

22

CENTRAL LEGISLATION

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I INTRODUCTION

THE PRESENT annual survey of Central Legislation recounts enactments which are either newly passed in the year 2018 or brought major legislative amendments. In the ever changing society, legislative inertia cannot cater to the emerging societal needs without incorporating adequate dynamism in itself. In order to ensure that law as a subject grows effectively in the ever speeding rhythm of change witnessed in different sphere of the society, it becomes essential to bring enough flexibility in it with capacity to accommodate itself to the rapidly changing environment. When legislations are enacted or amended, it is always intended that no visible gaps are left. However, gaps which can range from minor to major become evident due to lack of clarity in the exiting provisions or due to changes in the society. Hence, enacting legislations governing new areas and adjustments in the existing legislations are inevitable. The present survey encapsulates legislative trends witnessed at the central level during the year 2018.

II BANKING

National Bank for Agriculture and Rural Development (Amendment) Act, 2018¹

This Act amends its antecedent, the National Bank for Agriculture and Rural Development Act, 1981 that established the National Bank for Agriculture and Rural Development (NABARD). The 1981 Act was to provide for and regulate facilities like credit for agricultural and industrial development in the rural areas, especially to give a boost to the rural and agricultural sector. Amongst its salient features, the Act permits the Central Government to raise NABARD's capital. The amendments have broadened the horizons of the 1981 Act and recognised the vital role played by different enterprises which can be micro, small and medium.² In its long title, the words "micro-enterprises, small enterprises and medium enterprises, cottage and village industries, handlooms" have been substituted for the words "small-scale industries, cottage and village industries."

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1 No. 7 of 2018.

2 As defined under the Micro Small and Medium Enterprises Development Act, 2006.

Further, the amended Act provides for empowering the government at the centre to enhance the authorised capital of NABARD to the extent of 30 thousand crore rupees which is six times higher than the earlier fixed amount.³ The Central Government has also been empowered to increase the said capital further to such an amount as it may deem necessary from time to time.⁴ This can be done after consulting the Reserve Bank and by publishing notification to that effect. The amendments have sought to transfer the balance equity of 20 thousand crore of Reserve Bank in NABARD to the Central Government.⁵ Further, as per newly made provision, the Central Government's shareholding shall not be lesser than fifty one per cent of the total subscribed capital. Attempts have been made to keep the enactment in tune with the provisions existing in the Companies Act, 2013.⁶

III BACKWARD CLASSES

National Commission for Backward Classes (Repeal) Act, 2018⁷

This repeal Act was promulgated in the year 2018, primarily, to repeal the National Commission for Backward Classes Act of 1993 and, correspondingly dissolve the National Commission for Backward Classes which was constituted under section 3(1) thereof. The main reason behind dissolving the commission is the setting up of the National Commission of Backward Classes under the Constitution of India.⁸ The amendment does not, however, impact any prior operation of the legislation repealed or anything duly done or suffered there-under. Likewise, any right or privilege accrued or, obligation or liability incurred is not prejudicially affected. Also, any penalty, confiscation or punishment for the reasons of contravention of the provisions of the erstwhile law, stands untouched. In the similar fashion, any proceeding arising with respect to the afore-mentioned right, privilege, liability, obligation, penalty, confiscation or punishment, shall remain intact.⁹

3 Amendment made to s.4 of the principal Act.

4 Proviso to sub- s.1 of s.4.

5 Proviso to sub- s. 2 of s.4.

6 Amendments have been made in ss. 25, 37A, 48 and 52A.

7 No. 24 of 2018.

8 123rd Amendment made in the Constitution provides for setting up of the National Commission of Backward Classes.

9 Sub-s. (2) of s. 3 of the Act reads:

“The repeal of the National Commission for Backward Classes Act, 1993 shall, however, not affect,— (i) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or (ii) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed; or (iii) any penalty, confiscation or punishment incurred in respect of any contravention under the Act so repealed; or (iv) any proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, confiscation or punishment as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty, confiscation or punishment may be imposed or made as if that Act had not been repealed.”

