon the Director General or the officer so authorised may, if necessary, by order in writing, confirm, modify or revoke such order.

14E. *Offences and penalties.*—

(1) In case of a contravention relating to specified goods, services or technologies, the penalty shall be in accordance with the provisions of the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005. 21 of 2005.

(2) Where any person contravenes or attempts to contravene or abets, any of the provisions of this Chapter in relation to import or export of any specified goods or services or technology, he shall, without prejudice to any penalty which may be imposed on him, be punishable with imprisonment for a term stipulated in the Weapons of Mass Destruction and their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005. 21 of 2005.

(3) No court shall take cognizance of any offence punishable under this Chapter

without the previous sanction of the Central Government or any officer authorised in this behalf by the Central Government by general or special order.”.

16. *Amendment of title of Chapter V.*— In the principal Act, in sub-heading below “CHAPTER V”, for the word “REVISION”, the word “REVIEW” shall be substituted.

17. *Amendment of section 15.*— In section 15 of the principal Act, in sub-section (2), in the proviso, for the word “goods”, the words and brackets “the goods (including the goods connected with services or technology)” shall be substituted.

18. *Substitution of new section for section 16.*— For section 16 of the principal Act, the following section shall be substituted, namely:—

“16. *Review.*— The Central Government, in the case of any decision or order made by the Director General, or the Director General in the case of any decision or order made by any officer subordinate to him, may on its or his own motion or otherwise, call for and examine the records of any proceeding, for the purpose of satisfying itself or himself, as the case may be, as to the correctness, legality or propriety of such decision or order and make such orders thereon as may be deemed fit:

Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person—

(a) has, within a period of two years from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied; and

(b) has been given a reasonable opportunity of making representation and, if he so desires, of being heard in his defence.”.

19. *Amendment of section 17.*— In section 17 of the principal Act, for the word “Revision” wherever it occurs, the word “Review” shall be substituted.

20. *Insertion of new section 18A.*— After section 18 of the principal Act, the following section shall be inserted, namely:—

“18A. *Application of other laws not barred.*— The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law for the time being in force.”.

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

(a) in clause (b), for the word “licence”, the words “licence, certificate, scrip or any instrument bestowing financial or fiscal benefits” shall be substituted;

(b) for clause (c), the following clause shall be substituted, namely:—

“(c) the class or classes of goods (including the goods connected with service or technology) for which a licence, certificate, scrip or any instrument bestowing financial or fiscal benefits may be granted under sub-section (2) of section 9;”;

(c) in clauses (d) and (e), for the word “licence”, the words “licence, certificate, scrip or any instrument bestowing financial or fiscal benefits” shall be substituted;

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

“(ea) the matter in which goods, the import of which shall be subject to quantitative restrictions, may be identified and the manner in which the causes of serious injury or causes of threat of serious injury in relation to such goods may be determined under sub-section (3) of section 9A;”;

(e) in clause (f), for the word “goods”, the words and brackets “goods (including the goods connected with the service or technology)” shall be substituted;

(f) in clause (g), for the words, brackets and figures “sub-section (3) of section 11”, the words, brackets and figures “sub-section (4) of the section 11” shall be substituted;

(g) for clause (h), the following clause shall be substituted, namely:—

“(h) the requirements and conditions subject to which goods (including the goods connected with the service or technology) and conveyances shall be liable to confiscation under sub-section (8) of section 11;”;

(h) for clause (1), the following clause shall be substituted, namely:—

“(i) the manner in which and the conditions subject to which goods (including the goods connected with the service or technology) and conveyances may be released on payment of redemption charges under sub-section (9) of section 11.”.

### Notification

10/2/2010-LA/177

The Land Ports Authority of India Act, 2010 (Central Act No. 31 of 2010), which has been passed by Parliament and assented to by the President of India on 31-8-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 1-9-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

## THE LAND PORTS AUTHORITY OF INDIA ACT, 2010

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THE LAND PORTS AUTHORITY OF INDIA  
ACT, 2010

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AN

ACT

*to provide for the establishment of the Land Ports Authority of India to put in place systems which address security imperatives and for the development and management of facilities for cross border movement of passengers and goods at designated points along the international borders of India and for matters connected therewith or incidental thereto.*

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

## CHAPTER I

## Preliminary

1. *Short title and commencement.*— (1) This Act may be called the Land Ports Authority of India Act, 2010.

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

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

(a) “Authority” means the Land Ports Authority of India constituted under section 3;

(b) “Chairperson” means the Chairperson of the Authority appointed under clause (a) of sub-section (3) of section 3;

(c) “immigration check post” means any port or place of departure on the land as notified under the Foreigners’ Act, 1946; 31 of 1946.

(d) “integrated check post” means any land port, as the Central Government may, by notification in the Official Gazette, specify;

(e) “land customs station” means any place notified as such by the Central Government under clause (b) of sub-section (1) of section 7 of the Customs Act, 1962 52 of 1962. for the clearance of goods imported or to be exported by land or inland water;

(f) “land port” means an area on the international borders of India including portions of national highways, State highways and other roads, notified as land customs station or immigration check post under the Customs Act, 1962 or the 52 of 1962. Foreigners’ Act, 1946, and 31 of 1946. includes railways, with facilities for clearance and transport of passengers and goods across the borders of India;

(g) “notification” means a notification published in the Official Gazette;

(h) “prescribed” means prescribed by rules made under this Act; and

(i) “regulations” means regulations made by the Authority under this Act.

## CHAPTER II

### The Land Ports Authority of India

3. *Constitution of Authority.*— (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be constituted an Authority to be known as the Land Ports Authority of India.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of—

(a) a Chairperson;

(b) two Members, out of whom one shall be Member (Planning and Development) and other shall be Member (Finance);

(c) not more than nine members, *ex officio*, to be appointed by the Central Government from amongst the officers, not below the rank of the Joint Secretary to the Government of India, representing the ministries or departments of the Government of India dealing with Home Affairs, External Affairs, Revenue, Commerce, Road Transport and Highways, Railways, Defence, Agriculture and Co-operation, Law and Justice;

(d) the Chief Secretary or his nominee not below the rank of the Secretary to the Government of the respective State where the integrated check posts are located;

(e) two representatives, one of whom shall be from recognised bodies of workers and the other shall be from traders, to be appointed by the Central Government; and

(f) such other representatives as the Central Government may co-opt for functional purposes.

(4) The Chairperson and the members referred to in clause (b) shall be appointed by the Central Government and shall be whole-time members.

(5) The Chairperson shall be chosen from among persons who have special knowledge and experience in the field of security, transport, industry, commerce, law, finance or public administration.

4. *Disqualification for office of member.*— A person shall be disqualified for being appointed as a member if, he—

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or

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

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(e) has in the opinion of the Central Government such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

5. *Term of office and conditions of service of members.*— (1) Subject to the provisions of section 6, every whole-time member shall hold office for a period of five years from the date on which he assumes office or till he

attains the age of sixty years, whichever is earlier:

Provided that the Central Government may—

(a) terminate the appointment of any whole-time member, after giving him notice of a period of not less than three months or, in lieu thereof, on payment of an amount equal to his salary and allowances, if any, for a period of three months;

(b) terminate at any time the appointment of any member who is a servant of the Government.

(2) The other conditions of service of the members shall be such as may be prescribed.

(3) Any member may resign his office by giving notice in writing for such period as may be prescribed, to the Central Government and, on such resignation being notified in the Official Gazette by that Government, such member shall be deemed to have vacated his office.

6. *Vacation of office of members.*— The Central Government shall remove a member if, he—

(a) becomes subject to any of the disqualifications mentioned in section 4:

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (e) of that section, unless he has been given a reasonable opportunity of being heard in the matter; or

(b) refuses to act or becomes incapable of acting; or

(c) is, without obtaining leave of absence from the Authority, absent from three consecutive meetings of the Authority; or

(d) in the opinion of the Central Government, has so abused his position as

to render his continuance in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

7. *Eligibility of member for re-appointment.*— Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for re-appointment.

8. *Meetings.*— (1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations.

(2) The Chairperson, or, if for any reason, he is unable to attend any meeting of the Authority, any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.

9. *Vacancies, etc., not to invalidate proceeding of Authority.*— No act or proceeding of the Authority shall be invalid merely by reason of—

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

(b) any defect in the appointment of a person acting as a member of the Authority; or

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

10. *Officers and other employees of Authority.*— (1) For the purpose of enabling it

to efficiently discharge its functions under this Act, the Authority shall appoint such number of officers and other employees as it may consider necessary:

Provided that the appointment of such category of officers, as may be specified, shall be subject to the approval of the Central Government.

(2) Every officer or other employee appointed by the Authority shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations.

### CHAPTER III

#### Functions of Authority

11. *Functions of Authority.*— (1) Subject to the provisions of this Act, the Authority shall have powers to develop, sanitize and manage the facilities for cross border movement of passengers and goods at designated points along the international borders of India.

(2) Without prejudice to the generality of the provisions contained in sub-section (1) the Authority may—

(a) put in place systems, which address security imperatives at the integrated check posts on the border;

(b) plan, construct and maintain roads, terminals and ancillary buildings other than national highways, State highways and railways, at an integrated check post;

(c) plan, procure, install and maintain communication, security, goods handling and scanning equipment at an integrated check post;

(d) provide appropriate space and facilities for immigration, customs, security, taxation authorities, animal and plant quarantine, warehouses, cargo and baggage examination yards, parking zones, banks, post offices, communication facilities,

tourist information centres, waiting halls, canteen, refreshment stalls, public conveniences health services and such other services, as may be deemed necessary;

(e) construct residential buildings for its employees as well as residential accommodation for staff deployed at integrated check posts;

(f) establish and maintain hotels, restaurants and restrooms;

(g) establish and maintain warehouses, container depots and cargo complexes for the storage or processing of goods;

(h) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at integrated check posts;

(i) make appropriate arrangements for the security of integrated check posts and provide for regulation and control of movement of vehicles, entry and exit of passengers and goods in accordance with the respective law concerning them;

(j) ensure prevention and control of fire and other hazards and other facilities as deemed necessary;

(k) regulate and control the movement of vehicles, and the entry and exit of passengers, transportation workers, handling agents, clearing and forwarding agents and goods at the integrated check post with due regard to the law, security and protocol of the Government of India;

(l) co-ordinate and facilitate the working of agencies who have been engaged to undertake various activities at the integrated check posts, in accordance with the respective law, for the time being in force;

(m) develop and provide consultancy, construction or management services, and

undertake operations in India and abroad in relation to an integrated check post;

(n) form one or more companies under the Companies Act, 1956 or under any other law relating to companies for efficient discharge of the functions imposed on it by this Act;

(o) take all such steps as may be necessary or expedient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act:

Provided that sovereign functions of the Authority shall not be assigned to any private entity;

(p) set up joint ventures for the discharge of any of the functions assigned to the Authority; and

(q) undertake any other activity at the integrated check post in the best commercial interests of the Authority.

(3) In the discharge of its functions under this section, the Authority may consult such ministry or department of the Government of India or of the State Government as it deems necessary, and shall have due regard to the development of land port services and to the efficiency, economy and safety of such service.

(4) Nothing contained in this section shall be construed as—

(a) authorising the disregard by the Authority of any law for the time being in force; or

(b) authorising any person to institute any proceeding in respect of duty or liability to which the Authority or its officers or other employees would not otherwise be subject to.

12. *Responsibilities and powers of other agencies.*— (1) The respective border guarding

forces deployed at the borders of India shall be responsible for security around an integrated check post.

(2) The Authority may, whenever considered necessary so to do for ensuring the peace and security at an integrated check post, seek the assistance of armed force, Central para military force or State police as per the provisions of the law for the time being in force.

(3) The Customs, immigration, quarantine and other officials shall co-ordinate with the Authority for the effective discharge of its functions.

(4) Notwithstanding anything contained in any provisions of this Act, the Customs, immigration, quarantine officials, the border guarding forces and the police shall discharge their functions in accordance with the law for the time being in force.

