



This is a special edition of our newsletter which covers the key legislative bills passed by both the Houses of the Parliament in the recently concluded Monsoon Session.

The Monsoon Session of the Parliament commenced on 20.07.2023 and ended on 11.08.2023, with 17 sittings spread over a period of 23 days.

During this session, a total of 23 Bills were passed by both Houses of Parliament, which cover diverse subjects, such as Personal Data Protection, Multi-State Co-operative Societies, Forest Conservation, Registration of Births and Deaths, Indian Institutes of Management, National Dental Commission, National Nursing and Midwifery Commission, Coastal Aquaculture Authority, Goods and Services Tax etc.

While most of these Bills have received assent from the President and have been published in the Official Gazette, these have not yet come into effect, and will come into effect on such date as notified by the Central Government. However, as a number of these legislations could significantly impact operations and processes of Indian businesses, we have put together a brief summary of the key Bills to help you plan next steps to ensure compliance with these laws as and when these come into force.

The key legislations covered here are:

- The Digital Personal Data Protection Act, 2023
- The Mines and Minerals (Development and Regulation) Amendment Act, 2023

- The Offshore Areas Mineral (Development and Regulation) Amendment Act, 2023
- The Government of National Capital Territory of Delhi (Amendment) Act, 2023
- The Mediation Bill, 2023
- The Cinematograph (Amendment) Act, 2023
- The Biological Diversity (Amendment) Act, 2023
- The Forest (Conservation) Amendment Act, 2023
- The Jan Vishwas (Amendment of Provisions) Act 2023

1. The Digital Personal Data Protection Act, 2023

- 1.1. The Digital Personal Data Protection Act, 2023 (“**DPDP Act**”) is aimed at establishing a comprehensive legal framework for processing of digital personal data in a manner that recognizes both the right of individuals to protect their personal data and the need to process such personal data for lawful purposes.
- 1.2. DPDP Act will come into force on such date as the Central Government may, by notification in Official Gazette, appoint, and different dates may be appointed for different provisions of the DPDP Act.

- 1.3. Upon the DPDP Act coming into force, the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 (SPDI Rules) will stand repealed.
- 1.4. Some of the key highlights of the DPDP Act are:
- DPDP Act applies to processing of digital personal data within India where personal data is collected either in (i) digital form; or (ii) non-digital form (i.e., physically) and is digitized subsequently.
 - DPDP Act also has extraterritorial applicability as it applies to processing of digital personal data outside India if such processing is in connection with any activity related to offering of goods or services to Data Principal within the territory of India.
 - DPDP Act is not applicable *inter alia* to personal data which is:
 - (i) made publicly available by the individual to whom it relates or by any person who is under an obligation under any law to make such personal data publicly available;
 - (ii) processed by an individual for personal or domestic purpose;
 - (iii) processed by Central Government or State instrumentality as notified by the Central Government, in the interest of sovereignty and integrity of India, security of the state, friendly relations with foreign states, maintenance of public order, preventing incitement of any cognizable offence in relation to the above, etc.
 - The term “processing” under the DPDP Act has been given a wide definition. It has been defined to mean *wholly or partly automated operation(s) performed on digital personal data such as collecting, recording, structuring, storing, adapting, retrieving, using, aligning or combining, indexing, sharing or disclosure by transmission, dissemination, restriction, deletion or destruction.*
 - DPDP Act lays down various conditions to be satisfied by a Data Fiduciary (*person who defines the purpose and means of processing of personal data of a Data Principal*) for processing personal data of Data Principal (*individual to whom the personal data relate*). The key requirement is obtaining consent from the Data Principal prior to processing of digital personal data. Such request for consent should be accompanied or preceded by a notice informing the Data Principal regarding:
 - (i) personal data to be collected and processed;
 - (ii) purpose for which such personal data is proposed to be processed;
 - (iii) manner in which the Data Principal can withdraw her consent including details of the grievance redressal mechanism provided by Data Fiduciary; and
 - (iv) manner in which the Data Principal may make a complaint to the Data Protection Board.
- There are a number of exemptions under the DPDP Act from the requirement to seek consent for processing of digital personal data of a Data Principal.
- In the event, consent of a Data Principal for processing of her personal data was obtained before commencement of the DPDP Act, the Data Fiduciary is obligated to give notice to the Data Principal providing same details as mentioned above, as soon as it is reasonably practicable. In such events, the Data Fiduciary is permitted to continue to process the personal data of a Data Principal, until and unless such Data Principal withdraws her consent.
 - A Data Principal has the right to withdraw, at any time, her consent for processing her personal data.
 - Section 33(1) of the DPDP Act imposes penalties for breach of the provisions of the DPDP Act by the Data Fiduciary which may in certain circumstances extend up to maximum of INR 250 crores.

