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PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 8th December, 2005:—

I

BILL NO. CXXVI OF 2005

A Bill further to amend the Inland Vessels Act, 1917.

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

1. (1) This Act may be called the Inland Vessels (Amendment) Act, 2005.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In section 1 of the Inland Vessels Act, 1917 (hereinafter referred to as the principal Act), in sub-section (2), the proviso shall be omitted.

Short title and commencement.

Amendment of section 1.

Amendment
of section 2.

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

(i) for clauses (a), (b) and (c), the following clauses shall, respectively, be substituted, namely:—

'(a) "inland vessel" or "inland mechanically propelled vessel" means a mechanically propelled vessel, which ordinarily plies on inland water, but does not include fishing vessel and a ship registered under the Merchant Shipping Act, 1958;

44 of 1958.

(b) "inland water" means—

(i) any canal, river, lake or other navigable water within a State,

(ii) any area of any tidal water deemed to be the inland water as defined by the Central Government under section 70,

(iii) waters declared by the Central Government to be smooth and partially smooth waters under clause (41) of section 3 of the Merchant Shipping Act, 1958;

44 of 1958.

(c) "mechanically propelled vessel" means every description of vessel propelled wholly or in part by electricity, steam or other mechanical power including dumb vessel towed by the mechanically propelled vessel and vessel propelled by outboard motor;';

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

'(ga) "tidal water" has the meaning assigned to it in clause (49) of section 3 of the Merchant Shipping Act, 1958;';

44 of 1958.

Amendment
of section 3.

4. In section 3 of the principal Act, in sub-section (1),—

(i) for the words "and applicable to such voyage or service", the words "in the zone intended for operation and applicable to such voyage or service in such zone" shall be substituted;

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

'*Explanation.*—For the purposes of this sub-section, "zone" means any such inland water area as the State Government may, depending on the maximum significant wave height criteria, by notification in the Official Gazette, specify for the purposes of this Act.'.

Insertion of
new section
9A.

Temporary
permit.

5. After section 9 of the principal Act, the following section shall be inserted, namely:—

"9A. The surveyor who conducted the survey may, without following the procedure laid down in section 9, grant a permit to be effective for a period which shall not in any case exceed thirty days, to authorise the inland mechanically propelled vessel to proceed on voyage or use in service temporarily pending the issue of the certificate of survey."

Amendment of
section 19-I.

6. In section 19-I of the principal Act, in sub-section (3), for the words "twelve months", the words "thirty-six months" shall be substituted.

Amendment
of section 22.

7. In section 22 of the principal Act,—

(i) in sub-section (1), for the words and figures "an inland mechanically propelled vessel for a period of three years before the first day of November, 1956", the words "a vessel of the Coast Guard, Indian Navy or regular Army for a period as may be prescribed by the State Government in this behalf" shall be substituted;

(ii) in sub-section (1), the following *Explanation* shall be inserted at the end, namely:—

Explanation.—For the purposes of this section,—

30 of 1978.

(a) the expression “Coast Guard” shall have the meaning assigned to it in clause (d) of section 2 of the Coast Guard Act, 1978;

62 of 1957.

(b) the expression “Indian Navy” shall have the meaning assigned to it in clause (10) of section 3 of the Navy Act, 1957;

46 of 1950.

(c) the expression “regular Army” shall have the meaning assigned to it in clause (xxi) of section 3 of the Army Act, 1950.’

8. In section 30 of the principal Act, clause (a) shall be re-lettered as clause (aa), and before clause (aa) as so re-lettered, the following clause shall be inserted, namely:—

Amendment of section 30.

“(a) the period of service in the Coast Guard, Indian Navy or regular Army which is required for a person to be granted a certificate without examination under section 22.”

9. For section 31 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 31.

“31. A certificate of competency or service and licence granted under this Chapter shall have effect throughout India.”

Effect of certificates of competency or service and licences.

10. In section 52 of the principal Act, in sub-section (2),—

Amendment of section 52.

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

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

“(k) prescribe the requirements that the hull, equipment and machinery of inland mechanically propelled vessel shall comply with;

(l) prescribe the requirement of life saving appliances; and

(m) prescribe the apparatus required for communication and navigation.”