#### CHAPTER IV

##### Property and Contract

13. *Assets and liabilities to vest in Authority.*— (1) On the date of notification issued under clause (d) of section 2, all such assets, rights, powers, authorities and privileges and such property movable and immovable, real or personal, corporeal or incorporeal, present or contingent, of whatever nature, including lands, buildings, machinery, equipments, works, workshops, cash balances, capital, reserves, reserve funds, investments, tenancies, losses and book debts and all other rights and interests arising out of such property, as immediately before the issue of that notification, were in the ownership or possession of the Government of India in any of the land port, as the Central Government may, in such notification, specify, shall vest in the Authority and such vesting shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting.

(2) The notification under sub-section (1) shall be issued only after the concurrence of

the concerned ministries or departments of the Government of India, in case where such properties are owned or controlled by such ministries or departments.

14. *General effect of vesting of undertakings in Authority.*— All contracts, agreements and working arrangements subsisting immediately before the date of notification issued under clause (d) of section 2, and affecting the land ports shall be of full force and effect as regards the Authority.

15. *Guarantee to be operative.*— Any guarantee given for or in favour of land customs stations or immigration check posts with respect to a loan, lease or finance shall continue to be operative in relation to such stations or check posts which have been vested in the Authority by virtue of this Act.

16. *Compulsory acquisition of land for Authority.*— Any land required by the Authority for the discharge of its functions under this Act shall be deemed to be needed for a public purpose and such land may be acquired for the Authority under the provisions of the National Highways Act, 1956 or any other law 48 of 1956. for the time being in force.

17. *Contracts by Authority.*— Subject to the provisions of section 18, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

18. *Mode of executing contracts on behalf of Authority.*— (1) Every contract on behalf of the Authority, shall be made by the Chairperson or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts as may be specified, in the regulations, shall be sealed with the common seal of the Authority:

Provided that no contract exceeding such value or amount as the Central Government may, by order fix in this behalf, shall be made

unless it has been previously approved by the Central Government:

Provided further that no contract for the acquisition or sale of immovable property or for the lease of any such property for a term exceeding thirty years and no other contract exceeding such value or amount as the Central Government may, by order fix in this behalf, shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be provided by regulations.

(3) Any contract which is not in accordance with the provisions of this Act and the rules and regulations made thereunder shall not be binding on the Authority.

## CHAPTER V

### Finance, Accounts and Audit

19. *Power of Authority to charge fees, rent, etc.*— The Authority may, determine and charge such fees or rent, not being a statutory levy under any other Act, as may be provided by regulations, separately for each integrated check post,—

(a) for the cargo handling, warehousing, parking of trucks or for any other service or facility offered in connection with transport operations;

(b) for the parking of passenger vehicles and other amenities given to the passengers and visitors; and

(c) for the availing of facilities and other services provided by the Authority.

20. *Additional capital and grant to Authority by Central Government.*— The Central Government may, after the appropriation made by Parliament by law in this behalf,—

(a) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine;

(b) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as that Government may consider necessary for the efficient discharge of its functions under this Act.

*21. Fund of Authority and its investment.—*

(1) The Authority shall establish its own fund and all receipts of the Authority shall be credited thereto and all payments by the Authority shall be made therefrom.

(2) The Authority shall have the power, subject to the provisions of this Act, to spend such sums as it thinks fit to cover all administrative expenses of the Authority or for purposes authorised by this Act and such sums shall be treated as expenditure out of the fund of the Authority.

(3) All moneys standing at the credit of the Authority which cannot immediately be applied as provided in sub-section (2), shall be—

(a) deposited in the State Bank of India or any such scheduled bank or banks or other public financial institutions subject to such conditions as may, from time to time, be specified by the Central Government;

(b) invested in the securities of the Central Government or in such manner as may be prescribed.

*Explanation.—* In this sub-section, “scheduled bank” has the same meaning as in clause (e) of section 2 of the Reserve Bank of India Act, 1934.

2 of 1934.

*22. Allocation of surplus funds.—* (1) The Authority may, from time to time, set apart

such amounts as it thinks fit, as a reserve fund or funds for the purpose of expanding existing facilities or services or creating new facilities or services at any integrated check post or increase of expenditure from transient causes or for purposes of replacement or meeting expenditure arising from loss or damage due to any natural calamity or accident or meeting any liability arising out of any act of omission or commission in the discharge of its functions under this Act:

Provided that the Authority shall also have the power to establish specific reserves for specific purposes:

Provided further that the sums set apart annually in respect of each or any of the specific and general reserves and the aggregate at any time of such sums shall not exceed such limits as may, from time to time, be fixed in that behalf by the Central Government.

(2) After making provision for such reserve fund or funds and for bad and doubtful debts, depreciation in assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956, the Authority shall pay 1 of 1956. the balance of its annual net profits to the Central Government.

*23. Submission of programme of activities and financial estimates.—* The Authority shall, before the commencement of each financial year prepare a statement of the programme of its activities during the forthcoming financial year as well as financial estimate in respect thereof and submit it for the approval of the Central Government.

*24. Borrowing powers of Authority.—* (1) The Authority may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds,

debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans taken by the Authority under sub-section (1).

(3) Subject to such limits as the Central Government may, from time to time, lay down, the Authority may borrow temporarily by way of overdraft or otherwise, such amount as it may require for discharging its functions under this Act.

25. *Accounts and audit.*— (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance sheet in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be reimbursed to him by the Authority.

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

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

Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

## CHAPTER VI

### Miscellaneous

26. *Submission of annual report.*— (1) The Authority shall, as soon as may be, after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed, a report giving an account of its activities during that financial year and the report shall also give an account of the activities which are likely to be undertaken by the Authority during the next financial year.

(2) The Central Government shall cause such report to be laid before both Houses of Parliament, as soon as may be, after it is submitted.

27. *Delegation.*— The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 35), as it may deem necessary.

28. *Authentication of orders and other instruments of Authority.*— All orders and decisions of the Authority shall be authenticated by the signature of the Chairperson or any other member authorised by the Authority in this behalf and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by it in this behalf.

29. *Officers and employees of Authority to be public servants.*— All officers and employees of Authority shall, while acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of 45 of 1860. the Indian Penal Code.



30. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other employee of the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

31. *Custody and disposal of lost property.*—Subject to such regulations as the Authority may make in this behalf, the Authority shall provide for securing the safe custody and restoration of any property which, while not in proper custody, is found on any premises belonging to the Authority or under its overall control.

32. *Power of Central Government to supersede Authority.*— (1) If, at any time, the Central Government is of opinion—

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and duties imposed on it by or under the provisions of this Act and as a result of default the financial position of the Authority or the administration of an integrated check post has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable

opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may,—

(a) extend the period of supersession for such further term not exceeding six months, as it may consider necessary, or

(b) reconstitute the Authority by fresh appointment and in such case the members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment:

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and

a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses of Parliament in the immediate subsequent session of Parliament.

33. *Power of Central Government to issue directions.*— (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

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

(3) The Central Government may, from time to time, issue directions to the Authority regarding the discharge of any functions by it under the clauses of sub-section (2) of section 11 and the Authority shall be bound to comply with such directions.

34. *Power to make rules.*— (1) The Central Government may, by notification in the Official Gazette, 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—

(a) the other conditions of service of members of the Authority under sub-section (2) of section 5;

(b) the period of notice as may be given by any member to resign his office under sub-section (3) of section 5;

(c) the manner in which the Authority may invest the funds under clause (b) of sub-section (3) of section 21;

(d) the form in which the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 25;

(e) the form in which a report giving an account of its activities shall be prepared and submitted by the Authority to the Central Government under sub-section (1) of section 26; and

(f) any other matter which is to be, or may be, prescribed.

35. *Power to make regulations.*— (1) The Authority may, with the previous approval of the Central Government, make regulations not inconsistent with this Act and the rules made thereunder for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the time and places of meetings of the Authority and the procedure to be followed for transaction of business including the quorum at such meetings under sub-section (1) of section 8;

(b) the conditions of service and the remuneration of officers and other employees to be appointed by the Authority under sub-section (2) of section 10;

(c) the contracts which are to be sealed with the common seal of the Authority under sub-section (1), and the form and manner in which a contract may be made by the Authority under sub-section (2) of section 18;

(d) the fees and rent to be charged by the Authority under sub-section (1) of section 19;

(e) the custody and restoration of lost property and the terms and conditions under which lost property may be restored

to the persons entitled thereto under section 31.

36. *Rules, regulations and notifications to be laid before Parliament.*— Every rule and every regulation made or notification issued 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, regulation or notification, as the case may be, or both Houses agree that the rule, regulation or notification, as the case may be, should not be made or issued, the rule, regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, regulation or notification.

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

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

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

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**Notification**

10/2/2010-LA/196

The Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010 (Central Act No. 10 of

2010), which has been passed by Parliament and assented to by the President of India on 29-03-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 30-03-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

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**THE ANCIENT MONUMENTS AND  
ARCHAEOLOGICAL SITES AND  
REMAINS (AMENDMENT AND  
VALIDATION) ACT, 2010**

AN

ACT

*further to amend the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and to make provision for validation of certain actions taken by the Central Government under the said Act.*

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

1. *Short title and commencement.*— (1) This Act may be called the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010.

(2) Save as otherwise provided, it shall be deemed to have come into force (except sections 3, 5, 7 and 8 to 11) on the 23rd day of January, 2010.

2. *Amendment of section 2.*— On and from the 16th day of June, 1992, in the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (hereinafter referred to as 24 of 1958, the principal Act), in section 2,—

(i) after clause (d), the following clauses shall be inserted and shall be deemed to have been inserted, namely:—

'(da) "Authority" means the National Monuments Authority constituted under section 20F;

(db) "competent authority" means an officer not below the rank of Director of archaeology or Commissioner of archaeology of the Central or State Government or equivalent rank, specified, by notification in the Official Gazette, as the competent authority by the Central Government to perform functions under this Act:

Provided that the Central Government may, by notification in the Official Gazette, specify different competent authorities for the purpose of sections 20C, 20D and 20E;

(dc) "construction" means any erection of a structure or a building, including any addition or extension thereto either vertically or horizontally, but does not include any re-construction, repair and renovation of an existing structure or building, or, construction, maintenance and cleansing of drains and drainage works and of public latrines, urinals and similar conveniences, or, the construction and maintenance of works meant for providing supply of water for public, or, the construction or maintenance, extension, management for supply and distribution of electricity to the public or provision for similar facilities for public;'

(ii) after clause (h), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

'(ha) "prohibited area" means any area specified or declared to be a prohibited area under section 20A;'

(iii) after clause (j), the following clauses shall be inserted and shall be deemed to have been inserted, namely:—

'(k) "re-construction" means any erection of a structure or building to its pre-existing structure, having the same horizontal and vertical limits;

(l) "regulated area" means any area specified or declared under section 20B;,

(m) "repair and renovation" means alterations to a pre-existing structure or building, but shall not include construction or re-construction;'

3. *Insertion of new section 4A.*— After section 4 of the principal Act, the following section shall be inserted, namely:—

"4A. *Categorisation and classification in respect of ancient monuments or archaeological sites and remains declared as of national importance under sections 3 and 4.*— (1) The Central Government shall, on the recommendation of the Authority, prescribe categories in respect of ancient monuments or archaeological sites and remains declared as of national importance under sections 3 and 4, and while prescribing such categories it shall have regard to the historical, archaeological and architectural value and such other factors as may be relevant for the purpose of such categorisation.

(2) The Central Government shall, on the recommendation of the Authority, classify all the ancient monuments or archaeological sites and remains declared as of national importance under sections 3 and 4, in accordance with the categories prescribed under sub-section (1) and thereafter make the same available to the public and exhibit the same on its website and also in such other manner as it may deem fit."

4. *Insertion of new section 20A.*— On and from the 16th day of June, 1992, after section 20 of the principal Act, the following section shall be inserted and shall be deemed to have been inserted, namely:—

#### **"Prohibited and Regulated Areas**

20A. *Declaration of prohibited area and carrying out public work or other works in prohibited area.*— Every area, beginning at the limit of the protected area or the

protected monument, as the case may be, and extending to a distance of one hundred metres in all directions shall be the prohibited area in respect of such protected area or protected monument:

Provided that the Central Government may, on the recommendation of the Authority, by notification in the Official Gazette, specify an area more than one hundred metres to be the prohibited area having regard to the classification of any protected monument or protected area, as the case may be, under section 4A.