2. The Mines and Minerals (Development and Regulation) Amendment Act, 2023

- 2.1. The Mines and Minerals (Development and Regulation) Amendment Act, 2023 has inserted a new Part D in the First Schedule to the Mines and Minerals (Development and Regulation) Act, 1957 which has a list of critical and strategic minerals, and has amended Part B of First Schedule shifting certain minerals such as Beryllium bearing minerals, Lithium bearing minerals, Niobium bearing minerals, Titanium bearing minerals from the list of atomic minerals to the newly inserted Part D. The Mines and Minerals (Development and Regulation) Amendment Act, 2023 has also inserted a new Seventh Schedule which includes a list of 29 minerals for which exploration is allowed under the Mines and Minerals (Development and Regulation) Act, 1957.
- 2.2. Some of the other key amendments introduced by Mines and Minerals (Development and Regulation) Amendment Act, 2023 are as follows:
- Insertion of definition of the following terms (i) “exploration licence” as *a license granted for undertaking reconnaissance operations or prospecting operations or both in respect of minerals specified in the Seventh Schedule*; and (ii) “reconnaissance operations” as *any operations undertaken for preliminary prospecting of a mineral*

through regional, aerial, geophysical, or geochemical survey, and geological mapping and includes pitting, trenching, drilling, and sub-surface excavation.

- Maximum total area for which multiple exploration licenses may be granted is 5,000 sq. km and maximum area for which single exploration license may be granted is 1,000 sq. km.
- Exploration licence may be granted by State Government for any area (other than area covered under Section 17A, minerals specified in Part A of First Schedule, minerals specified in Part B of the First Schedule where the grade of atomic mineral is equal to or greater than the notified threshold value or any land in respect of which minerals do not vest in the Government) for the purpose of undertaking reconnaissance and/or prospecting operations in respect of any mineral specified in Seventh Schedule.
- Exploration license to be granted to a person who fulfils the eligibility criteria through auction by method of competitive bidding, including e-auction. Such license shall be granted for a period of 5 years from execution of exploration license extendable by 2 years by the State Government, on an application by the licensee made after the expiry of 3rd year but before the expiry of license and being satisfied that it shall not be possible for exploration licensee to complete reconnaissance or prospecting operations for reasons beyond the its control within 5 years.
- After 3 years from the date of exploration license, the licensee shall surrender at least 75% of the total area covered under the license. The licensee can retain the balance 25% area after submitting a report to the State Government stating the reason for retention of the area proposed to be retained and boundaries of such area.
- Exploration licensee shall also submit a geological report to the State Government explaining the result of reconnaissance and prospecting operations, within 3 months of the completion of the operation or expiry of exploration license, whichever is earlier.
- Central or State Government to hold auction process within 6 months from the date of geological report for grant of one or more separate mining leases in respect of area where existence of mineral content has been established. The concerned government shall select the preferred bidder for grant of mining leases within 1 year from the date of geological report.
- The exploration licensee is entitled to a share of applicable amount quoted in the auction of mining lease by the lessee in respect of the minerals specified in Seventh Schedule.

- State Government may take the necessary action as it deems fit or impose a penalty if the exploration licensee fails to complete the reconnaissance and prospecting operations or does not submit the geological report within 3 months.
- Central Government for the purpose of granting mining lease or composite license in any area in respect of any mineral specified in Part D of the First Schedule i.e., for critical and strategic minerals, shall select through auction by the method of competitive bidding, including e-auction, a preferred bidder who fulfils the eligibility conditions.