IV GRATUITY

Payment of Gratuity (Amendment) Act, 2018¹⁰

The Act amends the Payment of Gratuity Act, 1972 which intended to provide social security benefit for those employees engaged in factories, plantations, ports, mines, oilfields, railway companies, shops or other establishments and for other associated issues. It provides for a scheme concerned with payment of gratuity to the employees with the intention to secure socio-economic justice to workmen by assisting after retirement which may, ultimately, lead them towards a decent life. The Act brings laudable changes in the previous one. In the backdrop of Maternity Benefit (Amendment) Act, 2017,¹¹ amendment has been made in section 2A of the 1972 Act, thereby, enabling the Central Government to stipulate the maternity leave period for women employees. In this section ‘such period as may be notified by the Central Government from time to time’ has been substituted for the words ‘twelve weeks.’ Similarly, section 4 has been amended to enable employees to receive a higher amount of gratuity payable by the employer as compared to the earlier provision incorporated in the Act of 1972.¹² It has increased the maximum limit of gratuity to a suitable amount that the Central Government may notify from time to time. The ceiling amount in the Act has not been fixed; rather the amendment empowers the Central Government to notify the proposed ceiling so that the ceiling amount can be accordingly revised from time to time considering the increase in wage and inflation rate.

V COURTS

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018¹³

The Act amends the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 which is in direction of expanding the scope of commercial courts in India amended section 1(1) of the Act,¹⁴ unlike the earlier provision makes it clear that there are separate courts which have been constituted for the purpose of resolving commercial disputes and have different procedures. The words ‘Commercial Appellate Courts,’ has been inserted after the words ‘Commercial Courts’ *vide* the amendment made in the long title. One of the important highlights of the amendment is the substitution of the words ‘which shall not be less than three lakh rupees’ for the words ‘which shall not be less than one crore rupees’ in section 2. This provision, specifically, aims to reduce the *specified value of a commercial dispute* to rupees *three lakhs* from the earlier specified value of one crore which has tendency of lessening time usually taken in resolution of

10 No. 12 of 2018.

11 Maternity Benefit (Amendment) Act, 2017 has extended the maternity leave from 12 to 26 weeks.

12 S. 4 of the amended Act stipulates: In section 4 of the principal Act, in sub-section (3), for the words ‘ten lakh rupees’, the words “such amount as may be notified by the Central Government from time to time” shall be substituted.

13 No. 28 of 2018

14 S. 1(1) of the Act states, “this Act may be called the Commercial Courts Act, 2015.”

commercial disputes as this can bring a number of disputes within the sphere of the commercial courts which were outside their ambit previously.

The amendment has introduced commercial courts in those jurisdictions where high courts have ordinary original jurisdiction,¹⁵ commercial appellate courts,¹⁶ and commercial courts bifurcated in two kinds, *viz.*, commercial courts at district judge level and commercial courts below district judge level.¹⁷ Post amendment, two separate categories of courts have been made, *viz.*, where high courts have ordinary original jurisdiction and where high courts do not have ordinary original jurisdiction. Firstly, provisions have been made for constituting *commercial courts* at district judge level for the territories over which concerned high courts have ordinary original civil jurisdiction, *i.e.*, in the cities of Chennai, Delhi, Kolkata, Mumbai and State of Himachal Pradesh. The state governments, in such territories, have been empowered to fix such pecuniary value of commercial disputes which is required not to be less than three lakhs rupees. The amount specified should not be more than the pecuniary jurisdiction of the district court. Secondly, in the category of commercial court below the level of district judge where high courts have no ordinary original jurisdiction two types of commercial courts have been provided so that disputes of lower value can be taken care of by courts below the level of a district judge and disputes involving high value can be sent to courts which are functioning at the level of a district judge. In the jurisdiction of high courts, where they do not exercise ordinary original jurisdiction, a forum of appeal in commercial matters to be adjudicated by commercial courts below the level of district judge is being provided which is in the form of commercial appellate courts to be at district judge level.