(2) Save as otherwise provided in section 20C, no person, other than an archaeological officer, shall carry out any construction in any prohibited area.

(3) In a case where the Central Government or the Director-General, as the case may be, is satisfied that—

(a) it is necessary, or expedient for carrying out such public work or any project essential to the public; or

(b) such other work or project, in its opinion, shall not have any substantial adverse impact on the preservation, safety, security of, or, access to, the monument or its immediate surrounding,

it or he may, notwithstanding anything contained in sub-section (2), in exceptional cases and having regard to the public interest, by order and for reasons to be recorded in writing, permit, such public work or project essential to the public or other constructions, to be carried out in a prohibited area:

Provided that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, as a prohibited area in respect of such protected

monument, shall be deemed to be the prohibited area declared in respect of that protected monument in accordance with the provisions of this Act and any permission or licence granted by the Central Government or the Director-General, as the case may be, for the construction within the prohibited area on the basis of the recommendation of the Expert Advisory Committee, shall be deemed to have been validly granted in accordance with the provisions of this Act, as if this section had been in force at all material times:

Provided further that nothing contained in the first proviso shall apply to any permission granted, subsequent to the completion of construction or re-construction of any building or structure in any prohibited area in pursuance of the notification of the Government of India in the Department of Culture (Archaeological Survey of India) number S.O. 1764 dated the 16th June, 1992 issued under rule 34 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, or, without having obtained the recommendations of the Committee constituted in pursuance of the order of the Government of India number 24/22/2006-M, dated the 20th July, 2006 (subsequently referred to as the Expert Advisory Committee in orders dated the 27th August, 2008 and the 5th May, 2009)."

5. *Amendment of section 20A.*— In section 20A of the principal Act (as so inserted by section 4 of this Act), after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) No permission, referred to in sub-section (3), including carrying out any public work or project essential to the public or other constructions, shall be granted in any prohibited area on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010 receives the assent of the President."

6. *Insertion of new section 20B.*— On and from the 16th day of June, 1992, after section 20A of the principal Act, the following

section shall be inserted and shall be deemed to have been inserted, namely:—

“20B. *Declaration of regulated area in respect of every protected monument.*— Every area, beginning at the limit of prohibited area in respect of every ancient monument and archaeological site and remains, declared as of national importance under sections 3 and 4 and extending to a distance of two hundred metres in all directions shall be the regulated area in respect of every ancient monument and archaeological site and remains:

Provided that the Central Government may, by notification in the Official Gazette, specify an area more than two hundred metres to be the regulated area having regard to the classification of any protected monument or protected area, as the case may be, under section 4A:

Provided further that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, as a regulated area in respect of such protected monument, shall be deemed to be the regulated area declared in respect of that protected monument in accordance with the provisions of this Act and any permission or licence granted for construction in such regulated area shall, be deemed to have been validly granted in accordance with the provisions of this Act, as if this section had been in force at all material times.”.

7. *Insertion of new sections 20C, 20D, 20E, 20F, 20G, 20H, 20-I, 20J, 20K, 20L, 20M, 20N, 20-O, 20P and 20Q.*— After section 20B of the principal Act (as so inserted by section 6 of this Act) the following sections shall be inserted, namely:—

‘20C. *Application for repair or renovation in prohibited area, or construction or*

*re-construction or repair or renovation in regulated area.*— (1) Any person, who owns any building or structure, which existed in a prohibited area before the 16th day of June, 1992, or, which had been subsequently constructed with the approval of the Director-General and desires to carry out any repair or renovation of such building or structure, may make an application to the competent authority for carrying out such repair or renovation, as the case may be.

(2) Any person, who owns or possesses any building or structure or land in any regulated area, and desires to carry out any construction or re-construction or repair or renovation of such building or structure on such land, as the case may be, may make an application to the competent authority for carrying out construction or re-construction or repair or renovation, as the case may be.

#### **Grant of permission by competent authority**

20D. *Grant of permission by competent authority within regulated area.*— (1) Every application for grant of permission under section 20C of this Act shall be made to the competent authority in such manner as may be prescribed.

(2) The competent authority shall, within fifteen days of the receipt of the application, forward the same to the Authority to consider and intimate impact of such construction (including the impact of large-scale development project, public project and project essential to the public) having regard to the heritage bye-laws relating to the concerned protected monument or protected area, as the case may be:

Provided that the Central Government may prescribe the category of applications in respect of which the permission may be granted under this sub-section and the application which shall be referred to the Authority for its recommendations.

(3) The Authority shall, within two months from the date of receipt of application under sub-section (2), intimate to the competent authority impact of such construction (including the impact of large-scale development project, public project and project essential to the public).

(4) The competent authority shall, within one month of the receipt of intimation from the Authority under sub-section (3), either grant permission or refuse the same as so recommended by the Authority.

(5) The recommendations of the Authority shall be final.

(6) In case the competent authority refuses to grant permission under this section, it shall, by order in writing, after giving an opportunity to the concerned person, intimate such refusal within three months from the date of receipt of the application to the applicant, the Central Government and the Authority.

(7) If the competent authority, after grant of the permission under sub-section (4) and during the carrying out of the repair or renovation work or re-construction of building or construction referred to in that sub-section, is of the opinion (on the basis of material in his possession or otherwise) that such repair or renovation work or reconstruction of building or construction is likely to have an adverse impact on the preservation, safety, security or access to the monument considerably, it may refer the same to the Authority for its recommendations and if so recommended, withdraw the permission granted under sub-section (4) if so required:

Provided that the competent authority may, in exceptional cases, with the approval of the Authority grant permission to the applicant referred to in sub-section (2) of section 20C until the heritage bye-laws have been prepared under sub-section (1) of section 20E and published under sub-section (7) of that section.

(8) The Central Government, or the Director-General, as the case may be, shall exhibit, on their website, all the permissions granted or refused under this Act.

20E. *Heritage bye-laws.*— (1) The competent authority, in consultation with Indian National Trust for Arts and Cultural Heritage, being a trust registered under the Indian Trusts Act, 1882, 2 of 1882. or such other expert heritage bodies as may be notified by the Central Government, shall prepare heritage bye-laws in respect of each protected monument and protected area.

(2) The heritage bye-laws referred to in sub-section (1) shall, in addition to such matters as may be prescribed, include matters relating to heritage controls such as elevations, facades, drainage systems, roads and service infrastructure (including electric poles, water and sewer pipelines).

(3) The Central Government shall, by rules, specify the manner of preparation of detailed site plans in respect of each protected area or protected monument or prohibited area or regulated area, the time within which such heritage bye-laws shall be prepared and particulars to be included in each such heritage bye-laws.

(4) The competent authority for the purpose of preparation of detailed site plans and heritage bye-laws may appoint such number of experts or consultants as it may deem fit.

(5) A copy of each of the heritage bye-laws prepared under sub-section (1) shall be forwarded to the Authority for its approval.

(6) A copy of the heritage bye-laws as approved by the Authority under sub-section (5) shall be laid before each House of Parliament.

(7) Each heritage bye-laws shall, be made available by the competent authority to the public, by exhibiting the same on its website and also in such other manner as it may deem fit, immediately after laying the same before each House of Parliament.

**National Monuments Authority**

20F. *Constitution of National Monuments Authority.*— (1) The Central Government shall, by notification in the Official Gazette, constitute an Authority to be called as the National Monuments Authority.

(2) The Authority shall consist of,—

(a) a Chairperson, on whole-time basis, to be appointed by the President, having proven experience and expertise in the fields of archaeology, country and town planning, architecture, heritage, conservation-architecture or law;

(b) such number of members not exceeding five whole-time members and five part-time members to be appointed, on the recommendation of the Selection Committee referred to in section 20G, by the Central Government, having proven experience and expertise in the fields of archaeology, country and town planning, architecture, heritage, conservation-architecture or law;

(c) the Director-General as member, *ex officio*.

(3) The tenure of the whole-time Chairperson or every whole-time member and every part-time member, of the Authority shall be three years from the date on which he assumes office as such and shall not be eligible for re-appointment:

Provided that, save as otherwise provided in clause (c) of sub-section (2), any person who has held any post in the Archaeological Survey of India or in the Ministry of Culture of the Government of India or a State Government or has not been found fit to be considered for being appointed to any such post shall, not be eligible to be appointed as the Chairperson or a member of the Authority:

Provided further that any person, who had either been granted a permission or licence or refused any such permission or

refused grant of a licence or any person or any of his relative having any interest in a prohibited area or a regulated area shall not be eligible to be appointed as a Chairperson or member.

*Explanation.*— For the purposes of this section, “relative” means—

(i) spouse of the Chairperson or member of the Authority;

(ii) brother or sister of the Chairperson or member of the Authority;

(iii) brother or sister of the spouse of the Chairperson or member of the Authority;

(iv) brother or sister of either of the parents of the Chairperson or member of the Authority;

(v) any lineal ascendant or descendant of the Chairperson or member of the Authority;

(vi) any lineal ascendant or descendant of the spouse of the Chairperson or member of the Authority;

(vii) spouse of the person referred to in clauses (ii) to (vi);

(4) An officer, not below the rank of Joint Secretary to the Government of India, shall be the Member Secretary of the Authority.

(5) The Central Government shall provide such number of officers and other employees as may be necessary for discharge of functions by the Authority under this Act.

20G. *Selection Committee for selection of members of Authority.*— (1) Every whole-time member and every part-time member of the Authority shall be selected by a Selection Committee consisting of the following persons, namely:—

(a) Cabinet Secretary — Chairperson, *ex officio*;

(b) Secretary in the Ministry of Culture —member, *ex officio*;

(c) Secretary in the Ministry of Urban Development — member, *ex officio*;



(d) three experts, having proven experience and expertise in the fields of archaeology, architecture, heritage or conservation-architecture to be nominated by the Central Government.

(2) The Selection Committee referred to in sub-section (1) shall regulate its own procedure for the purposes of selecting whole-time members and part-time members of the Authority.

20H. *Salary, allowances and meetings of Authority.*— (1) The salaries and allowances payable to the whole-time Chairperson and whole-time members, and the other terms and conditions of their service or fees or allowances payable to the part-time members, of the Authority shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the whole-time Chairperson and whole-time members shall be varied to their disadvantage after their appointment.

(2) The Authority shall regulate its own procedure for the purposes of holding its meetings (including quorum of such meetings) and granting permissions under this Act.

(3) All the decisions of the Authority shall be published in such manner as it may decide and also on its own website and on the website of the Central Government.

20-I. *Functions and powers of Authority.*— (1) The Authority shall exercise or discharge the following powers or functions, namely:—

(a) make recommendations to the Central Government for grading and classifying protected monuments and protected areas declared as of national importance under sections 3 and 4, before the commencement of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010;

(b) make recommendations to the Central Government for grading and classifying protected monuments and protected areas which may be declared after the commencement of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010, as of national importance under section 4;

(c) oversee the working of the competent authorities;

(d) to suggest measures for implementation of the provisions of this Act;

(e) to consider the impact of large-scale developmental projects, including public projects and projects essential to the public which may be proposed in the regulated areas and make recommendations in respect thereof to the competent authority;

(f) to make recommendations to the competent authority for grant of permission.

(2) The Authority shall, for the purpose of discharging functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) any other matter which may be prescribed.

20J. *Removal of Chairperson and members.*— (1) Notwithstanding anything contained in sub-section (3) of section 20F, the President in the case of the Chairperson and the Central Government in the case of whole-time member and part-time member may, by order, remove from office, the Chairperson or any such member of the Authority, if he—

(a) has been adjudged an insolvent; or  
 (b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as Chairperson or member; or

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

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

(2) The Chairperson or any member of the Authority shall not be removed under clauses (d) and (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

20K. *Restriction on future employment by Chairperson and members.*— On ceasing to hold office, the Chairperson or whole-time member of the Authority, as the case may be, shall, subject to the provisions of this Act, be ineligible, for a period of five years from the date on which they cease to hold office, for further employment (including as consultant or expert or otherwise) in any institution, agency or organisation of any nature mainly dealing with archaeology, country and town planning, architecture, heritage and conservation-architecture or whose matters had been before the Chairperson or such member.