3. The Offshore Areas Mineral (Development and Regulation) Amendment Act, 2023

3.1. The Offshore Areas Mineral (Development and Regulation) Amendment Act, 2023 (“OAM Amendment Act”) introduces, *inter alia*, the following key amendments in the Offshore Areas Mineral (Development and Regulation) Act, 2002:

- One of the key changes introduced is the concept of a “composite licence”, which has been defined to mean *the exploration license-cum-production lease, which is a two-stage operating right granted for exploration operation followed by production operation*. Further, Section 5, which mandates a person to seek a permit, license or lease to undertake reconnaissance, exploration or production, has been amended to also include a ‘composite licence’.
- Section 5(2) has been substituted to, *inter alia*, cast obligation on permittee, licensee, lessee, Government organisation, agency or private entity to keep all exploration and operational data, reports, samples and other information in respect of or collected pursuant to an operation in strict confidence.
- No production lease shall be granted in offshore areas unless the existence of mineral resources is adequately established in accordance with the prescribed parameters.
- Section 7(2) has been amended to provide that in case of a premature termination of operating right on grounds of strategic interest of the country, no opportunity of being heard shall be provided.
- Section 7(3) provides that in the event the holder of any operating right fails to commence operation within the period specified in Section 14 or discontinues the operation for a period of 2 years, the operating right shall lapse from the date of execution of the lease or discontinuance of the operation, as the case may be. However, in such cases the administering authority has the power to condone such non-commencement or discontinuation where it

is on account of reasons beyond the control of the holder of operating right. This Section has been amended to provide that in case of such non-commencement or discontinuation, the administering authority shall have the power to extend the period specified in Section 14 by a further period not exceeding 1 year, and such extension shall not be granted for more than once during the entire period of operating right. It has been further provided that where the holder of operating right (i) fails to undertake operation; or (ii) discontinues operation, before expiry of the extended period, such operating right shall also lapse from the date of execution of the lease or, discontinuance of the operation, as the case may be.

- A similar provision has been introduced in relation to production lease by way of new Section 7(4).
- A new provision has been inserted in Section 8 which provides that the Administering Authority may, subject to prescribed terms and conditions, grant a composite licence, or production lease to the Government, a Government Company, or a corporation in any offshore area reserved by the Central Government. It has further been provided that where a Government Company or corporation is willing to carry out exploration or production operations in a joint venture with other persons, such joint venture partner shall be selected through a competitive process and such Government Company or corporation shall hold more than 74% of the paid-up share capital in such joint venture.
- Section 11 which dealt with grant of reconnaissance permit has been omitted.
- Section 12 which dealt with grant of exploration license has been substituted with new section dealing with grant of composite license. Further, new Section 13C provides that on and from the commencement of this amendment, the auction will be the sole method of selection for the grant of composite licence or production lease.
- The penalty amount as specified under Section 23 has been increased for contraventions.

4. The Government of National Territory of Delhi (Amendment) Act, 2023

- 4.1. The Government of National Capital Territory of Delhi (Amendment) Act, 2023 has amended the Government of National Capital Territory of Delhi Act, 1991.

The key amendments introduced are:

- A new Part IVA has been inserted which *inter alia* provides for establishment of National Capital Civil

Service Authority (“NCCSA”) comprising the Chief Minister of NCT as Chairperson of the Authority, *ex officio*, Chief Secretary of NCT as Member, *ex officio*, Principal Home Secretary of NCT as Member-Secretary to the Authority, *ex officio*.

- The functions of NCCSA includes making recommendation to the LG in relation to all Group 'A' officers and officers of Delhi, Andaman and Nicobar, Lakshadweep, Daman and Diu and Dadra and Nagar Haveli (Civil) Services serving in the affairs of the Government of NCT, except for officers serving in connection with any subject matter connected with public order, police, land, offence against laws with respect to any of the matter in List II of Seventh Schedule to the Constitution (i) on transfers and postings; (ii) on matters related to disciplinary proceedings; (iii) on grant of prosecution sanctions to the Competent Authorities; and (iv) on framing policies on stability of tenure of posting of posting of officers and other employees, rotational transfers and postings from sensitive to non-sensitive posts and *vice versa*, determining suitability of officer for posting as Head of Department, transfers and postings of all officers and other employees serving in the affairs of Government of NCT.
- NCCSA is also responsible for formulating policy in relation to on good governance, greater transparency in the administration of the Government of NCT, etc.
- In addition to matters already required to be placed before the LG under any other law, an additional list of matters has been provided which need to be placed before the LG for his opinion through the Chief Minister and the Chief Secretary, before issuing any orders thereon. Such matters are: (i) matters affecting the peace and tranquillity of the NCT; (ii) matters affecting interest of particular community, the Scheduled Castes, the Schedule Tribes and the socially and educationally backward classes or any other class of persons; (iii) matters which affect the relations of Government of NCT with the Central Government, any State Government, the Supreme Court of India or the High Court of Delhi and any other authorities as determined; (iv) matters of mercy petitions for person under sentence for death and other matter related to revision of judicial sentence; (v) matters of administrative importance which the Chief Minister considers necessary; (vi) matters on which the LG is required to make order under any law or instrument in force in his sole discretion; (vii) matters specified under general or special order issued by LG under proviso to sub-section (2) of Section 44; (viii) matters relating to summoning, prorogation and dissolution of the Legislative Assembly, removal or disqualification of voters at elections to the