11. For section 54C of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 54C.

59 of 1988.

‘54C. The provisions of section 134, Chapters X, XI and XII of the Motor Vehicles Act, 1988 shall as far as may be apply, in relation to the mechanically propelled vessels as they apply in relation to motor vehicles, subject to the following modifications, namely:—

Application of section 134, Chapters X, XI and XII of the Motor Vehicles Act, 1988 in relation to the mechanically propelled vessels.

(a) in section 134 and throughout in Chapters X, XI and XII,—

(i) references to “motor” or “motor vehicle” or “vehicle” shall be construed as references to “mechanically propelled vessel”;

(ii) references to “public place” shall be construed as references to “inland water”;

(iii) references to “public service vehicle” shall be construed as references to “public service vessel”;

(iv) references to “goods vehicle” shall be construed as references to “goods service vessel”;

(v) references to “State Transport” shall be construed as references to “State Water Transport”;

(vi) references to “driver” or “driver of a vehicle” shall be construed as references to “master of a vessel”;

(vii) references to "driving licence" shall be construed as references to "a certificate granted under Chapter III of the Inland Vessels Act, 1917"; 1 of 1917.

(viii) references to "permit" shall be construed as references to "a certificate of registration granted under section 19F of the Inland Vessels Act, 1917", 1 of 1917.

and such other consequential amendments as the rules of grammar may require, shall also be made;

(b) in section 145,—

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

'(aa) "goods service vessel" means any mechanically propelled vessel used or adapted to be used for carriage of cargo for hire or reward;';

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

'(da) "public service vessel" means any mechanically propelled vessel used or adapted to be used for the carriage of passengers for hire or reward;';

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

'(e) "property" includes goods carried in the inland vessel, bridges, landing facilities, navigation marks and infra-structure;';

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

'(fa) "route" means a line of travel which specifies the waterway which may be traversed by a mechanically propelled vessel between one terminal and another;';

(c) in section 149, in sub-section (2), in clause (a),—

(i) in sub-clause (i),—

(A) in item (c), for the words "transport vehicle", the words "public service vessel or goods service vessel" shall be substituted;

(B) item (d) shall be omitted;

(ii) in sub-clause (ii), for the words "not duly licensed", the words and figures "not holding a certificate granted under Chapter III of the Inland Vessels Act, 1917" shall be substituted;

1 of 1917.

(d) in section 158,—

(i) for the words "transport vehicle", wherever they occur, the words "public service vessel or goods service vessel" shall be substituted, and such other consequential amendments as the rules of grammar may require shall also be made;

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

"(d) the certificate of survey granted under section 9 of the Inland Vessels Act, 1917,";

1 of 1917.

(e) in section 161, in sub-section (3),—

(i) in clause (a), for the words "twenty-five thousand rupees", the words "fifty thousand rupees" shall be substituted;

(ii) in clause (b), for the words "twelve thousand and five hundred rupees", the words "twenty-five thousand rupees" shall be substituted;

(f) in section 165, in sub-section (1), for the words "Motor Accidents Claims Tribunals", the words "Inland Vessel Accidents Claims Tribunals" shall be substituted.'

12. After Chapter VIA of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter VIAB.

CHAPTER VIAB

PREVENTION AND CONTROL OF POLLUTION AND PROTECTION OF INLAND WATER

54D. In this Chapter, unless the context otherwise requires,—

Definitions.

(a) "hazardous chemical" or "obnoxious substance" means any chemical or substance, as the case may be, which has been designated as such by rules made under this Chapter;

(b) "oil" means any persistent oil such as crude oil, heavy diesel oil, lubricating oil and white oil, whether carried on board a tanker as cargo or fuel;

(c) "oily mixture" means a mixture with any oil content.

54E. No oil or oily mixture, hazardous chemical or obnoxious substance from a mechanically propelled vessel shall be discharged in inland water:

Prohibition as to discharge of oil, oily mixture, etc., in the inland water.

Provided that nothing in this section shall apply to the discharge of such oil or oily mixture, hazardous chemical or obnoxious substance from a mechanically propelled vessel for the purpose of securing the safety of a mechanically propelled vessel, preventing damage to a mechanically propelled vessel, cargo or saving of life at inland water.