20L. *Power of Central Government to issue directions to Authority.*— (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the discharge 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 Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

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

20M. *Power of Central Government to issue directions to competent authority.*— Without prejudice to the foregoing provisions of this Act, the competent authority shall, in exercise of its powers or the discharge of its functions under this Act, be bound by such directions, as the Central Government may give in writing to it from time to time.

20N. *Power of Central Government to supersede Authority.*— (1) If, at any time the Central Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against

the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and all other whole-time members and part-time members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other whole-time members and part-time members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified, subject to the provisions of sub-section (3) of section 20F for re-appointment for the remaining period.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

20-O. *Bar of jurisdiction of civil court.*— No civil court shall have jurisdiction in respect of any matter which the Authority is empowered by or under this Act to determine and no injunction shall be

granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

20P. *Annual report.*— (1) The Authority shall prepare once in every year, in such form and at such time as may be prescribed by the Central Government, an annual report giving full description of all the activities of the Authority for the previous year.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

20Q. *Power to call for information.*— Where the Central Government considers it expedient so to do, it may, by order in writing call upon the Authority or the competent authority, as the case may be, to furnish in writing such information, in such form and manner as may be prescribed, relating to its affairs as the Central Government may require.”.

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

(a) in sub-section (1),—

(i) for the words “imprisonment which may extend to three months”, the words “imprisonment which may extend to two years” shall be substituted;

(ii) for the words “fine which may extend to five thousand rupees”, the words “fine which may extend to one lakh rupees” shall be substituted;

(b) in sub-section (2), for the words “fine which may extend to five thousand rupees”, the words “imprisonment which may extend to two years or with fine which may extend to one lakh rupees or with both” shall be substituted.

9. *Insertion of new sections 30A, 30B and 30C.*— After section 30 of the principal Act, the following sections shall be inserted, namely:—

“30A. *Punishment for construction, etc., in prohibited area.*— Whoever raises, on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, any construction in the prohibited area, shall be punishable with imprisonment not exceeding two years or with fine which may extend to one lakh rupees or with both.

30B. *Punishment for construction, etc., in regulated area.*— Whoever raises, on and after the date on which the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Bill, 2010, receives the assent of the President, any construction in the regulated area without the previous permission of the competent authority or in contravention of the permission granted by the competent authority, shall be punishable with imprisonment not exceeding two years or with fine which may extend to one lakh rupees or with both.

30C. *Offences by officers of Government.*— If any officer of the Central Government enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any construction or re-construction takes place in a prohibited area or regulated area, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.”

10. *Insertion of new sections 35A and 35B.*—After section 35 of the principal Act, the following sections shall be inserted, namely:—

“35A. *Obligation to survey the protected prohibited area and regulated areas.*— (1) The Director-General shall, within such time as may be specified by the Central Government, conduct a survey or cause survey to be conducted in respect of all prohibited areas and regulated areas for the purpose of detailed site plans.

(2) A report in respect of such survey referred to in sub-section (1) shall be

forwarded to the Central Government and to the Authority.

35B. *Identification of un-authorised constructions on or after 16th June, 1992.*— (1) The Director-General shall, within such time as may be specified by the Central Government, identify or cause to be identified, all constructions (of whatever nature) made on and after the 16th day of June, 1992 in all prohibited areas and regulated areas and, thereafter, submit from time to time a report in respect thereof to the Central Government.

(2) The Director-General shall, for the purposes of sub-section (1), have the power to call for information from the local bodies and other authorities.”

11. *Amendment of section 38.*— In section 38 of the principal Act, in sub-section (2), after clause (c), the following clauses shall be inserted, namely:—

“(ca) the categories of ancient monuments or archaeological sites and remains, declared as of national importance, under sub-section (1) of section 4A;

(cb) the manner of making application for grant of permission under sub-section (1) of section 20D;

(cc) the category of applications in respect of which the permission may be granted and applications which shall be referred to the Authority for its recommendation, under sub-section (2) of section 20D;

(cd) the other matters including heritage controls such as elevations, facades, drainage systems, roads and service infrastructure (including electric poles, water and sewer pipelines) under sub-section (2) of section 20E;

(ce) the manner of preparation of detailed site plans in respect of each prohibited area and regulated area and the time within which such heritage bye-laws shall be prepared and particulars to be included in each such heritage bye-laws under sub-section (3) of section 20E;

(cf) salaries and allowances payable to, and the other terms and conditions of service of, the whole-time Chairperson and whole-time members, or fees or allowances payable to the part-time members, of the Authority under sub-section (1) of section 20H;

(cg) the form in which and time at which the Authority shall prepare an annual report giving full description of its activities for the previous year under section 20P;

(ch) the form and manner in which the Authority and competent authority shall furnish information to the Central Government under section 20Q;”.

12. *Validation of action taken, etc., under notification No. S. O. 1764, dated 16th June, 1992.*— Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(a) any thing done or purported to be done or any action taken or purported to be taken by the Central Government, except as provided in the second proviso to sub-section (3) of section 20A, immediately before the commencement of this Act, in pursuance of the notification of the Government of India in the Department of Culture (Archaeological Survey of India) number S.O. 1764, dated the 16th June, 1992 issued under rule 34 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, shall be deemed to be and deemed to have always been done or taken validly and in accordance with law at all material times [except as provided in the second proviso to sub-section (3) of section 20A] and no action taken or thing done (including any order made, agreement entered into, or

notification issued for constituting any Expert Advisory Committee) in connection with any permission granted or licence issued for any construction in a prohibited area or a regulated area in respect of a protected monument, shall be deemed to be invalid or ever to have become invalid except as provided in the second proviso to sub-section (3) of section 20A merely on the ground that the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or 24 of 1958. the rules, orders or notifications issued thereunder did not contain any provision for constitution of an Expert Advisory Committee or Advisory Committee, as the case may be;

(b) no suit, claim or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for any permission or licence granted by the Central Government or the Director-General under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or 24 of 1958. any rule, order or notification made thereunder for carrying out any repair, renovation or construction work or for undertaking any public work or public project before the commencement of this Act;

(c) no claim or challenge shall be made in or entertained by any court, tribunal or other authority solely on the ground that the Central Government or the Director-General did not take into consideration any of the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, as 24 of 1958.

amended by the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010, in granting any permission or licence for the purpose of carrying out any mining or repair, renovation or construction work in a prohibited area or a regulated area at any time between the 16th day of June, 1992 and the date of commencement of this Act.

13. *Repeal and savings.*— (1) The Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Ord. 1 of Ordinance, 2010 is hereby repealed. 2010.

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

#### Notification

10/2/2010-LA/204

The Legal Metrology Act, 2009 (Central Act No. 1 of 2010), which has been passed by Parliament and assented to by the President of India on 13-01-2010 and published in the Gazette of India, Extraordinary, Part II, Section I dated 14-01-2010, is hereby published for the general information of the public.

*Julio Barbosa Noronha*, Under Secretary (Law).

Porvorim, 25th August, 2011.

### THE LEGAL METROLOGY ACT, 2009

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**THE LEGAL METROLOGY ACT, 2009**

AN

ACT

*to establish and enforce standards of weights and measures, regulate trade and commerce in weights, measures and other goods which are sold or distributed by weight, measure or number and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

**CHAPTER I****Preliminary****1. Short title, extent and commencement.—**

(1) This Act may be called the Legal Metrology Act, 2009.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

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

(a) “Controller” means the Controller of Legal Metrology appointed under section 14;

(b) “dealer”, in relation to any weight or measure, means a person who, carries on, directly or otherwise, the business of buying, selling, supplying or distributing any such weight or measure, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes a commission agent, an importer, a manufacturer, who sells, supplies, distributes or otherwise delivers any weight or measure manufactured by him to any person other than a dealer;

(c) “Director” means the Director of Legal Metrology appointed under section 13;

(d) “export” with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(e) “import” with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(f) “label” means any written, marked, stamped, printed or graphic matter affixed to, or appearing upon any pre-packaged commodity;

(g) “Legal Metrology” means that part of metrology which treats units of weight and measurement, methods of weight and measurement and weighing and measuring instruments, in relation to the mandatory technical and legal requirements which have the object of ensuring public guarantee from the point of view of security and accuracy of the weightings and measurements;

(h) “legal metrology officer” means Additional Director, Additional Controller, Joint Director, Joint Controller, Deputy Director, Deputy Controller, Assistant Director, Assistant Controller and Inspector appointed under sections 13 and 14;

(i) “manufacturer” in relation to any weight or measure, means a person who—

(i) manufactures weight or measure,

(ii) manufactures one or more parts, and acquires other parts, of such weight or measure and, after assembling those parts, claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iii) does not manufacture any part of such weight or measure but assembles parts thereof manufactured by others and claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iv) puts, or causes to be put, his own mark on any complete weight or measure made or manufactured by any other person and claims such product to be a weight or measure made or manufactured by himself or itself, as the case may be;

(j) “notification” means a notification published in the Official Gazette;

(k) “protection” means the utilisation of reading obtained from any weight or measure, for the purpose of determining any step which is required to be taken to safeguard the well-being of any human being or animal, or to protect any commodity, vegetation or thing, whether individually or collectively;

(l) “pre-packaged commodity” means a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity;

(m) “person” includes,—

(i) a Hindu undivided family,

(ii) every department or office,

(iii) every organisation established or constituted by Government,

(iv) every local authority within the territory of India,

(v) a company, firm and association of individuals,

(vi) trust constituted under an Act,

(vii) every co-operative society, constituted under an Act,

(viii) every other society registered under the Societies Registration Act, 1860; 21 of 1860.

(n) “premises” includes—

(i) a place where any business, industry, production or transaction is carried on by a person, whether by



himself or through an agent, by whatever name called, including the person who carries on the business in such premises,

(ii) a warehouse, godown or other place where any weight or measure or other goods are stored or exhibited,

(iii) a place where any books of account or other documents pertaining to any trade or transaction are kept,

(iv) a dwelling house, if any part thereof is used for the purpose of carrying on any business, industry, production or trade,

(v) a vehicle or vessel or any other mobile device, with the help of which any transaction or business is carried on;

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

(p) "repairer" means a person who repairs a weight or measure and includes a person who adjusts, cleans, lubricates or paints any weight or measure or renders any other service to such weight or measure to ensure that such weight or measure conforms to the standards established by or under this Act;

(q) "State Government", in relation to a Union territory, means the Administrator thereof;

(r) "sale", with its grammatical variations and cognate expressions, means transfer of property in any weight, measure or other goods by one person to another for cash or for deferred payment or for any other valuable consideration and includes a transfer of any weight, measure or other goods on the hire-purchase system or any other system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge or pledge on, such weight, measure or other goods;

(s) "seal" means a device or process by which a stamp is made, and includes any

wire or other accessory which is used for ensuring the integrity of any stamp;

(t) "stamp" means a mark, made by impressing, casting, engraving, etching, branding, affixing pre-stressed paper seal or any other process in relation to, any weight or measure with a view to—

(i) certifying that such weight or measure conforms to the standard specified by or under this Act, or

(ii) indicating that any mark which was previously made thereon certifying that such weight or measure conforms to the standards specified by or under this Act, has been obliterated;

(u) "transaction" means,—

(i) any contract, whether for sale, purchase, exchange or any other purpose, or

(ii) any assessment of royalty, toll, duty or other dues, or

(iii) the assessment of any work done, wages due or services rendered,

(v) "verification", with its grammatical variations and cognate expressions, includes, in relation to any weight or measure, the process of comparing, checking, testing or adjusting such weight or measure with a view to ensuring that such weight or measure conforms to the standards established by or under this Act and also includes re-verification and calibration;

(w) "weight or measure" means a weight or measure specified by or under this Act and includes a weighing or measuring instrument.