Legislative Assembly, Local Self Government Institutions and other related matters; and (ix) matters pertaining to the Secretariat of LG and personnel establishment and other matters relating to his office.

- 4.2. The Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023 has been repealed.

5. The Mediation Bill, 2023

- 5.1. The Mediation Bill, 2023 has been passed by both the Houses of Parliament and is pending for President's assent. The Bill aims, *inter alia*, to promote and facilitate mediation, especially institutional mediation, for resolution of disputes and to make online mediation acceptable.
- 5.2. As the Arbitration and Conciliation Act, 1996, provides for arbitration agreement, this Bill also provides for a mediation agreement, in the form of a clause or separate agreement, to be executed between parties in writing agreeing to submit to mediation all or certain disputes that may arise between the parties.
- 5.3. This Bill also provides for international mediation i.e., mediation in relation to a commercial dispute arising between parties where at least one of the parties is (i) an individual who is a national or resident in any country other than India; (ii) a body corporate including LLP or an association of body of individuals having its place of business outside India; or (iii) Government of foreign country.
- 5.4. This Bill allows for mediation to be conducted through online mode with the written consent of the parties.
- 5.5. Irrespective of existence of a mediation agreement, before filing any suit or proceedings of civil or commercial nature, the parties may voluntarily or with mutual consent take steps to settle the disputes by pre-litigation mediation.
- 5.6. The First Schedule of this Bill provides an indicative list of matters for which mediation shall not be conducted. Such list includes matters such as criminal offences, disputes under Electricity Act, 2003, proceedings before SEBI or SAT, land acquisition matters, etc.
- 5.7. The parties are free to agree upon the name of mediator and the procedure for their appointment. In case of failure to agree for the name of the mediator, the parties shall make an application to mediation service provider (as specified in this Bill) for appointment of a mediator. Such mediation service provider shall within 7 days of receiving the application appoint a mediator from a panel maintained by it.
- 5.8. The mediator shall be guided by the principles of objectivity and fairness and protect the voluntariness, confidentiality and self-determination of the parties, and

the standards for professional and ethical conduct as may be specified. The mediator shall not be bound by the Code of Civil Procedure of 1908 and the Indian Evidence Act of 1872.

- 5.9. Mediation shall be completed within a period of 180 days, extendable for a further period of 60 days by mutual consent, from the date fixed for the first appearance.
- 5.10. If the parties arrive at the mediated settlement agreement through the mediation process, such agreement shall be enforceable as a judgment or decree passed by a court and in accordance with the provisions of Code of Civil Procedure, 1908.
- 5.11. A mediation settlement agreement may be challenged by either party within 90 days from the date of receiving copy of such agreement before the court or tribunal of competent jurisdiction, on the grounds of fraud, corruption, impersonation or dispute not being fit for mediation.

6. The Cinematograph (Amendment) Act, 2023

- 6.1. The Cinematograph (Amendment) Act, 2023 has brought significant changes to the Cinematograph Act, 1952 which includes:
- Introduction of 3 age-based certifications categories in "UA" wherein the number signifies the age group. The three categories are "UA7+", "UA 13+" and "UA16+".
 - The Board has been authorised to sanction the film with a separate certificate for its exhibition on television or such other media as may be prescribed.
 - Certificates issued by the Central Board of Film Certification shall now have perpetual validity. Prior to this amendment, the certificates had a validity of 10 years only.
 - The provision granting revisional powers to the Central Government in regard to any proceedings in relation to a film has been omitted.
 - Two new provisions, Sections 6AA and 6AB have been introduced regarding "Prohibition of unauthorised recording" and "Prohibition of unauthorised exhibition of films" respectively. Any person contravening these provisions shall be punishable with imprisonment for a term of up to 3 months but which may extend to 3 years and with a fine of not less than INR 3,00,000 but may extend to 5% of the audited gross production cost of the relevant film.