54F. (1) The owner or operator of an inland port, at cargo or passenger terminal, as the case may be, shall provide reception facilities to discharge oil, oily mixture, hazardous chemical or obnoxious substance at such inland port, cargo or passenger terminal.

Reception facilities at inland port, etc.

(2) The owner or operator of an inland port, at cargo or passenger terminal, as the case may be, providing reception facilities at any inland port, a cargo or passenger terminal may make charges for the use of the facilities at such rates and may impose such conditions in respect of use thereof as may be approved by notification in the Official Gazette, by the State Government in respect of the inland port, cargo or passenger terminal.

(3) For the purposes of minimizing the pollution already caused, or for preventing the pollution threatened to be caused, the State Government may direct, by order in writing, the owner or operator of an inland port, at cargo or passenger terminal to provide or arrange for the provision of such pollution containment equipments and pollutant removing materials at such inland port, cargo and passenger terminal as may be specified in the order.

54G. (1) Any surveyor or any person authorised under this Act in this behalf may, at any reasonable time, enter and inspect any inland port, at cargo or passenger terminal for the purposes of—

Power of entry, inspection, etc.

(a) ensuring that the provisions of this Chapter are complied with;

(b) verifying whether such inland port, at cargo or passenger terminal is provided with the pollution containment equipment and pollutant removing

materials in conformity with the order of the State Government or the rules made under this Chapter; and

(c) satisfying himself about the adequacy of the measures taken to prevent pollution.

(2) If the surveyor finds that the inland port, at cargo or passenger terminal is not provided with the aforesaid equipment and materials, he shall give notice to the owner or operator of such inland port, cargo or passenger terminal, as the case may be, a notice in writing pointing out the deficiency and also what in his opinion is requisite to remedy the said deficiency.

(3) No owner or operator of such inland port, at cargo or passenger terminal, as the case may be, served with the notice under sub-section (2), shall proceed with any work at such inland port, cargo or passenger terminal, as the case may be, until he obtains a certificate signed by the surveyor to the effect that the inland port, cargo or passenger terminal, as the case may be, is properly provided with the aforesaid equipment and materials in conformity with the rules made under this Chapter.

54H. (1) The Central Government may make rules for the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the designated hazardous chemical and obnoxious substance under clause (a) of section 54D;

(b) prescribe fitment of oily mixture treatment equipment on shore and on board in certain cases;

(c) prescribe details of reception facilities at inland port, cargo or passenger terminal;

(d) prescribe the forms and record books for inland port, cargo or passenger terminal and the manner in which such books shall be maintained, the nature of entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto;

(e) any other matter, which is to be, or may be, prescribed.

13. After section 62C of the principal Act, the following sections shall be inserted, namely:—

'62D. Whoever contravenes any provision of Chapter VIAB or of any rule made thereunder, shall be punishable with imprisonment which may extend to one year, or with fine which may extend to fifty thousand rupees, or with both.

62E. (1) Where an offence under Chapter VIAB has been committed by a company, 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, as well as the company shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing 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 or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under Chapter VIAB has been committed by a company, and it is proved that the

Powers for Central Government to make rules for prevention and control of pollution.

Insertion of new sections 62D and 62E.

Punishment for offences relating to pollution.

Offences by companies.

offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, 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.

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.

14. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of the said Act as amended by this Act or this Act as may appear to be necessary or expedient for the purpose of removing the difficulty:

Power to
remove
difficulties.

Provided that no order shall be made under this section after the expiry of two years from the date on which this Act comes into force.