3. *Provisions of this Act to override provisions of any other law.*— The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any

instrument having effect by virtue of any enactment other than this Act.

## CHAPTER II

### Standard Weights and Measures

4. *Units of weights and measures to be based on metric system.*— Every unit of weight or measure shall be in accordance with the metric system based on the international system of units.

5. *Base unit of weights and measures.*— (1) The base unit of—

- (i) length shall be the metre;
- (ii) mass shall be the kilogram;
- (iii) time shall be the second;
- (iv) electric current shall be the ampere;
- (v) thermodynamic temperature shall be the kelvin;
- (vi) luminous intensity shall be the candela; and
- (vii) amount of substance shall be the mole.

(2) The specifications of the base units mentioned in sub-section (1), derived units and other units shall be such as may be prescribed.

6. *Base unit of numeration.*— (1) The base unit of numeration shall be the unit of the international form of Indian numerals.

(2) Every numeration shall be made in accordance with the decimal system.

(3) The decimal multiples and sub-multiples of the numerals shall be of such denominations and be written in such manner as may be prescribed.

7. *Standard units of weights and measures.*— (1) The base units of weights and

measures specified in section 5 shall be the standard units of weights and measures.

(2) The base unit of numeration specified in section 6 shall be the standard unit of numeration.

(3) For the purpose of deriving the value of base, derived and other units mentioned in section 5, the Central Government shall prepare or cause to be prepared objects or equipments in such manner as may be prescribed.

(4) The physical characteristics, configuration, constructional details, materials, equipments, performance, tolerances, period of re-verification, methods or procedures of tests shall be such as may be prescribed.

8. *Standard weight, measure or numeral.*— (1) Any weight or measure which conforms to the standard unit of such weight or measure and also conforms to such of the provisions of section 7 as are applicable to it shall be the standard weight or measure.

(2) Any numeral which conforms to the provisions of section 6 shall be the standard numeral.

(3) No weight, measure or numeral, other than the standard weight, measure or numeral, shall be used as a standard weight, measure or numeral.

(4) No weight or measure, shall be manufactured or imported unless it conforms to the standards of weight or measure specified under section 8:

Provided that provisions of this section shall not apply for manufacture done exclusively for export or for the purpose of any scientific investigation or research.

9. *Reference, secondary and working standard.*— (1) The reference standards, secondary standards and working standards

of weights and measures shall be such as may be prescribed.

(2) Every reference standard, secondary standard and working standard shall be verified and stamped in such manner and after payment of such fee as may be prescribed.

(3) Every reference standard, secondary standard and working standard which is not verified and stamped in accordance with the provisions of sub-section (2) shall not be deemed to be a valid standard.

10. *Use of weight or measure for particular purposes.*— Any transaction, dealing or contract in respect of any goods, class of goods or undertakings shall be made by such weight, measure or number as may be prescribed.

11. *Prohibition of quotation, etc., otherwise than in terms of standard units of weight, measure or numeration.*— (1) No person shall, in relation to any goods, things or service,—

(a) quote, or make announcement of, whether by word of mouth or otherwise, any price or charge, or

(b) issue or exhibit any price list, invoice, cash memo or other document, or

(c) prepare or publish any advertisement, poster or other document, or

(d) indicate the net quantity of a pre-packaged commodity, or

(e) express in relation to any transaction or protection, any quantity or dimension,

otherwise than in accordance with the standard unit of weight, measure or numeration.

(2) The provisions of sub-section (1) shall not be applicable for export of any goods, things or service.

12. *Any custom, usage, etc., contrary to standard weight, measure or numeration to be void.*— Any custom, usage, practice or

method of whatever nature which permits a person to demand, receive or cause to be demanded or received, any quantity of article, thing or service in excess of or less than, the quantity specified by weight, measure or number in the contract or other agreement in relation to the said article, thing or service, shall be void.

### CHAPTER III

#### Appointment and Powers of Director, Controller and Legal Metrology Officers

13. *Appointment of Director, legal metrology officers and other employees.*— (1) The Central Government may, by notification, appoint a Director of legal metrology, Additional Director, Joint Director, Deputy Director, Assistant Director and other employees for exercising the powers and discharging the duties conferred or imposed on them by or under this Act in relation to inter-State trade and commerce.

(2) The qualifications of the Director and legal metrology officers appointed under sub-section (1) shall be such as may be prescribed.

(3) The Director and every legal metrology officer, appointed under sub-section (1), shall exercise such powers and discharge such functions in respect of such local limits as the Central Government may, by notification, specify.

(4) Every legal metrology officer appointed under sub-section (1) shall exercise powers and discharge duties under the general superintendence, direction and control of the Director.

(5) The Director, the Controller and every legal metrology officer authorised to perform any duty by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian 45 of 1860. Penal Code.

(6) No suit, prosecution or other legal proceeding shall lie against the Director, the

Controller and legal metrology officer authorised to perform any duty by or under this Act in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(7) The Central Government may, with the consent of the State Government and subject to such conditions, limitations and restrictions as it may specify in this behalf, delegate such of the powers of the Director under this Act as it may think fit to the Controller of legal metrology in the State, and such Controller may, if he is of opinion that it is necessary or expedient in the public interest so to do, delegate such of the powers delegated to him as he may think fit to any legal metrology officer and where any such delegation of powers is made by such Controller, the person to whom such powers are delegated shall exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by way of delegation.

(8) Where any delegation of powers is made under sub-section (7), the powers so delegated shall be exercised under the general superintendence, direction and guidance of the Director.

14. *Appointment of Controller, legal metrology, officers and other employees.*— (1) The State Government may, by notification, appoint a Controller of legal metrology, Additional Controller, Joint Controller, Deputy Controller, Assistant Controller, Inspector and other employees for the State for exercising the powers and discharging the duties conferred or imposed on them by or under this Act in relation to intra State trade and commerce.

(2) The qualifications of the Controller and legal metrology officers appointed under sub-section (1) shall be such as may be prescribed.

(3) The Controller and every legal metrology officer, appointed under sub-section (1), shall

exercise such powers and discharge such functions in respect of such local limits as the State Government may, by notification, specify.

(4) Every legal metrology officer appointed under sub-section (1) shall exercise and discharge the duties under the general superintendence, direction and control of the Controller.

15. *Power of inspection, seizure, etc.*— (1) The Director, Controller or any legal metrology officer may, if he has any reason to believe, whether from any information given to him by any person and taken down in writing or from personal knowledge or otherwise, that any weight or measure or other goods in relation to which any trade and commerce has taken place or is intended to take place and in respect of which an offence punishable under this Act appears to have been, or is likely to be, committed are either kept or concealed in any premises or are in the course of transportation,—

(a) enter at any reasonable time into any such premises and search for and inspect any weight, measure or other goods in relation to which trade and commerce has taken place, or is intended to take place and any record, register or other document relating thereto;

(b) seize any weight, measure or other goods and any record, register or other document or article which he has reason to believe may furnish evidence indicating that an offence punishable under this Act has been, or is likely to be, committed in the course of, or in relation to, any trade and commerce.

(2) The Director, Controller or any legal metrology officer may also require the production of every document or other record relating to the weight or measure referred to in sub-section (1) and the person having the custody of such weight or measure shall comply with such requisition.

(3) Where any goods seized under sub-section (1) are subject to speedy or natural decay, the Director, Controller or legal metrology officer may dispose of such goods in such manner as may be prescribed.

(4) Every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures.

16. *Forfeiture.*— (1) Every non-standard or unverified weight or measure, and every package made in contravention of section 18, used in the course of, or in relation to, any trade and commerce and seized under section 15, shall be liable to be forfeited to the State Government:

Provided that such unverified weight or measure shall not be forfeited to the State Government if the person from whom such weight or measure was seized gets the same verified and stamped within such time as may be prescribed.

(2) Every weight, measure or other goods seized under section 15 but not forfeited under sub-section (1), shall be disposed of by such authority and in such manner as may be prescribed.

17. *Manufacturers, etc., to maintain records and registers.*— (1) Every manufacturer, repairer or dealer of weight or measure shall maintain such records and registers as may be prescribed.

(2) The records and registers maintained under sub-section (1) shall be produced at the time of inspection to the persons authorised for the said purpose under sub-section (1) of section 15.

18. *Declarations on pre-packaged commodities.*— (1) No person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any

pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed.

(2) Any advertisement mentioning the retail sale price of a pre-packaged commodity shall contain a declaration as to the net quantity or number of the commodity contained in the package in such form and manner as may be prescribed.

19. *Registration for importer of weight or measure.*— No person shall import any weight or measure unless he is registered with the Director in such manner and on payment of such fees, as may be prescribed.

20. *Non-standard weights and measures not to be imported.*— No weight or measure, whether singly or as a part or component of any machine shall be imported unless it conforms to the standards of weight or measure established by or under this Act.

21. *Training in Legal Metrology.*— (1) For imparting training in Legal Metrology and other allied branches of knowledge the “Indian Institute of Legal Metrology” (hereinafter referred to as the “Institute”) established under the provisions of the Standards of Weights and Measures Act, 1976, shall be deemed to have been established under the corresponding provisions, of this Act.

(2) The management and control of the Institute, the teaching staff and other employees, the courses and curricula for training thereat, the qualifications, which a person shall possess in order to be eligible for admission thereto shall be such as may be prescribed.

22. *Approval of model.*— Every person, before manufacturing or importing any weight or measure shall seek, the approval of model

of such weight or measure in such manner, on payment of such fee and from such authority as may be prescribed:

Provided that such approval of model may not be required in respect of any cast iron, brass, bullion, or carat weight or any beam scale, length measures (not being measuring tapes) which are ordinarily used in retail trade for measuring textiles or timber, capacity measures, not exceeding twenty litre in capacity, which are ordinarily used in retail trade for measuring kerosene, milk or potable liquors:

Provided further that the prescribed authority may, if he is satisfied that the model of any weight or measure which has been approved in a country outside India conforms to the standards established by or under this Act, approve such model without any test or after such test as he may deem fit.

*23. Prohibition on manufacture, repair or sale of weight or measure without licence.—* (1) No person shall manufacture, repair or sell, or offer, expose or possess for repair or sale, any weight or measure unless he holds a licence issued by the Controller under sub-section (2):

Provided that no licence to repair shall be required by a manufacturer for repair of his own weight or measure in a State other than the State of manufacture of the same.

(2) For the purpose of sub-section (1), the Controller shall issue a licence in such form and manner, on such conditions, for such period and such area of jurisdiction and on payment of such fee as may be prescribed.

#### CHAPTER IV

##### Verification and Stamping of Weight or Measure

*24. Verification and stamping of weight or measure.—* (1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is

intended or is likely to be, used by him in any transaction or for protection, shall, before putting such weight or measure into such use, have such weight or measure verified at such place and during such hours as the Controller may, by general or special order, specify in this behalf, on payment of such fees as may be prescribed.

(2) The Central Government may prescribe the kinds of weights and measures for which the verification is to be done through the Government approved Test Centre.

(3) The Government approved Test Centre shall be notified by the Central Government or the State Government, as the case may be, in such manner, on such terms and conditions and on payment of such fee as may be prescribed.

(4) The Government approved Test Centre shall appoint or engage persons having such qualifications and experience and collect such fee on such terms and conditions for the verification of weights and measures specified under sub-section (2) as may be prescribed.

#### CHAPTER V

##### Offences and Penalties

*25. Penalty for use of non-standard weight or measure.—* Whoever uses or keeps for use any weight or measure or makes use of any numeration otherwise than in accordance with the standards of weight or measure or the standard of numeration, as the case may be, specified by or under this Act, shall be punished with fine which may extend to twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months and also with fine.

*26. Penalty for alteration of weight and measure.—* Whoever tampers with, or alters in any way, any reference standard, secondary standard or working standard or increases or decreases or alters any weight

or measure with a view to deceiving any person or knowing or having reason to believe that any person is likely to be deceived thereby, except where such alteration is made for the correction of any error noticed therein on verification, shall be punished with fine which may extend to fifty thousand rupees and for the second and subsequent offence with imprisonment for a term which shall not be less than six months but which may extend to one year or with fine or with both.