7. The Biological Diversity (Amendment) Act, 2023

- 7.1. The stated objectives of the Biological Diversity (Amendment) Bill, 2021 were to (i) reduce the pressure on wild medicinal plants by encouraging cultivation of

- medicinal plants; (ii) encourage Indian system of medicine; (iii) facilitate fast-tracking of research, patent application process, transfer of research results while utilising the biological resources available in India without compromising the objectives of United Nation Convention on Biological Diversity and its Nagoya Protocol; (iv) decriminalise certain provisions; and (v) bring more foreign investments in the chain of biological resources, including research, patent and commercial utilisation, without compromising the national interest.
- 7.2. The preamble of the Biological Diversity Act 2002 has been amended to give effect to Nagoya Protocol (adopted in 2010) on access to and fair and equitable sharing of benefits arising from the utilisation of genetic and biological resources.
- 7.3. Some key changes introduced in the Biological Diversity Amendment Act, 2023 are:
- This amendment seeks to provide relief to Indian companies with non-resident shareholders by specifying that a body corporate, association or organisation which is incorporated or registered in India, will fall under the purview of Section 3(1) only when it is controlled by a foreigner within the meaning of clause (27) of Section 2 of the Companies Act, 2013.
 - No prior approval is required from the National Biodiversity Authority for filing an application for protection of any IP right, in or outside India. Such approval is now required before the grant of the IP rights.
 - The National Biodiversity Authority, as a representative of the Biodiversity Management Committee, has now been tasked with the mandate of determining the terms of sharing of benefits. This is a change from the existing position where such terms are agreed upon by the person applying for such approval, local bodies concerned and the benefit claimers.
 - A number of relaxations have been made for the purposes of obtaining and accessing of codified traditional knowledge, cultivated medicinal plants (subject to certificate of origin issued by Biodiversity Management Committee) and its products, by registered AYUSH practitioners.
 - Several offences under the Biological Diversity Act have now been decriminalized. This amendment provides for a penalty ranging from INR 100,000 to INR 5,000,000, and in case of a continuing offence, an additional penalty of up to INR 10,000,000. The penalty will be determined by an adjudicating officer appointed by the Central Government to hold enquiry and decide the amount of penalty.
8. **The Forest (Conservation) Amendment Act, 2023**
- 8.1. The Forest (Conservation) Amendment Act, 2023 is *inter alia* aimed at (i) redefining the applicability of the Forest (Conservation) Act, 1980; (ii) fast-tracking strategic and security related projects of national importance and development of vital security infrastructures, especially along the international border areas; (iii) allowing activities for conservation of forest and wild life in to the array of forestry activities; and (iv) bringing uniformity in the applicability of the law to government and private entities.
- 8.2. Some key changes introduced in the Forest (Conservation) Amendment Act, 2023 are:
- Pursuant to this amendment the following types of lands have been brought within the ambit of the Forest (Conservation) Act, 1980:
 - (i) land declared or notified as a forest under Indian Forest Act, 1927 or under any other applicable law; and (ii) land that has been recorded in Government record as forest, as on or after the 25.10.1980 (except such lands which have been changed from forest use to use for non-forest purpose on or before the 12.12.1996).
 - At the same time, the following types of lands have been excluded from the application of Forest (Conservation) Act, 1980:
 - (i) forest land situated alongside a rail line or a public road maintained by the Government, which provides access to a habitation, or to a rail, and roadside amenity up to a maximum size of 0.10 hectare; (ii) forest land situated within a distance of 100 kms along international borders or Line of Control or Line of Actual Control, as the case may be, proposed to be used for construction of strategic linear project of national importance and concerning national security; or (c) forest land up to ten hectares, proposed to be used for construction of security related infrastructure; or (d) forest land proposed to be used for construction of defence related project or a camp for paramilitary forces or public utility projects, as may be specified by the Central Government, the extent of which does not exceed 5 hectares in a Left Wing Extremism affected area as notified.
 - The scope of ‘non-forest purpose’ has been expanded to include any work relating to or ancillary to conservation, development and management of forests and wildlife, such as: (i) silvicultural operations including regeneration operations; (ii) establishment of check-posts and infrastructure for the front line forest staff; (iii) establishment and maintenance of fire lines; (iv) wireless communications; (v) construction of fencing,

boundary marks or pillars, bridges and culverts, check dams, waterholes, trenches and pipelines; (vi) establishment of zoo and safaris owned by the Government or any authority, in forest areas other than protected areas; (vii) eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area.