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

STATEMENT OF OBJECTS AND REASONS

The Inland Vessels Act, 1917 was last amended in the year 1977. Since then, several major developments have taken place in the inland water transport sector. Some of the important developments are (i) declaration of three waterways as National Waterways, viz. the Allahabad-Haldia stretch of the Ganga-Bhagirathi-Hooghly rivers (National Waterway No. 1), the Sadiya-Dhubri stretch of the Brahmaputra river (National Waterway No. 2) and the Kollam-Kottapuram stretch of West Coast Canal and Champakara and Udyogmandal canals (National Waterway No. 3); (ii) establishment of the Inland Waterways Authority of India for regulation and development of inland waterways; and (iii) considerable increase in inland water transport activity and consequently increase in demand for trained personnel for manning of vessels. In view of the expanding inland water transport activities, the need felt is that the said Act should be amended to take into account the operational difficulties, present scenario of inland water transport, compatibility of insurance for mechanically propelled vessels against third party risks in line with the provisions of the Motor Vehicle Act, 1988, prevention and control of pollution in inland waters, etc. Accordingly, it is proposed to amend the Inland Vessels Act, 1917.

2. The salient features of the proposed amendment Bill are as follows:—

(i) extension of inland water limits, by amending the definition of inland water, which would result in extensive use of inland waters by inland vessels which otherwise are not permitted to go beyond prescribed limits;

(ii) inclusion of dumb barges in the definition of mechanically propelled vessels, which are currently outside the ambit of the Inland Vessels Act, 1917;

(iii) dividing the inland water area into three zones based on maximum significant wave height criteria through notification by the respective State Governments to facilitate safety of vessels by providing for suitable construction and manning norms based on operating conditions and also to provide for the flexibility of classification of inland waters into different zones;

(iv) extending validity of certificate of registration, competency or licence of crew of inland vessels issued by one State Government to other States in order to provide relief to the vessel owners and the crew and issuance of temporary permit by the surveyor pending the issue of certificate of survey in the interest of overall development of inland water transport sector;

(v) liberalising the criteria for transfer of certificate of registration to avoid hassles to the owners carrying out inter-State operation;

(vi) to make provision for induction of suitable trained manpower from Army, Navy and Coast Guard into inland water transport fold to address the problem of shortage of manpower in inland water transport sector;

(vii) amendment of section 54C so as to make section 134 and Chapters X, XI and XII of the Motor Vehicles Act, 1988, applicable in relation to mechanically propelled vessels with certain modifications and also to provide insurance of vessels against third party risks, compensation for accidents and Claims Tribunal, etc;

(viii) amendment of section 52 of the said Act which empowers the State Governments for prescribing requirements of (i) hull, equipment and machinery in respect of inland mechanically propelled vessels, (ii) life saving appliances, and (iii) apparatus required for communication and navigation in the interest of enhanced safety;

(ix) insertion of new Chapter VIAB in the said Act which *inter alia* provides for prohibition of discharge of oil, oily mixture, etc., in the inland water, reception facility to discharge oil, oily mixture, hazardous chemical or obnoxious chemical at inland port, power of entry and inspection and power to Central Government for making rules for prevention and control of pollution. It also provides punishment for contravention of the provisions of this Chapter and rules made thereunder;

(x) opportunity has also been taken to omit obsolete provisions of the said Act.

3. The Bill seeks to achieve the above objects.

T. R. BAALU.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill seeks to amend section 30 of the Act which empowers the State Governments to make rules for grant of certificate of service based on the period of service required for the person who has served in the Coast Guard, Indian Navy or regular Army.

Clause 10 of the Bill seeks to amend section 52 of the Act which empowers the State Governments for prescribing requirements of (i) hull, equipment and machinery in respect of inland mechanically propelled vessels, (ii) life saving appliances, and (iii) apparatus required for communication and navigation in the interest of enhanced safety.

Clause 12 of the Bill seeks to insert a new Chapter VIAB to provide for prevention and control of pollution and protection of Inland Waterways. Proposed section 54H of the said Chapter empowers the Central Government to make rules for the purpose of this Chapter. Specifically such rule may (a) prescribe the designated hazardous chemical and obnoxious substance under clause (a) of section 54D; (b) prescribe fitment of oily mixture treatment equipment on shore and on board in certain cases; (c) prescribe details of reception facilities at inland port, cargo or passenger terminal; (d) prescribe the forms and record books for inland port, cargo or passenger terminal and the manner in which such books shall be maintained, the nature of entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto; (e) any other matter, which is to be, or may be, prescribed.