27. *Penalty for manufacture or sale of non-standard weight or measure.*— Every person who manufactures or causes to be manufactured or sells or offers, exposes or possesses for sale, any weight or measure which,—

(a) does not conform to the standards of weight or measure specified by or under this Act; or

(b) which bears thereon any inscription of weight, measure or number which does not conform to the standards of weight, measure or numeration specified by or under this Act,

except where he is permitted to do so under this Act, shall be punished with a fine which may extend to twenty thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to three years or with fine or with both.

28. *Penalty for making any transaction deal or contract in contravention of the prescribed standards.*— Whoever makes any transaction, deal or contract in contravention of the standards of weights and measures specified under section 10 shall be punished with fine which may extend to ten thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

29. *Penalty for quoting or publishing, etc., of non-standard units.*—Whoever violates section 11 shall be punished with fine which

may extend to ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

30. *Penalty for transactions in contravention of standard weight or measure.*— Whoever—

(a) in selling any article or thing by weight, measure or number, delivers or causes to be delivered to the purchaser any quantity or number of that article or thing less than the quantity or number contracted for or paid for; or

(b) in rendering any service by weight, measure or number, renders that service less than the service contracted for or paid for; or

(c) in buying any article or thing by weight, measure or number, fraudulently receives, or causes to be received any quantity or number of that article or thing in excess of the quantity or number contracted for or paid for; or

(d) in obtaining any service by weight, measure or number, obtains that service in excess of the service contracted for or paid for,

shall be punished with fine which may extend to ten thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

31. *Penalty for non-production of documents, etc.*— Whoever, being required by or under this Act or the rules made thereunder to submit returns, maintain any record or register, or being required by the Director or the Controller or any legal metrology officer to produce before him for inspection any weight or measure or any document, register or other record relating thereto, omits or fails without any reasonable excuse, so to do, shall be punished with fine which may extend to five thousand rupees and for the second or

subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

32. *Penalty for failure to get model approved.*— Whoever fails or omits to submit model of any weight or measure for approval, shall be punished with fine which may extend to twenty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

33. *Penalty for use of unverified weight or measure.*— Whoever, sells, distributes, delivers or otherwise transfers or uses any unverified weight or measure shall be punished with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

34. *Penalty for sale or delivery of commodities, etc., by non-standard weight or measure.*— Whoever sells, or causes to be sold, delivers, or causes to be delivered, any commodity, article or thing by any means other than the standard weight or measure or number, shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both.

35. *Penalty for rendering services by non-standard weight, measure or number.*— Whoever renders or causes to be rendered, any service through means other than the weight or measure or numeration or in terms of any weight, measure or number other than the standard weight or measure, shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which shall not be less than three

months but which may extend to one year, or with fine, or with both.

36. *Penalty for selling, etc., of non-standard packages.*— (1) Whoever manufactures, packs, imports, sells, distributes, delivers or otherwise transfers, offers, exposes or possesses for sale, or causes to be sold, distributed, delivered or otherwise transferred, offered, exposed for sale any pre-packaged commodity which does not conform to the declarations on the package as provided in this Act, shall be punished with fine which may extend to twenty-five thousand rupees, for the second offence, with fine which may extend to fifty thousand rupees and for the subsequent offence, with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees or with imprisonment for a term which may extend to one year or with both.

(2) Whoever manufactures or packs or imports or causes to be manufactured or packed or imported, any pre-packaged commodity, with error in net quantity as may be prescribed shall be punished with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees and for the second and subsequent offence, with fine which may extend to one lakh rupees or with imprisonment for a term which may extend to one year or with both.

37. *Penalty for contravention by Government approved Test Centre.*— (1) Where any Government approved Test Centre contravenes any of the provisions of this Act or the rules made thereunder, or the conditions of the licence, it shall be punished with fine which may extend to one lakh rupees.

(2) Where any owner or employee of a Government Approved Test Centre performing duties in accordance with the provisions of this Act or the rules made thereunder, wilfully verifies or stamps any weight or measure in contravention of the provisions of this Act or the rules made



thereunder, he shall, for every such contravention, be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.

38. *Penalty for non-registration by importer of weight or measure.*— Whoever imports any weight or measure without being registered under this Act shall be punished with fine which may extend to twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine, or with both.

39. *Penalty for import of non-standard weight or measure.*— Whoever imports any non-standard weight or measure shall be punished with fine, which may extend to fifty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

40. *Penalty for obstructing Director, Controller or legal metrology officers.*— Whoever obstructs the Director, the Controller or any legal metrology officer with intent to prevent or deter the Director or the Controller or any legal metrology officer from exercising his powers or discharging his functions, or in consequence of anything done or attempted to be done by the Director or the Controller or any legal metrology officer in the lawful exercise of his powers or discharge of his functions as such, or whoever obstructs the entry of the Director or the Controller or any legal metrology officer into any premises for inspection and verification of any weight or measure or any document or record relating thereto or the net contents of any packaged commodity or for any other purpose shall be punished with imprisonment for a term which may extend to two years and for the second or subsequent offence, with imprisonment for a term which may extend to five years.

41. *Penalty for giving false information or false return.*— (1) Whoever gives any

information to the Director, the Controller or any legal metrology officer, which he may require or ask for in the course of his duty, and which such person either knows or has reason to believe to be false, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to six months and also with fine.

(2) Whoever, being required by or under this Act so to do, submits a return or maintains any record or register which is false in material particulars, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

42. *Vexatious search.*— The Director, the Controller or any legal metrology officer, exercising powers under this Act or any rule made thereunder, who knows that there are no reasonable grounds for so doing, and yet—

(a) searches, or causes to be searched, any house, conveyance or place; or

(b) searches any person; or

(c) seizes any weight, measure or other movable property;

shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

43. *Penalty for verification in contravention of Act and rules.*— Where the Controller or any legal metrology officer exercising powers under this Act or any rule made thereunder, wilfully verifies or stamps any weight or measure, in contravention of the provisions of this Act or of any rule made thereunder, he shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

44. *Penalty for counterfeiting of seals, etc.—*

(1) Whoever—

(i) counterfeits any seal specified by or under this Act or the rules made thereunder, or

(ii) sells or otherwise disposes of any counterfeit seal, or

(iii) possesses any counterfeit seal, or

(iv) counterfeits or removes or tampers with any stamp, specified by or under this Act or rules made thereunder, or

(v) affixes the stamp so removed on, or inserts the same into, any other weight or measure,

shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

*Explanation.—* In this sub-section, “counterfeit” shall have the meaning assigned to it in section 28 of the Indian Penal Code. 45 of 1860.

(2) Whoever obtains, by unlawful means, any seal specified by or under this Act or the rules made thereunder and uses, or causes to be used, any such seal for making any stamp on any weight or measure with a view to representing that the stamp made by such seal is authorised by or under this Act or the rules made thereunder shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

(3) Whoever, being in lawful possession of a seal specified by or under this Act or the

rules made thereunder, uses, or causes to be used, such seal without any lawful authority for such use, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

(4) Whoever sells or offers or exposes for sale or otherwise disposes of any weight or measure which, he knows or has reason to believe, bears thereon a counterfeit stamp, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

45. *Penalty for manufacture of weight and measure without licence.—* Whoever, being required to obtain a licence under this Act or the rules made thereunder, manufactures, without being in possession of a valid licence, any weight or measure, shall be punished with fine which may extend to twenty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

46. *Penalty for repair, sale etc., of weight and measure without licence.—* Whoever being required to obtain a licence under this Act or the rules made thereunder repairs or sells or offers, exposes or possesses for repair or sale, any weight or measure, without being in possession of a valid licence, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

47. *Penalty for tampering with licence.—* Whoever alters or otherwise tampers, with any licence issued or renewed under this Act

or rules made thereunder, otherwise than in accordance with any authorisation made by the Controller in this behalf, shall be punished with fine which may extend to twenty thousand rupees, or with imprisonment for a term which may extend to one year or with both.

48. *Compounding of offences.*— (1) Any offence punishable under section 25, sections 27 to 39, sections 45 to 47, or any rule made under sub-section (3) of section 52 may, either before or after the institution of the prosecution, be compounded, on payment for credit to the Government of such sum as may be prescribed.

(2) The Director or legal metrology officer as may be specially authorised by him in this behalf, may compound offences punishable under section 25, sections 27 to 39, or any rule made under sub-section (3) of section 52.

(3) The Controller or legal metrology officer specially authorised by him, may compound offences punishable under section 25, sections 27 to 31, sections 33 to 37, sections 45 to 47, and any rule made under sub-section (3) of section 52:

Provided that such sum shall not, in any case, exceed the maximum amount of the fine, which may be imposed under this Act for the offence so compounded.

(4) Nothing in sub-section (1) shall apply to person who commits the same or similar offence, within a period of three years from the date on which the first offence, committed by him, was compounded.

*Explanation.*— For the purposes of this sub-section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(5) Where an offence has been compounded under sub-section (1), no proceeding or

further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded.

(6) No offence under this Act shall be compounded except as provided by this section.

49. *Offences by companies and power of court to publish name, place of business, etc., for companies convicted.*— (1) Where an offence under this Act has been committed by a company,—

(a) (i) the person, if any, who has been nominated under sub-section (2) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereinafter in this section referred to as a person responsible); or

(ii) where no person has been nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company; and

(b) the company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

(2) Any company may, by order in writing, authorise any of its directors to exercise all such powers and take all such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the Director or the concerned Controller or any legal metrology officer authorised in this behalf by such Controller (hereinafter in this section

referred to as the authorised officer) in such form and in such manner as may be prescribed, that it has nominated such director as the person responsible, along with the written consent of such director for being so nominated.

*Explanation.*— Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishments or branches or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment, branch or unit.

(3) The person nominated under sub-section (2) shall, until—

(i) further notice cancelling such nomination is received from the company by the Director or the concerned Controller or the authorised officer; or

(ii) he ceases to be a director of the company; or

(iii) he makes a request in writing to the Director or the concerned Controller or the legal metrology officer under intimation to the company, to cancel the nomination, which request shall be complied with by the Director or the concerned Controller or the legal metrology officer,

whichever is the earliest, continue to be the person responsible:

Provided that where such person ceases to be a director of the company, he shall intimate the fact of such cessation to the Director or the concerned Controller or the authorised officer:

Provided further that where such person makes a request under clause (iii) the Director or the concerned Controller or the authorised officer shall not cancel such nomination with effect from a date earlier than the date on which the request is made.

(4) Notwithstanding anything contained in the foregoing sub-sections, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to the neglect on the part of, any director, manager, secretary or other officer, not being a person nominated under sub-section (2), such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where any company is convicted under this Act for contravention of any of the provisions thereof, it shall be competent for the court convicting the company to cause the name and place of business of the company, nature of the contravention, the fact that the company has been so convicted and such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of the company in such newspaper or in such other manner as the court may direct.

(6) No publication under sub-section (5) shall be made until the period for preferring an appeal against the orders of the Court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

(7) The expenses of any publication under sub-section (5) shall be recoverable from the company as if it were a fine imposed by the court.

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

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

(b) “director”, in relation to a firm, means a partner in the firm but excludes nominated directors, honorary directors, Government nominated directors.

50. *Appeals.*— (1) Subject to the provisions of sub-section (2), an appeal shall lie,—

(a) from every decision or order under sections 15 to 20, section 22, section 25, sections 27 to 39, section 41 or any rule made under sub-section (3) of section 52 by the legal metrology officer appointed under section 13, to the Director;

(b) from every decision or order made by the Director of Legal Metrology under sections 15 to 20, section 22, section 25, sections 27 to 39, section 41 or any rule made under sub-section (3) of section 52, to the Central Government or any officer specially authorised in this behalf by that Government;

(c) from every decision given by the Controller of Legal Metrology under delegated powers of Director Legal Metrology to the Central Government;

(d) from every decision given or order made under sections 15 to 18, sections 23 to 25, sections 27 to 37, sections 45 to 47 or any rule made under sub-section (3) of section 52 by any legal metrology officer appointed under section 14, to the Controller; and

(e) from every decision given or order made by the Controller under sections 15 to 18, sections 23 to 25, sections 27 to 37, sections 45 to 47 or any rule made under sub-section (3) of section 52 not being an order made in appeal under clause (d), to the State Government or any officer specially authorised in this behalf by that Government.