As a result, State Government will be able to allow such activities on such terms as it may decide.

9. The Jan Vishwas (Amendment of Provisions) Act, 2023

The Jan Vishwas (Amendment of Provisions) Act 2023 ("Jan Vishwas Act") amends 42 Central Acts thereby decriminalizing 183 provisions. The Jan Vishwas Act will come into force on such date as the Central Government may appoint, and different dates may be appointed for different provisions of the Act. The Jan Vishwas Act further provides that the fines and penalties provided under various provisions of the 42 Central Acts shall be increased by ten per cent of the minimum amount of fine/penalty after expiry of every three years from the date of commencement of the Act.

The Prevention of Money Laundering Act, 2002

The following offences have been omitted from the list of scheduled offences under Part A of Schedule to the Prevention of Money Laundering Act, 2002:

- Penalty for falsely representing a trademark as registered under Section 107 of Trademarks Act, 1999 (Paragraph 21);
- Penalty for breach of confidentiality and privacy under Section 72 of the Information and Technology Act, 2000 (Paragraph 22);
- Penalty for discharging environmental pollutants, etc., in excess of prescribed standards, under Section 15 read with Section 7 under the Environment Protection Act, 1986 (Paragraph 25);
- Penalty for handling hazardous substances without complying with procedural safeguards, under Section 15 read with Section 8 under the Environment Protection Act, 1986 (Paragraph 25); and
- Failure to comply with the provisions for operating industrial plan under Section 37 of the Air (Prevention and Control of Pollution) Act, 1981 (Paragraph 27).

The Environment (Protection) Act, 1986

- Section 10 which provides that (i) the failure to assist any person empowered by the Central Government for carrying out the functions in Section 10(1), and (ii) any willful delays or obstruction of any person

empowered by the Central Government under Sections 10(1) and 10(2), has been decriminalized. A new Section 14B has been inserted providing penalty for contravention of Sections 9, 10 and 11 which ranges from INR 10,000 to INR 5,00,000, and in case of continuing contravention, an additional penalty of INR 10,000 for every day during which such contravention continues.

- A new Section 14A has been inserted enhancing penalty to not less than INR 1,00,000 but which may extend to INR 15,00,000, and in case of continuing contravention, an additional penalty of INR 50,000 for every day during which such contravention continues, for a contravention of Sections 7 and 8.
- Section 15 which deals with contravention of the Act, rules, orders and directions issued thereunder has been decriminalized and penalty of not less than INR 10,000 but which may extend to INR 15,00,000 where no separate penalty has been provided.
- A new Section 15A has been inserted to replace Section 16 of the Act to provide that in the event of contravention of any provisions of the Act by a company, such company shall be liable to penalty of not less than INR 1,00,000 but which may extend to INR 15,00,000 and in the event of continuing contravention, an additional penalty of INR 1,00,000 for every day such contravention continues.
- A new Section 15B has been inserted to replace Section 17 of the Act to provide that in the event of contravention of any provisions of the Act by any department of the Central Government or State Government, the Head of Department of such department shall be liable to a penalty equal to 1 month of his basic salary. In the event of any contravention attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall be liable to penalty equal to 1 month of his basic salary.
- A new Section 15C has been inserted which provides for adjudication of penalties by such person appointed by the Central Government in this regard. An appeal mechanism, from the order of such adjudicating officer, has been provided by the newly inserted Section 15D.
- In the event of failure to pay penalty (including additional penalty) imposed under Sections 14A, 14B, 15, 15A or 15B within 90 days of such imposition, such person shall be liable for imprisonment of up to 3 years or fine of up to 2 times the amount of penalty or both.