The matters with regard to which the Central Government or the State Government, as the case may be, is proposed to be empowered to make rules are matters of detail. The rules made by the Central Government shall be laid before each House of Parliament and the rules made by the State Government shall be laid before the Legislature of that State. The delegation of legislative power is, therefore, of a normal character.

II**BILL No. CXXV OF 2005**

A Bill further to amend the Protection of Human Rights Act, 1993.

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

1. (1) This Act may be called the Protection of Human Rights (Amendment) Act, 2005. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In section 2 of the Protection of Human Rights Act, 1993 (hereinafter referred to as the principal Act), in sub-section (1),—

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

'(f) "International Covenants" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966 and such other Covenant or Convention adopted by the General Assembly of the United Nations as the Central Government may, by notification, specify;'

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

'(g) "Member" means a Member of the Commission or of the State Commission, as the case may be;'

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

'(i) "National Commission for the Scheduled Castes" means the National Commission for the Scheduled Castes referred to in article 338 of the Constitution;

'(ia) "National Commission for the Scheduled Tribes" means the National Commission for the Scheduled Tribes referred to in article 338A of the Constitution.'

Amendment of section 3.

3. In section 3 of the principal Act,—

(a) in sub-section (2), in clause (a), for the words "a Chief Justice of the Supreme Court", the words "a Chief Justice of the Supreme Court or a Judge of the Supreme Court for at least three years" shall be substituted;

(b) in sub-section (3), for the words "the National Commission for the Scheduled Castes and Scheduled Tribes", the words "the National Commission for the Scheduled Castes, the National Commission for the Scheduled Tribes" shall be substituted;

(c) in sub-section (4), for the words "as it may delegate to him", the words "as may be delegated to him by the Commission or the Chairperson" shall be substituted.

Amendment of section 4.

4. In section 4 of the principal Act,—

(a) in sub-section (1), for the words "other Members", the words "the Members" shall be substituted;

(b) in sub-section (2), for the words "vacancy in the Committee", the words brackets and figure "vacancy or absence of any member in the Committee referred to in the first proviso to sub-section (1)" shall be substituted.

Substitution of new section for section 5.

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

Resignation and removal of Chairperson and Members.

"5. (1) The Chairperson or any Member may, by notice in writing under his hand addressed to the President of India, resign his office.

(2) Subject to the provisions of sub-section (3), the Chairperson or any Member shall only be removed from his office by order of the President of India on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or the Member, as the case may be, ought on any such ground to be removed.

(3) Notwithstanding anything in sub-section (2), the President may, by order, remove from office the Chairperson or any Member if the Chairperson or such Member, as the case may be,—

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office; or

(c) is unfit to continue in office by reason of infirmity of mind or body; or

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

(e) is convicted and sentence to imprisonment for an offence which in the opinion of the President involves moral turpitude."

6. For section 6 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 6.

"6. (1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

Term of office of Chairperson and Members.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State.

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

Substitution of new section for section 8.

"8. The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed:

Terms and conditions of service of Chairperson and Members.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment."

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

Amendment of section 10.

"(2) Subject to the provisions of this Act and the rules made thereunder, the Commission shall have the power to lay down by regulations its own procedure."

9. In section 12 of the principal Act,—

Amendment of section 12.

(a) In clause (a), after the words "or any person on his behalf", the words "or on a direction or order of any court" shall be inserted;

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

"(c) visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;"

10. In section 13 of the principal Act, after sub-section (5), the following sub-sections shall be inserted, namely:—

Amendment of section 13.

"(6) Where the Commission considers it necessary or expedient so to do, it may, by order, transfer any complaint filed or pending before it to the State Commission of

the State form which the complaint arises, for disposal in accordance with the provisions of this Act:

Provided that no such complaint shall be transferred unless the same is one respecting which the State Commission has jurisdiction to entertain the same.

(7) Every complaint transferred under sub-section (6) shall be dealt with and disposed of by the State Commission as if it were a complaint initially filed before it."

Substitution of new section for section 18.

Steps during and after inquiry.