The power of the state government to appoint judges has been widened and now judges can be appointed even without the concurrence of the chief justice of the respective high courts. A new chapter, *i.e.*, chapter III A has been introduced which deals with “pre-institution mediation and settlement.” The provisions incorporated in this chapter indicate an alternative to resolve commercial disputes in expeditious way outside the court in accordance with manner and procedure which the Central Government prescribes by way of making rules.¹⁸

VI CRIMINAL LAW

The Criminal Law (Amendment) Act, 2018¹⁹

This amendment Act came in the backdrop of the most discussed *Unnao* and *Kathua* rape cases which are known for involving greater public indignation. This has led to incorporation of significant changes in the realm of criminal legislations of India, especially laws dealing with sexual assault and rape. This amendment brings in relevant amendments in certain provisions relating to rape contained in the Indian

15 As per s. 3 of the amended Act.

16 A new section - s. 3A has been inserted to this effect.

17 As per the amendment made to s. 3.

18 S.12A.

19 No. 22 of 2018.

Penal Code, 1860,²⁰ The Indian Evidence Act, 1872,²¹ the Code of Criminal Procedure, 1973,²² and the Protection of Children from Sexual Offences Act, 2012.²³

In the Indian Penal Code, 1860 along with amendments introduced in the existing provisions, new offences have been created by insertion of new sections. This has been done with an intention to put more deterrent effect in place so far as repulsive and gruesome incidents of rape in the country are concerned. Some of the key highlights of the amendment are enhanced punishment for offenders and new provisions for rape and gang-rape of minors. Imposition of death penalty in case of rape of a girl below the age of twelve years is the crucial part of the amendment.²⁴ Post the amendment, rape or gang rape with a girl, not having attained the age of 12 years, shall now invoke a minimum of 20 years of imprisonment and, which is extendable to life imprisonment or, death. Likewise, stringent punishment has been introduced for rape of a girl below the age of 16 years with imprisonment of 20 years or, life imprisonment.²⁵ It further amends section 376 of the Indian Penal Code, 1860 to increase the minimum punishment for raping a woman from seven to ten years which may extend to life imprisonment. Compensatory jurisprudence has also witnessed some changes made by the amendment and provisions for compensatory remedy have been made provided. The provisions provide that “provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim” and “provided further that any fine imposed under this section shall be paid to the victim.” Likewise, amendment can also be seen in the procedure existing in the Code of Criminal Procedure. It further amends Code of Criminal Procedure to ensure a statutory time-framework for investigation²⁶ and appeals²⁷ in cases involving rape.

20 Amendments have been made in ss. 166A, 228A, 376 and 376E. Ss. 376AB, 376DA and 376DB have been newly inserted in IPC.

21 Ss. 53A and 146 have been amended.

22 Ss. 26, 154, 161, 164, 173, 197, 309, 327, 357B, 357C, 374, 377, 438, and 439 have been amended. First schedule has also been amended along with sections.

23 S. 42 of the Act has been amended.

24 The new s. 376AB reads:

Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death: Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim: Provided further that any fine imposed under this section shall be paid to the victim.

25 The newly added s. 376DA reads:

Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine: Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim: Provided further that any fine imposed under this section shall be paid to the victim.

26 As per the amendment made in s. 173, the words, figures and letters ‘an offence under ss. 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the IPC shall be completed within two months’ has been substituted for the words ‘rape of a child may be completed within three months.’

27 As per the amendment of s. 374, time period of six months have been stipulated for disposal of appeal.

By amending provisions of Indian Evidence Act, 1872²⁸ the scope of provisions has been elevated to the rape and gang rape of minor girls less than 12 years of age and less than 16 years of age. Further, amended section 42 of the Protection of Children from Sexual Offences Act, 2012 has given the Indian Penal Code, 1860 an overriding effect over Protection of Children from Sexual Offences Act with respect to punishment as Indian Penal Code, 1860 which is a general law, provides for greater punishment for rape.

The Fugitive Economic Offenders Act, 2018²⁹

This is one of the important legislations which deter fugitive economic offenders³⁰ in case they try to run away from legal process in India. This legislation has been enacted in the wake of increasing instances of notorious economic offenders avoiding criminal prosecution by remaining outside the country. India has witnessed several negative impacts of absconding by these offenders; non-repayment loans granted by banks, hindrance caused for investigation in criminal cases; wastage of time of already busy courts which are struggling to clear pendency; disregarding the rule of law *etc.*