(2) Every such appeal shall be preferred within sixty days from the date on which the impugned order was made:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days,

permit the appellant to prefer the appeal within a further period of sixty days.

(3) On receipt of any such appeal, the appellate authority shall, after giving the parties to the appeal, a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order, as it may think fit, confirming, modifying or reversing the decision or order appealed against or may send back the case with such direction as it may think fit for a fresh decision or order after taking additional evidence, if necessary.

(4) Every appeal shall be preferred on payment of such fees, as may be prescribed.

(5) The Central Government or the State Government, as the case may be, may on its own motion or otherwise, call for and examine the record of any proceeding including a proceeding in appeal in which any decision or order has been made, for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such orders thereon as it may think fit:

Provided that no decision or order shall be varied under this sub-section so as to prejudicially affect any person unless such person has been given a reasonable opportunity of showing cause against the proposed action.

51. *Provisions of India Penal Code and Code of Criminal Procedure not to apply.*— The provisions of the Indian Penal Code and section 153 45 of 1860. of the Code of Criminal Procedure, 1973 in so far as such provisions 2 of 1974. relate to offences with regard to weight or measure, shall not apply to any offence which is punishable under this Act.

52. *Power of the 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 all or any of the following matters, namely:—

(a) the specification of the base units of measures and base unit of mass under sub-section (2) of section 5;

(b) the manner of preparation of objects and equipments under sub-section (3) of section 7;

(c) physical characteristics, configuration, constructional details, materials, equipment, performance, tolerances, period of re-verification, methods or procedures of tests under sub-section (4) of section 7;

(d) reference standards, secondary standards and working standards of weights and measures under sub-section (1) of section 9;

(e) reference standards, secondary standards and working standards shall be verified and stamped and the fee under sub-section (2) of section 9;

(f) the weight or measure or number in which any transaction, dealing, or contract in respect of any goods, class of goods or undertakings shall be made under section 10;

(g) the qualifications of the Director and legal metrology officers under sub-section (2) of section 13;

(h) the qualification of the Controller and legal metrology officers under sub-section (2) of section 14;

(i) the manner of disposal of goods under sub-section (3) of section 15;

(j) the standard quantities or number and the manner in which the packages shall bear the declarations and the particulars under sub-section (1) of section 18;

(k) the manner and registration and the fee under section 19;

(l) the management and control of the Institute, the teaching staff and other employees, the courses and curricula for training thereat, the qualifications, which a person shall possess in order to be eligible for admission thereto under sub-section (2) of section 21;

(m) the manner, fee and authority for approval of models under section 22;

(n) the kinds of weights or measures under sub-section (2) of section 24;

(o) the manner in which, terms and conditions on which and fee on payment which the Central Government shall notify the Government approved Test Centre under sub-section (3) of section 24;

(p) the qualifications and experience of persons appointed or engaged and the fee and terms and conditions on which Government approved Test Centre shall verify the weight or measure under sub-section (4) of section 24;

(q) the error in net quantity under sub-section (2) of section 36;

(r) fee for compounding of offence under sub-section (1) of section 48;

(s) form and manner in which notice to the Director or the Controller or any other officer authorised by him shall be given under sub-section (2) of section 49.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to five thousand rupees.

(4) 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.

53. *Power of State Government to make rules.*— (1) The State Government may, by notification, and after consultation with the Central Government, make rules to carry out the provisions of this Act.

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

(a) the time within which the weight or measure may be got verified under proviso to sub-section (1) of section 16;

(b) registers and records to be maintained by persons referred to under sub-section (1) of section 17;

(c) the form, manner, conditions, period, area of jurisdiction and fees for issuance of licence under sub-section (2) of section 23;

(d) fee for verification and stamping of any weight or measure under sub-section (1) of section 24;

(e) manner of notifying Government approved Test Centre, terms and conditions and fee to be paid under sub-section (3) of section 24;

(f) fee for compounding of offences under sub-section (1) of section 48.

(3) In making any rule under this section, the State Government may provide that a

breach thereof shall be punishable with fine which may extend to five thousand rupees.

(4) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication in Official Gazette.

(5) Every rule made under this section shall, as soon as may be after it is made, be laid before each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

54. *Delegation of Powers.*— (1) The Central Government may, in consultation with the State Government and by notification, direct that any power exercisable by it under this Act or any rule made thereunder, not being a power conferred by section 50 relating to appeal or section 52 relating to power to make rules, in relation to such matters and subject to such conditions as may be specified, may be exercised also by such officer subordinate to it as may be specified in the notification.

(2) Subject to any general or special direction or condition imposed by the State Government, any person authorised by the Central Government to exercise any powers may exercise those powers in the same manner and to the same extent as if they had been conferred on that person directly by this Act and not by way of delegation.

55. *Act not to apply in certain cases.*— The provisions of this Act, in so far as they relate to verification and stamping of weights and measures, shall not apply to any weight or measure,—

(a) used in any factory exclusively engaged in the manufacture of any arms, ammunition or both, for the use of the Armed Forces of the Union;

(b) used for scientific investigation or for research;

(c) manufactured exclusively for export.

56. *Existing Director, Controller and legal metrology officer not to be affected by the new qualification to be prescribed.*— (1) Every Director, Controller and legal metrology officer appointed immediately before the commencement of the rules made under this Act, shall be deemed to have been appointed under sub-section (1) of sections 13 and 14, notwithstanding any rule prescribing different qualifications.

(2) The rules made by a State Government under the Standards of Weights and Measures (Enforcement) Act, 1985 which are in force immediately before the commencement of this Act shall remain in force until the State Government, makes rules in that behalf.

57. *Repeal of the Standards of Weights and Measures Act, 1976 and Standards of Weights and Measures (Enforcement) Act, 1985.*— (1) The Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985, is hereby repealed.

(2) Without prejudice to the provisions contained in the General Clauses Act, 1897, with respect to repeals, any notification, rule or order made under the Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985, shall, if in force, at the commencement of this Act, continue to be in force and have effect as if it was made under the corresponding provision of this Act.

(3) Notwithstanding such repeal, any appointment, notification, rule, order, registration, licence, certificate, notice, decision, approval, authorisation or consent made, issued or given under such law shall, if in force at the commencement of this Act, continue to be in force and have effect as if it were made, issued or given under the corresponding provisions of this Act.

Law (Establishment) Division  
Goa State Legal Services Authority

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**Notification**

GSLSA/GOA/Notification-1/2011

In exercise of the powers conferred under the provisions of Section 29(A) of the Legal Services Authorities Act, 1987 and in consultation with the Hon'ble the Chief Justice of Bombay High Court, the State Legal Services Authority hereby inserts Regulation 22 (1) to (5) after Regulation 21 and delete Regulation 13.

Rule 22. Honorarium to be paid to the Presiding Officer, the Members of the Lok Adalat and Members of Counseling and Conciliation Centres.

(1) The Presiding Officers of the Lok Adalats held at Taluka and District levels shall be entitled to honorarium at flat rate of Rs. 500/- per day, irrespective of the decided cases.

(2) The Presiding Officer for the Lok Adalats held at High Court level shall also be entitled to honorarium at flat rate of Rs. 750/- per day, irrespective of decided cases.

(3) Every member of penal of Lok Adalats held at Taluka, District and High Court levels shall also be entitled to honorarium at flat rate of Rs. 500/- per sitting, irrespective of decided cases.

(4) Every member of permanent Lok Adalats established at District level shall also be entitled to honorarium at flat rate of Rs. 400/- per sitting, irrespective of decided cases.

(5) Every member of counseling and conciliation centre established under the provisions of Legal Services Authorities Act, 1987 shall be entitled to honorarium at flat rate of Rs. 400/- per sitting irrespective of settled cases.

By order and in the name of the Hon'ble the Chief Justice, High Court of Bombay and Patron-in-Chief of the Goa State Legal Services Authority.

*B. P. Deshpande*, Member Secretary (Goa State Legal Services Authority).

Panaji, 16th June, 2011.



## Department of Personnel

## Notification

1/4/81-PER(Vol. III)

In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, read with section 21 of the General Clauses Act, 1897 (Central Act 10 of 1897), the Governor of Goa hereby amends the Government of Goa, Goa Dental College and Hospital, Group 'A', Non-Ministerial, Gazetted post, Recruitment Rules, 2010, published vide Notification No. 1/4/81-PER (Vol. III) dated 29-03-2010, in the Official Gazette, Series I No. 3 dated 15-04-2010, as follows, namely:—

1. *Short title and commencement.*— (1) These rules may be called the Government of Goa, Goa Dental College and Hospital, Group 'A', Non-Ministerial, Gazetted post, Recruitment Rules, 2010.

(2) They shall be deemed to have come into force on the 29th day of March, 2010.

2. *Amendment of Schedule.*— In the Schedule appended to the Government of Goa, Goa Dental College and Hospital, Group 'A', Non-Ministerial, Gazetted post, Recruitment Rules, 2010, in column (4), for words and figures "Rs. 15600-34800+Grade Pay Rs. 5400", the words and figures "Rs. 15600-39100+Grade Pay Rs. 5400", shall be substituted.

By order and in the name of the Governor of Goa.

*Yetindra M. Maralkar*, Joint Secretary (Personnel).

Porvorim, 13th September, 2011.

## Department of Revenue

## Order

35/9/2009-RD(6222)

In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (Central Act 2 of 1899) (hereinafter referred to as the "said Act") the Government of Goa hereby remits the stamp duty chargeable under the said Act on instrument of Deed of Sale executed by any Educational Institution as specified in column (2) of Table hereinbelow towards the purchase of flat or building and/or plot of land for the purpose of construction of a building thereof exclusively for the use of such educational institution, subject to the condition that every such Educational Institution obtains a certificate from the Authority as specified in corresponding entry in column (3) of Table hereinbelow, certifying that such Educational Institution has been established after obtaining permission/registration as required under the law as also from the Government and it is imparting Education and exist on the date of issue of such certificate.

## Table

Sr. No.	Educational Institution	Authority Competent to grant Certificate
1	2	3
1.	Educational institution imparting medical education including Allopathic, Ayurveda,	} Secretary, Government of Goa Public Health Department.

Homoepathy and Unani and having affiliation with Goa University.

- |   |   |   |
|---|---|---|
| 2. Educational Institution imparting education, other than medical education, upto graduation and post graduation level and affiliated to the Goa University.   | } | Director of Higher Education, Government of Goa.    |
| 3. Educational Institution imparting Technical Education upto graduation and post graduation level and affiliated to the Goa University and also imparting diploma courses, affiliated to Board of Technical Education, Porvorim-Goa. | } | Director of Technical Education, Government of Goa. |
| 4. Secondary and Higher Secondary Educational Institution affiliated to the Goa Board of Secondary and Higher Secondary Education.  | } | Director of Education, Government of Goa.           |

The Educational Institution which has availed the benefit of remission of stamp duty by virtue of this order shall use the flat/building/land only for educational purpose, failing which, the Educational Institution shall be liable to pay the remitted stamp duty forthwith. This Order shall come into force from the date of its publication in the Official Gazette.

This issues in supersession of Government Order No. 7/2/82-FIN(R&C) dated 3-3-1983, published in the Official Gazette, Series II No. 50, dated 10-3-1983 and with the concurrence of Finance (R&C) Department vide U. O. No. 1417451-F dated 14-7-2011.

By order and in the name of the Governor of Goa.

*Pandharinath N. Naik*, Under Secretary (Revenue-I).

Porvorim, 19th September, 2011.



Department of Social Welfare

Goa Human Rights Commission

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**Notification**

1/2011

Goa Human Rights Commission  
(Procedure) Regulations, 2011

In exercise of the powers conferred by sub-section (2) of Section 10 read with Section 29 of the Protection of Human Rights Act, 1993 (Central Act 10 of 1994) the Goa Human Rights Commission hereby makes the following Regulations, namely:—

1. *Short title and commencement.*— (1) These Regulations may be called the Goa Human Rights Commission (Procedure) Regulations, 2011.