11. For section 18 of the principal Act, the following section shall be substituted, namely:—

"18. The Commission may take any of the following steps during or upon the completion of an inquiry held under this Act, namely:—

"(a) where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights or abetment thereof by a public servant, it may recommend to the concerned Government or authority—

(i) to make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary;

(ii) to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned persons or persons;

(iii) to take such further action as it may think fit.";

(b) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(c) recommend to the concerned Government or authority at any stage of the inquiry for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;

(d) subject to the provisions of clause (e), provide a copy of the inquiry report to the petitioner or his representative;

(e) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(f) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission."

12. In section 21 of the principal Act,—

Amendment of
section 21.

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

"(2) The State Commission shall, with effect from such date as the State Government may by notification specify, consist of—

(a) a Chairperson who has been a Chief Justice of a High Court or a Judge of a High Court for at least five years;

(b) one member who is, or has been, a Judge of a High Court or District Judge in the State with a minimum of seven years experience as District Judge;

(c) one Member to be appointed from among persons having knowledge of or practical experience in matters relating to human rights.";

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

"(6) Two or more State Governments may, with the consent of a Chairperson or member of a State Commission, appoint such Chairperson or, as the case may be, such member of another State Commission simultaneously if such Chairperson or Member consents to such appointment."

13. In section 22 of the principal Act,—

Amendment of
section 22.

(a) in the marginal heading for the words "other Members", the word "Members" shall be substituted;

(b) in sub-section (1), for the words "other Members", the word "Members" shall be substituted;

(c) in sub-section (2), for the words "any vacancy in the Committee", the words, brackets and figure "any vacancy or absence of any Member in the Committee referred to in sub-section (1)" shall be substituted.

14. In section 23 of the principal Act,—

Amendment of
section 23.

(a) for the marginal heading "Removal of a Member of the State Commission", the marginal heading "Resignation and removal of Chairperson or a Member of the State Commission" shall be substituted;

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

"(1) The Chairperson or a Member of a State Commission may, by notice in writing under his hand addressed to the Governor, resign his office.

(1A) Subject to the provisions of sub-section (2), the Chairperson or any Member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the chairperson or such Member, as the case may be, ought on any such ground to be removed."

(c) in sub-section (2),—

(a) for the word, brackets and figure "sub-section (1)", the word, brackets, figure and letter "sub-section (1A)" shall be substituted;

(b) for the words "other Member" at both the places where they occur, the word "Member" shall be substituted.

Substitution of new section for section 24.

15. For section 24 of the principal Act, the following section shall be substituted, namely:—

Term of office of Chairperson and Members of the State Commission.

"24. (1) A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years:

Provided that no Member shall hold office after he has attained the age of seventy years.

(3) On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a State or under the Government of India."

Substitution of new section for section 26.

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

Terms and conditions of service of Chairperson and Members of State Commissions.

"26. The salaries and allowances payable to, and other terms and conditions of service of, the Chairpersons and Members shall be such as may be prescribed by the State Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member shall be varied to his disadvantage after his appointment."

Amendment of section 40.

17. In section 40 of the principal Act, in sub-section (2), in clause (a), for the word "Members", the words "Chairperson and Members" shall be substituted.

Insertion of new section 40B.

18. After section 40A of the principal Act, the following section shall be inserted, namely:—

Power of Commission to make regulations.

"40B. (1) Subject to the provisions of this Act and the rules made thereunder, the Commission may, with the previous approval of the Central Government, by notification, make regulations to carry out the provisions of this Act.

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

(a) the procedure to be followed by the Commission under sub-section (2) of section 10;

(b) the returns and statistics to be furnished by the State Commissions;

(c) any other matter which has to be, or may be, specified by regulations.

(3) Every regulation made by the Commission 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 or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or

both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation."

19. In section 41 of the principal Act, in sub-section (2), in clause (a), for the words "the Members", the words "the Chairperson and Members" shall be substituted.

Amendment of
section 41.

STATEMENT OF OBJECTS AND REASONS

The National Human Rights Commission was set up in October, 1993 under the Protection of Human Rights Act, 1993 for promotion and better protection of human rights. The National Human Rights Commission (NHRC) set up an advisory Committee under the Chairmanship of Justice A.H. Ahmedi, former Chief Justice of India to assess the need for amendments to the Act. Based on the recommendations of the Justice Ahmedi Committee, the NHRC has suggested various amendments to the said Act. The various amendments proposed by the NHRC and certain other issues relating to the scope and ambit of the Act have been examined and it has been decided to amend the Act.