In the backdrop of the worsening financial health of the country and the hindrance caused in the way of criminal justice system, country felt the necessity put in place an effective legislation which can effectively mitigate deleterious effects of economic offences and discourage potential offenders. This newly enacted legislation attempts to bring significant deterrence by declaring³¹ that an individual qualifies to be called as a fugitive economic offender and by attaching the property belonging to an offender so declared. Relevant provisions have been made in the Act to confiscate the property of the offender which results from the proceeds of crime.³² Provision has also been incorporated for confiscation of other property of declared offender located in India and outside, which also includes *benami* property.³³ Further, offenders can also be disentitled of from defending any civil claim.³⁴

28 Ss. 53A and 146 have been amended.

29 No. 17 of 2018.

30 S. 2(1)(f) defines “fugitive economic offender” as ‘any individual against whom a warrant for arrest in relation to a Scheduled Offence has been issued by any Court in India, who— (i) has left India so as to avoid criminal prosecution; or (ii) being abroad, refuses to return to India to face criminal prosecution.’

31 Fugitive Economic Offenders Act, 2018, s. 12.

32 *Id.*, s. 2(1)(k) “proceeds of crime” means ‘any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a Scheduled Offence, or the value of any such property, or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad.’

33 *Id.*, s. 2(1)(b) reads: “benami property” and “benami transaction” ‘shall have the same meanings as assigned to them under clauses (8) and (9) respectively of section 2 of the Prohibition of Benami Property Transactions Act, 1988.’

34 *Id.*, s. 14.

VII EDUCATION

Indian Institute of Petroleum and Energy Act, 2017³⁵

The primary objective to enact this legislation has been to declare the institution, known as the Indian Institute of Petroleum and Energy, to be an 'institution of national importance' and to provide for its incorporation and for other important matters linked to the same. The Act stipulates: "Whereas the objects of the institution known as the Indian Institute of Petroleum and Energy, Vishakhapatnam, Andhra Pradesh are such as to make the institution one of national importance, it is hereby declared that the institution known as the Indian Institute of Petroleum and Energy is an institution of national importance." The legislation has been focussed to provide high-quality education along with encouraging advanced research in all aspects linked to the conventional hydrocarbons.³⁶

Functions to be undertaken by the institute are, specifically, provided under section 9 of the Act. Some of the important functions include 'promoting quality and excellence in education and research, laying down standards of admission to the Institute, managing the content, quality, design along with continuous evaluation of academic and research programmes,' 'foster close educational and research interaction through networking with national, regional and international players, organise national and international symposia,' 'seminars and conferences, arranging or borrowing money for the purposes of the Institute,' 'being proactive in supporting the skill development programmes of the Government of India by training people' *etc.* In section 10 of the Act, powers of the Board which is accountable for the general superintendence, direction and control of the important affairs of the Institute, have been stipulated. The President has been designated as the visitor who can make appointments for the purpose of reviewing the work and progress made by the Institute and for holding inquiries into the affairs of the Institute.³⁷ Authorities of the Institute encompasses 'the General Council, the Board of Governors, the Senate and such other authorities as may be declared by the statutes to be the authorities of the Institute.'³⁸ Provisions have been made for the constitution of 'General Council' along with its powers and functions. Similarly, the Act also incorporates the provision for Senate. Provisions for maintenance of funds and accounts have found their appropriate places. Preparation of annual report has been mandated by the Act. Further, any dispute, emerging out of a contract existing between the Institute and any of its employees, has to be referred to an internally constituted 'tribunal of arbitration.'

35 No. 3 of 2018.

36 Lok Sabha passes bill for the purpose of setting up petroleum institute in Vizag, *available at*: <https://www.thehindubusinessline.com/news/education/lok-sabha-passes-bill-for-setting-up-petroleum-institute-in-vizag/article 9803047.ece#> (last visited on March 18, 2020).

37 S. 13.

38 S. 14.

VIII SPORTS EDUCATION

National Sports University Act, 2018³⁹

This Act has been introduced with the aim to establish and incorporate a specialised pioneering university first of its own kind. This university has been decided to be established in the state of Manipur which could be entrusted with the work of promoting sports education in the areas of sports technology, sports sciences, sports management and sports coaching. Considering the importance of developing holistic personality of students, this university has to function as the centre for national training in the area of sports disciplines by adopting best practices at international level.