(2) They shall come into force with immediate effect.

## CHAPTER - I

2. *Definitions.*— (1) In these, Regulations unless the context otherwise requires,—

(a) “Act” means the Protection of Human Rights Act, 1993 (Central Act 10 of 1994);

(b) “Code” means the Code of Civil Procedure, 1908 (Central Act 5 of 1908);

(c) “Commission” means the Goa Human Rights Commission.

(d) “Complaint” means all petitions or communications received in the Commission from a victim or any other person on his behalf, in person, by post, by telegram or by any other means whatsoever, alleging violation or abetment thereof or negligence in the prevention of such violation, by a public servant, of all or any of the human rights;

(e) “Single Bench” means a Bench consisting of the Chairperson or a Member of the Commission as constituted by the Chairperson.

(f) “Division Bench” means a Bench consisting of the Chairperson and member or two members of the Commission as constituted by Chairperson;

(g) “Full Bench” means a Bench consisting of the Chairperson and both the members of the Commission.

(h) “Regulation” means Regulations framed by the Commission under Section (2) of Section 10 read with Section 29 of the Act;

(i) “Secretary” means Secretary of the Commission;

(2) Words and expressions not defined in these Regulations shall, to the extent defined in the Act, have the same meaning as assigned to them therein.

3. *Head Quarters of the Commission.*— The Head Quarters of the Commission shall be at Panaji-Goa.

4. *Venue of the meetings.*— The Commission shall ordinarily hold its meetings and sittings in its office located at Panaji. However, it may, in the discretion of the Chairperson, hold its sittings at any other place in Goa, if it considers the same necessary and expedient.

5. *Periodicity of meetings.*— Except during the vacations, the Commission shall normally have its regular sittings on all working days in the 2nd and 4th week of every month. However, the Chairperson either *suo-motu* or at the instance of one or more members, may direct a special sitting of the Commission to be convened to consider any specific matter of urgency.

6. *Secretarial Assistance.*— The Secretary, alongwith such other officers of the Commission, as may be directed by the Chairperson, shall attend the meetings and sittings of the Commission.

7. *Agenda.*— The Secretary shall, in consultation with the Chairperson prepare the agenda for each meeting of the Commission and shall cause note thereon to be prepared by the Secretariat. Such notes shall, as far as possible be self-contained. Specific files related to the agenda items shall be made available to the Commission for reference. The agenda papers shall ordinarily be circulated to the Chairperson and Members at least two clear days prior to every meeting. When matters are set down only for hearing, cause list of the day of sitting shall be prepared and circulated. The Commission may however, take up any matter for deliberation/ /consideration, which is not included in the agenda or in the cause list.

## CHAPTER – II

Procedure for dealing with complaints or *suo-motu* action

8. *Procedure for dealing with Complaints.*— (1) Complaints may be made to the

Commission in Konkani, Marathi, Hindi or English. However, the Commission may entertain complaints in other languages in its discretion.

(2) No fee shall be chargeable on such complaints.

(3) The complaint should disclose all facts relevant to the matter complained against. The Commission may, if necessary, call for further information and may direct affidavits to be filed in support of the allegations, whenever considered necessary.

(4) The Commission, may in its discretion, entertain complaints conveyed through email or fax, followed by confirmation by the complainant.

9. *Complaints not ordinarily entertainable.*— The Commission may not entertain complaints,—

(a) which are vague or anonymous or pseudonymous or trivial or frivolous in nature;

(b) which are pending before any other Commission;

(c) which raise dispute of civil nature, such as property rights or contractual obligations;

(d) which relate to service matters or industrial disputes;

(e) which are not against any public servant;

(f) which do not make out any specific violation of human rights;

(g) which are covered by a judicial verdict or decision of the Commission;

(h) which are outside the purview of the Commission.

10. *Procedure regarding complaints.*— (1) The complaints shall be entered in a Register in seriatim and a proceeding number shall be allotted to the same.

(2) Every complaint shall be placed before the Commission with utmost expedition. The complaints, which require urgent consideration, shall be placed before the Commission immediately.

(3) All complaints relating to custodial death, custodial torture, custodial rape, illegal detention shall be normally heard by a Division Bench of the Commission, while the cases of other types shall be placed before a Single Bench unless otherwise directed by the Chairperson keeping in view the nature of a particular case. A Single or Division Bench, as the case may be, refer a case pending before it to Division Bench or Full Bench respectively for reasons to be recorded by it. The Chairperson may place any matter before a Division Bench or Full Bench in his discretion.

(4) The Commission may ask the parties to tender evidence on affidavits. The Commission may allow further examination and cross-examination of the person whose evidence has been tendered on affidavit.

(5) If any working day is declared as a holiday by the State Government, then the cases listed for that day should be taken up on the next working day.

11. *Preliminary consideration, issue of notice, etc.*— (1) If on consideration of the complaint, the Commission dismisses the complaint in limine, the said order shall be communicated to the complainant.

(2) If on consideration of the complaint or *suo-motu* the Commission admits or takes cognizance and directs issue of notice to any authority calling upon it to furnish information or report, a notice shall be issued, enclosing a copy of the complaint and the order of the Commission under the signature of the Secretary/Under-Secretary.

12. *Recording of orders or proceedings.*— Orders of the Commission shall be recorded in the order sheet. Orders, which are lengthy, may be recorded on separate sheets and appended to the order sheet.

13. *Summons.*— (a) The Commission may direct to issue summons in the manner prescribed in the code to—

(i) the Complainant or any other person on his behalf to afford him a personal hearing; or

(ii) any other person who, in the opinion of the Commission, should be heard for appropriate disposal of the matter before it; or

(iii) any person to cause production of records required by the Commission; or

(iv) any person to be examined as a witness; or

(v) any person whose conduct is inquired into by it; or

(vi) any person whose reputation, in the opinion of the Commission, is likely to be prejudicially affected.

(b) The case in which summons has been issued for personal appearance of a person shall be placed before the Commission on the date shown in the summons for such personal appearance.

14. *Calling for investigation report.*— (1) Whenever the Commission orders investigation to be undertaken by its Investigation Team or by any other investigating agency of the Central or State Government as provided in Section 14 of the Act, a copy of such order alongwith copies of the papers relevant thereto shall be furnished forthwith to such Investigation Team calling upon it to conduct the investigation and submit its report within the time specified in the order.

15. *Provision for making inquiry.*— (1) The Commission may, in its discretion, direct further investigation in a given case if it is of the opinion that investigation has not been proper or the matter, requires further investigation for ascertaining the truth or enabling it to properly dispose of the matter.

(2) The Commission on its own motion, or if moved in the matter, may direct inquiry to be carried by it and receive evidence in course of such inquiry.

16. The Commission or any of its members when requested by the Chairperson may undertake visits for an on the spot study and where such study is undertaken by one or more members, a report thereon shall be furnished to the Commission as early as possible.

17. *Communication of Recommendations.*— When the Commission, upon completion of the inquiry, makes any recommendation, a copy of the report alongwith a copy of the recommendation, shall be sent to the concerned authority calling upon it to furnish its comments on the report including the action taken or proposed to be taken, within a period of one month from the date of receipt of order or recommendations made by the Commission or within such time as the Commission may allow.

18. *Steps after calling for comments.*— (1) If no comments are received within the time allowed under Regulation 17, the case shall be placed before the Commission forthwith for further direction.

(2) If comments are received, the case shall be placed by the Secretary/Under-Secretary before the Commission with a brief note containing the following particulars, namely:—

(i) Whether the recommendation is accepted by the Government or the concerned authority; if so, whether in full or in part;

(ii) The action, if any, taken or proposed to be taken by the Government or its concerned authority;

(iii) The reasons, if any, given for not accepting the recommendation; and

(iv) The action that may be taken pursuant to the comments received.

(3) On consideration of the comments received alongwith note referred to in clause (2), the Commission may pass such order, as it deems just and proper.

19. *Mode of Communication.*— Unless otherwise directed, all communications from the Commission shall be sent by ordinary post.

20. *Review.*— If any application seeking modification or review of the order or proceedings passed by the Commission is received, the same shall be placed before the same Bench which made the order, alongwith the case file and a brief note on the points made out in such application and the same shall be disposed of by such order as may be deemed proper by such Bench.

21. *Procedure regarding suo-motu action.*— The procedure contained in this Chapter shall *mutatis mutandis* apply to *suo-motu* action taken by the Commission.

22. *Preparation of Statements.*— The Secretary shall cause to prepare such weekly, monthly, quarterly, half-yearly statements or returns or reports in such form as may be prescribed by the Commission or Chairperson from time to time.

### CHAPTER – III

#### Miscellaneous

23. *Minutes of the Meeting.*— (1) The minutes of each meeting of the Commission shall be recorded during the meeting itself or immediately thereafter by the Secretary or by any other officer as directed. Such minutes shall be submitted to the Chairperson for his approval and upon approval, be circulated to all the Members of the Commission at the earliest and in any case, before the commencement of the next meeting.

(2) The conclusions of the Commission in every matter shall be recorded in the form of

an opinion. Dissenting opinions, if any, shall also form part of the record and be kept on record. Action shall be taken on the basis of the majority opinion if there is any difference in opinions.

24. *Record of Minutes.*— A master copy of the minutes of every meeting and decisions of the Commission shall be maintained in a Proceedings Book, duly authenticated by the Secretary, and a copy of the minutes pertaining to each item shall be added to the relevant file for appropriate action, and authenticated copies thereof shall be kept in the respective Division and for convenience, copies thereof with appropriate indexing shall be kept in guard files.

25. *Report of action taken.*— Report of follow up action shall be submitted to the Commission at every subsequent sitting, indicating therein the present stage of action on each item on which the Commission had taken decision in any of its earlier meetings, excepting the items on which no further action is called for.

26. *Authentication of orders and decisions.*— (1) Orders and decisions of the Commission shall be authenticated by the Secretary or any officer of the Commission as authorized by the Chairperson, who shall be not below the rank of an Under-Secretary.

(2) Copies of enquiry reports or orders passed finally disposing of matters by the Commission shall be furnished free of cost to the Complainant/Petitioner or his representatives.

(3) Unless any document is classified by the Commission as confidential, copy thereof shall be made available to the parties in the matter on demand, on payment of cost as prescribed by the Commission from time to time unless the Commission decides otherwise. Every effort should be made to provide the copies with utmost expedition and in any case, not later than two weeks of the date of request.

27. *Annual Report.*— The Commission shall furnish its Annual Report for the period commencing from 1st April of the year to 31st March of the succeeding year to the State Government as provided in sub-section (1) of Section 20 of the Act. The original report shall be signed by the Chairperson and Members of the Commission and appropriately preserved and a duly authenticate copy shall be sent to the Government by end of June of every year.

28. *Special Reports.*— The Commission may furnish such Special Reports on specific matter as may be considered necessary in terms of sub-section (1) of Section 20 of the Act.

29. *Printing of the Reports.*— The Secretariat of the Commission shall be responsible for the printing of the Annual Report and Special Reports with utmost expedition and in any case not later than three months of finalization of the same.

30. *Investigation Team.*— The Commission shall have its own team of investigation to be headed by a person not below the rank of an

Inspector General of Police and such team of officers as the Commission from time to time decides. The Commission may, in its discretion appoint adequate number of outsiders to be associated with the Investigation Team either as Investigators or Observers.

31. *Power to remove difficulties.*— If any difficulty arises in giving effect to the provisions of the Act or these Regulations, the Chairperson, by order, as occasion requires, do anything (not inconsistent with the provisions of the Act and these Regulations) which appears to him to be necessary for the purpose of removing the difficulty.

32. *Amendments and Additions.*— It shall be competent for the Commission to add, delete and amend these Regulations from time to time and to issue appropriate directions or orders on any matter not covered by these Regulations.

Justice *P. K. Mishra*, — Chairman.

*A. D. Salkar*, — Member.

*J. A. Keny*, — Member.

Panaji, 16th September, 2011.