2. The Bill, *inter alia*, seeks to—

(a) clarify that the Chairpersons of NHRC and State Human Rights Commission (SHRCs) are distinct from the Members of the respective Commission;

(b) make judges of the Supreme Court with at least three years service as such to be eligible to be appointed as the Chairperson of the NHRC.

(c) make judges of the High Courts with at least five years of service as such to be eligible to be appointed as Chairperson of the SHRCs' and a District Judge with at least seven years of experience in that capacity to be a Member of the SHRC;

(d) enable the NHRC to transfer complaints received by it to the concerned SHRC;

(e) enable the NHRC to visit any jail or detention centre without prior intimation to the State Government;

(f) enable the Chairperson and Members of the NHRC to address their resignations in writing to the President and the Chairperson and Members of the SHRCs to the Governor of the State concerned;

(g) clarify that the absence of any member in the Selection Committee for selection of the Chairperson and Members of the NHRC or the SHRCs will not vitiate the decisions taken by such Committees;

(h) enable the NHRC and the SHRCs to make interim recommendations during an inquiry;

(i) empower the NHRC and its Chairperson to delegate certain powers and functions of the Commission to the Secretary-General of the NHRC;

(j) provide that the Chairperson of the National Commission for the Scheduled Castes and the Chairperson of the National Commission for the Scheduled Tribes shall be deemed to be Members of the NHRC;

(k) enable the Central Government to notify future international covenants and conventions to which the Act would be applicable.

3. The Bill seeks to achieve the above objects.

SHIVRAJ V. PATIL.

FINANCIAL MEMORANDUM

Clause 7 of the Bill seeks to substitute section 8 of the Protection of Human Rights Act, 1993 relating to the terms and conditions of service of the Chairperson and Member of the Commission. This amendment is consequential to the amendment made in clause (g) of section 2 of the said Act *vide* sub-clause (b) of clause 2 of the bill to clarify that the Chairperson of the National Human Rights Commission is distinct from the Members of the Commission. Similarly, clause 16 of the Bill seeks to substitute section 26 of the Act relating to the terms and conditions of service of the Chairperson and Members of the State Human Rights Commission.

The above-mentioned amendments are of a technical nature and do not involve any additional expenditure, either recurring or non-recurring, than as at present, from the Consolidated Fund of the India or the Consolidated Fund of any State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill seeks to substitute section 8 of the Protection of Human Rights Act, 1993 relating to the terms and conditions of service of the Chairperson and Members of the National Human Rights Commission. The proposed section 8 empowers the Central Government to lay down by rules the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members of the National Human Rights Commission. As per the provisions contained in sub-section (3) of section 40 of the Act, such rules are required to be laid before Parliament.

2. Clause 16 of the Bill seeks to substitute section 26 of the Act relating to the terms and conditions of service of the Chairperson and Members of the State-Human Rights Commissions. The new section 26 empowers the State Governments to lay down by rules the salaries and allowances payable to, and the other terms and conditions of service of, the Chairpersons and Members of the State Human Rights Commissions. As per the provisions contained in sub-section (3) of section 41 of the Act, such rules are required to be laid before the concerned State Legislature.

3. Clause 18 of the Bill seeks to insert a new section 40B in the Protection of Human Rights Act, 1993 relating to the powers of the National Human Rights Commission to make regulations with the previous approval of the Central Government to carry out the provisions of the Act. The matters in respect of which the regulations may be made relate to the procedure to be followed by the commission under sub-section (2) of section 10, the returns and statistics to be furnished by the State Human Rights Commissions and any other matter which has to be or may be specified by regulations. Sub-section (3) of the proposed new section 40B provides that the regulations made by the National Human Rights Commission under the Act shall be required to be laid before Parliament.

4. The aforesaid matters in respect of which rules may be made by the Central Government or the State Governments or regulations may be made by the Commission relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

YOGENDRA NARAIN,
Secretary-General.