Powers to be exercised, key functions to be performed and major objectives to be fulfilled by the specialized university, headquartered in Manipur, have been specified by the Act. It has been empowered to establish outlying campuses colleges or regional centres within India and abroad.⁴⁰ Some of the major functions which make it to stand apart ranges from academics to community service by impacting the society profoundly.⁴¹ Key objects, which make it to have distinctive approaches to academics, research, athletic performance, and extension services, have been specified in the Act.⁴² One of the major objectives is to come up as an institute of advanced study in the area of physical education and sports sciences in the country which is capable of preparing world-class athletes, sports scientists, sports managers, sports architects, sports journalists, and physical educationists. The important ways chosen to fulfil this objective include diverse training programs and collaborative research. The responsibility of reviewing the progress of the university and inspecting the functioning of the university lies with the Central Government.⁴³

IX GOODS AND SERVICES TAX

Goods and Services Tax (Compensation to States) Amendment Act, 2017⁴⁴

The current legislation makes appropriate alterations in the Goods and Services Tax (Compensation to States) Act, 2017 (*hereinafter* GST) promulgated to compensate states for any loss incurred in revenue due to the implementation of GST. The provision for calculation and release of compensation, payable to any state during the transition period, are visible in the principal Act.⁴⁵ Similarly, provisions have also been included for the purpose of levy and collection of cess. The Act includes provisions for the creation of a compensation fund and permits the Central Government to impose a GST Compensation Cess with respect to the supply of certain goods and services. The receipts are to be deposited in the stated fund to compensate states in case of loss on the account of implementation of GST. The amendment has been made in the

39 No. 25 of 2018.

40 S. 3.

41 S. 5.

42 S. 4.

43 S. 7.

44 No. 9 of 2018.

45 S. 7.

schedule appended to this Act. Serial number 4A has been inserted after serial number 4 and against serial number 5, for the entry in column (4), the entry “Twenty-five per cent ad valorem” has been replaced by the amendment.

Central Goods and Services Tax (Amendment) Act, 2018⁴⁶

The Act amends the Central Goods and Services Tax Act, 2017 enacted with the objective to impose and collect, by the Central Government, the goods and services tax on the intra-state supply of goods or services. To make the transitioning to the newly introduced system more smooth to ease the procedure, this amendment has been introduced. The Act has amended provisions of the principal Act. In section 2 of the principal Act, for the words “Central Board of Excise and Customs,” the words “Central Board of Indirect Taxes and Customs” has been substituted. As per the further amendment made, adjudicating authority will not encompass anti-profiteering authority constituted under section 171 of the principal Act. The scope of activities of race club has been broadened after the amendment.⁴⁷ Clause 18 has been omitted to omit the concept of business vertical.

Drafting errors in the principal Act have been rectified⁴⁸ in the amended one and more clarifications have been attached to words and phrases.⁴⁹ As per the amended provision of section 9, the government has been empowered to control supply of specific categories of goods or services or both received from an unregistered supplier to some specific class of registered person. Further, power has been enhanced to increase composition limit.⁵⁰ Amendment has also been introduced with respect to eligibility and conditions for taking input tax credit which approve an effective model for supply of services.⁵¹ A newly added section 43A provides for procedure related to furnishing return and also availing input tax credit which was a major lacuna of the principal Act. Likewise, addition of new sections 49A and 49B provide for utilisation of input tax credit and order of utilisation of input tax credit respectively. Other suitable improvements are evident in the Act to make it robust and users-friendly.

Integrated Goods and Services Tax (Amendment) Act, 2018⁵²

The Amendment Act of 2018 suitably alters the Integrated Goods and Services Tax Act, 2017 pertaining to the imposition of the integrated goods and services tax which is done by the Central Government with respect to inter-state supply of services and goods, imports and exports, and supplies made to and from special economic zones. Governmental authority now includes *Panchayat* as well.⁵³ The amendment authorizes the Central Government to set out a class of registered persons, liable for payment of the integrated tax to be paid on the receipt of a specified category of

46 No. 31 of 2018.

47 S. 2(17).

48 S. 7.

49 S.2(102).

50 S. 10.

51 S. 16.

52 No. 32 of 2018.

53 S.2(16).

goods and services from an unregistered person.⁵⁴ After the insertion of the proviso in section 12(8), in case the goods are bound for a place outside India, the place of supply has to be the place of destination of such goods.