The Air (Prevention and Control of Pollution Act, 1981

- Section 37 has been decriminalized and it has been provided that in the event of failure to comply with the provisions of Section 22 or directions issued under Section 31A, such contravention shall be liable to penalty of not less than INR 10,000 but which may extend to INR 15,00,000, and in the event of a continuing offence, an additional penalty of INR 10,000 for every day during which such contravention continues.
- Section 38 has been amended to change the penalty for certain specified acts from imprisonment of up to 3 months or with fine of up to INR 10,000 or with both, to a penalty of not less than INR 10,000, but which may extend to INR 15,00,000.
- A new Section 38A has been inserted to provide that in the event of contravention of any provisions of the Act by any department of the Central Government or State Government, the Head of Department of such department shall be liable to a penalty equal to 1 month of his basic salary. In the event of any contravention attributable to any neglect on the part of any officer other than the Head of the Department, such officer shall be liable to penalty equal to 1 month of his basic salary.
- Section 39 has been amended to change the penalties for contravention of any of the provisions of this Act or any order or direction issued thereunder, for which no penalty has been elsewhere provided in the Act. Amended Section 39 imposes a penalty of not less than INR 10,000 but which may extend to INR 15,00,000 and in the event of continuing contravention, an additional penalty of INR 10,000 for every day during which such contravention continues after the first conviction.
- A new Section 39A has been inserted which provides for adjudication of penalties by such person appointed by the Central Government in this regard. An appeal mechanism, from the order of such adjudicating officer has been provided by the newly inserted Section 39B.
- In the event of failure to comply with the provisions of Section 21 (Restrictions on establishing or operating any industrial plant in an air pollution control area), imprisonment for a term which could range from 1 year 6 months to 6 years and with fine is

impossible, and in case of continuing contravention, additional fine of up to INR 50,000 for every day during which such failure continues after the first conviction. In the event of such contravention continuing beyond a period of 1 year after the date of conviction, such person is punishable with imprisonment for a term which could range from 2 years to 7 years and with fine.

The Industries (Development and Regulation) Act, 1951

- Section 24 has been decriminalized and now provides for a penalty of up to INR 25,00,000.
- Section 24A which prescribed a punishment of imprisonment of up to 3 months, or with fine of up to INR 2,000 or with both for making false statements, has been omitted, and replaced with new Sections 24A and 24B which provide for an adjudicating officer for holding an inquiry and imposing a penalty, and appeal mechanism from the order of such adjudicating officer, respectively. Section 24C provides that in case of failure to deposit the penalty imposed under Sections 24A and 24B, such amount shall be recovered as an arrears of land revenue.
- Section 27 which deals with cognizance of offence by court and Sections 29 and 29A which provided for the jurisdiction of court to try any offence punishable under the Act have been omitted.

The Payment and Settlement Systems Act, 2007

- Section 30 has been amended to provide that in the event of contravention of sub-sections (2)¹, (3)² or (6)³ of Section 26, RBI may impose a penalty of up to INR 25,00,000 (up from INR 5,00,000) or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where such contravention or default is a continuing one, a further penalty of up to INR 25,000 for every day after the first during which the contravention or default continues.

The Information Technology Act, 2000

- Section 33 which mandates every Certifying Authority whose licence is suspended or revoked shall immediately after such suspension or revocation, surrender the licence to the Controller has been decriminalized and a penalty of up to INR 5,00,000 has been prescribed.

¹ Penalty for false statement willfully given or omission from making a material statement in any application for authorisation or in any return or other document or any information required by or under or for the purpose of any provisions of the Payment and Settlement Systems Act, 2007.

² Penalty for failure to produce or furnish any statement, information, returns or other documents, which is required to be furnished or produced under Sections 12, 13 or 14 of the Payment and Settlement Systems Act, 2007.

³ Contravention of any of the provisions of the Payment and Settlement Systems Act, 2007