It further makes provisions for settling the balance amount if any, remaining in the integrated tax account, after IGST revenue collected has been apportioned of the has been done between the centre and the state wherein, the supply of goods or services was received. This amount, the amendment clarifies, shall be equally distributed between the centre and the concerned state, on the recommendation of the GST Council.⁵⁵ The Amendment of 2018 inserts a new provision specifying the pre-deposit amount, to be paid for filing appeals. Accordingly, the maximum ceiling, for filing an appeal before the appellate authority, has been determined to be 50 crores rupees whereas, when an appeal is to be instituted before the appellate tribunal, the maximum amount payable has been affixed at 100 crores rupees.⁵⁶ This provision has been introduced in the wake of amendments made to Central Goods and Services Tax (Amendment) Act, 2018.

Union Territory Goods and Services Tax (Amendment) Act, 2018⁵⁷

The Amendment Act makes requisite modifications in the Union Territory Goods and Services Tax Act, 2017, originally enacted for the imposition and collection, by Union Territories, of the union territory goods and services tax payable on intra-state supply of goods and services. The parent Act makes provision for the payment of tax by the registered, when goods or services are supplied to him by an unregistered person. However, the amended Act enables the Central Government to specify a class of registered persons to pay the tax on receipt of certain identified categories of goods and services from an unregistered person.⁵⁸ Some of the major highlights of the Act are insertion of section 9A and 9B which deal with utilisation of input tax credit and order of utilisation of input tax credit respectively.

X INSOLVENCY AND BANKRUPTCY

The Insolvency and Bankruptcy Code (Amendment) Act, 2017⁵⁹

Amendments have been introduced in the Insolvency and Bankruptcy Code, 2016 *vide* the Insolvency and Bankruptcy Code (Amendment) Act, 2017. This amendment Act is directed towards bringing further improvements to the previous code by providing more certainty, clarity, and predictability for stakeholders such as borrowers, creditors, and other participants in the market. Beginning from the short title and commencement, several amendments have been introduced in the previously existing code. Section 5(25) has been substituted with new definition of resolution applicant. Now, “resolution applicant” denotes a person who submits a resolution

54 S. 5.

55 S. 17 (2A).

56 S. 20.

57 No. 33 of 2018.

58 S. 7.

59 No. 8 of 2018.

plan to the resolution professional pursuant to the invitation made under clause (h) of sub-section (2) of section 25. This submission can be made by the resolution applicant either separately or jointly with any other person. As per section 5(26), for the words “any person,” the words “resolution applicant” shall be substituted. A newly inserted section 29A enumerates the persons who are not eligible to be resolution applicant thereby not entitled to submit a resolution plan. Further, sub-section (4) of the section 30 has been substituted with new provision.⁶⁰ Further, a proviso in section 35(1) (f) has been added which is regarding powers and duties belonging to the liquidator. Section 235A has been inserted in the code defining the punishment when no specified penalty or punishment has been provided.⁶¹

XI NEGOTIABLE INSTRUMENTS

The Negotiable Instruments (Amendment) Act, 2018⁶²

The Negotiable Instruments Act, 1881 has been amended in the year 2018. The amended Act encompasses newly added section 143A that empowers the concerned court trying the offence specified under section 138 to direct interim compensation to be paid to the complainant in summary trials/summons case where he pleads not guilty to the accusations in the complaint. Further, it has been specified that the interim compensation shall not exceed 20 percent of amount of the cheque which is payable within time period of 60 days from date of the order. Power to appellate court has now been granted to order payment when appeal is pending against conviction.⁶³

XII SPECIFIC RELIEF

The Specific Relief (Amendment) Act, 2018⁶⁴

By amending the provisions of the Specific Relief Act, 1963, emphasis has been placed on the enforceability of contracts and the ease of engaging in business activities. Aggrieved party seeking specific performance of a contract have been granted more rights to enforce contracts. The enforcement right has been elevated from being a limited right to the status of general rule reducing the scope of discretion. The court has been empowered to engage experts in case of necessity under section 14A. Special provisions have been made for contracts linked to infrastructure project.⁶⁵ By incorporating sub-section (fa) in section 15 of the principal Act, limited liability partnerships has been added to the list of parties who may seek specific performance.

60 As per s. 30(4): ‘the committee of creditors may approve a resolution plan by a vote of not less than seventy-five per cent of voting share of the financial creditors, after considering its feasibility and viability, and such other requirements as may be specified by the Board. Three provisos have been added to the same sub-clause.’

61 As per s.235A: ‘if any person contravenes any of the provisions of this Code or the rules or regulations made thereunder for which no penalty or punishment is provided in this Code, such person shall be punishable with fine which shall not be less than one lakh rupees but which may extend to two crore rupees.’

62 No. 20 of 2018.

63 S. 148.

64 No. 18 of 2018.

65 S. 20.

Furthermore, designation of special courts and a defined timeline for disposal of cases have been provided under sections 20B and 20C respectively.

XIII MISCELLANEOUS

Repealing and Amending Act, 2017⁶⁶

The Act repeals obsolete and redundant enactments specified in its First Schedule and amends those enumerated in its Second Schedule. The repeal and amendments are however, subject to the extent and/or manner specified in its column four. The first stipulation makes clear that any repeal so made shall not impact any other legislation in which such repealed enactment has been applied, incorporated or referred. Secondly, the validity, consequence, right, title, obligation, remedy, *etc.*, of any past act pertaining to the repealed/amended Act shall not be affected.

Further, it has been provided that 'the Act shall not affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment despite the fact that the same may have been in any manner affirmed or recognised or derived by, in or from any enactment which stand repealed by this Act.' Any enactment repealed by this Act shall not lead to revival or restoration of any 'jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.' Amendments have been made to three Acts; the National Institutes of Technology, Science Education and Research Act, 2007,⁶⁷ the Prevention and Control of Infectious and Contagious Diseases in Animals Act, 2009,⁶⁸ the Right of Children to Free and Compulsory Education Act, 2009.⁶⁹

The Repealing and Amending (Second) Act, 2017⁷⁰

Enactments enumerated in the First Schedule of the Act have been repealed and the enactments mentioned in the second schedule have been amended by the Act. The extent and/or manner specified in its fourth column have to be adhered to for the purpose of repeal and amendments. It has been made obvious in the first stipulation that any repeal made shall not impact any other legislation in which such repealed enactment has been applied, incorporated or referred. Secondly, the validity, consequence, right, title, obligation, remedy, *etc.*, of any past act pertaining to the repealed/amended Act shall not be affected. Thirdly, it has been provided that the Act 'shall not affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment despite the fact that the same may have been in any manner affirmed or recognised or derived by, in or from any enactment which stand repealed by this Act.' Fourthly, the repeal by this Act of any enactment shall also not

66 No. 2 of 2018.

67 No. 29 of 2007.

68 No. 27 of 2009.

69 No. 35 of 2009.

70 No. 4 of 2018.

lead to 'revival or restoration of any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.' The Act has also made minor amendments to The Plantations Labour Act, 1951,⁷¹ The Juvenile Justice (Care and Protection of Children) Act, 2015,⁷² and The Rights of Persons with Disabilities Act, 2016.⁷³

XIV CONCLUSION

The above survey of the central legislations demonstrates that in the year 2018, a few new legislations have been passed and a number of legislations have been amended by the Parliament. The Fugitive Economic Offenders Act, 2018 assumes importance as it intends to deter economic offenders who after committing the offence try to escape legal proceedings in the country by remaining beyond the jurisdiction of Indian courts. Now, special court set up under the Prevention of Money Laundering Act, 2002, has been empowered to confiscate all properties and assets belonging to economic offenders who are declared so. Further, deterrence has been caused by putting bar over civil claims of offenders. The Criminal Law (Amendment) Act, 2018 has increased the punishment in case of rapes committed on girls who are less than 12 years and 16 years of age. This amendment has brought corresponding alterations in three other legislations in the country. Further, in the realm of goods and services tax, a number of amendments have been made to make the legislation more comprehensible and user friendly.

71 No. 69 of 1951.

72 No. 2 of 2016.

73 No. 49 of 2016.