- The quantum of amount of penalty as prescribed under Section 44 has been increased. Pursuant to this Amendment, (a) any failure to furnish any document, return or report to the Controller or the Certifying Authority will attract a penalty of up to INR 15,00,000 (as opposed to INR 1,50,000 prior to the amendment); (b) failure to file any return or furnish any information, books or other documents within specified timelines will attract a penalty of up to INR 50,000 for each day during which such failure continues (as opposed to INR 5,000 prior to the amendment); (c) failure to maintain books of account or records will attract a penalty of up to INR 1,00,000 for every day during which the failure continues (as opposed to INR 10,000 prior to the amendment).
- Section 45 which prescribes the penalty for any contravention of the Act and the rules and regulations framed thereunder, for which no penalty has been separately provided, has been amended to enhance the penalty from compensation of up to INR 25,000 to the person affected by such contravention, or a penalty of up to INR 25,000, to penalty of up to INR 1,00,000, in addition to compensation to the person affected by such contravention not exceeding— (a) INR 10,00,000, by an intermediary, company or body corporate; or (b) INR 1,00,000, by any other person.
- Section 66A, which prescribed the punishment for sending offensive messages through communication service, etc., and which was found to be in violation of the Constitution by the Hon'ble Supreme Court in *Shreya Singhal v. UOI* has been omitted.
- Section 67C which mandates an intermediary to preserve and retain such information as may be specified for such duration and in such manner and format as the Central Government may prescribe, has been decriminalized and penalty of up to INR 25,000 has been prescribed.
- Section 68 under which the Controller has power to give directions to a Certifying Authority or any of its employees to take such measures or cease carrying on such activities as specified in the order has been decriminalized and penalty of up to INR 25,00,000 has been prescribed.
- Section 69B grants the Central Government power to authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource, for specified purposes. Any intermediary when called upon by such authorised agency is required to provide technical assistance and extend all facilities to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such

traffic data or information. Pursuant to this Amendment, any contravention by an intermediary in this regard is punishable by imprisonment of up to 1 year or fine of up to INR 1,00,00,000, or with both. Prior to this Amendment, any contravention by an intermediary in this regard was punishable with imprisonment of up to 3 years and fine.

- Section 70B (7) which provides that any service provider, intermediaries, data centers, body corporate or person who fails to provide the information called for or comply with the directions of CERT under Section 70B (6) has been decriminalized and a penalty of up to INR 1,00,00,000 has been prescribed.
- Section 72 which provides that any person who, in pursuance of any of the powers conferred under this Act, rules or regulations made thereunder, has secured access to any electronic record, book, register, correspondence, information, document or other material without the consent of the person concerned discloses such electronic record, book, register, correspondence, information, document or other material to any other person has been decriminalized and a penalty of up to INR 5,00,000 has been prescribed.
- Section 72A which provides that any person including an intermediary who, while providing services under the terms of lawful contract, has secured access to any material containing personal information about another person, with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract, such material to any other person, has been decriminalized and a penalty of up to INR 25,00,000 has been prescribed.

The Copyright Act, 1957

- Section 68 which provides that making false statements for the purpose of deceiving or influencing any authority or officer shall be punishable with imprisonment of up to 1 year, or fine, or both has been omitted.

The Patents Act, 1970

- Section 120 has been amended to enhance the punishment for unauthorised claim of patent rights from a fine of INR 1,00,000 to a fine of INR 10,00,000 and in case of a continuing claim, a further penalty of INR 1,000 for every day after the first during which such claim continues.
- Section 121 which punishes a person for the wrongful use of words 'patent office' which would reasonably lead to the belief that his place of business is, or is officially connected with, the patent office, with

imprisonment of up to 6 months, or with fine, or with both, has been omitted.

- Section 122(1) has amended the punishment for refusal or failure to supply information to the Central Government or the Controller, in accordance with Sections 100(5) and 146, respectively, from a fine of up to INR 10,00,000 to INR 1,00,000 and in case of a continuing refusal or failure, to a further penalty of INR 1,000 for every day after the first during which such refusal or failure continues. Section 122(2) has amended the punishment for providing any false information or statement from imprisonment of up to 6 months, or with fine, or with both, to a penalty for a sum of 1.5% of the total sale or turnover, as the case may be, of business or of the gross receipts in profession as computed in the audited accounts of such person, or a sum equal to INR 5,00,00,000, whichever is less.
- Section 123 which stipulates that a person who practices, describes or holds himself out as a patent agent, or permits himself to be so described or held out, unless he is registered as a patent agent, shall be punishable with fine which may extend to INR 1,00,000 in the case of a first offence and INR 5,00,000 in the case of a second or subsequent offence, has been amended to penalty of up to INR 5,00,000 and in case of a continuing default, a further penalty of INR 1,000 for every day after the first during which such default continues.
- A new Section 124A has been inserted to provide for adjudication of penalties by any officer appointed in this regard by the Controller. An appeal mechanism, from the order of such adjudicating officer has been provided by the newly inserted Section 124B.

The Trade Marks Act, 1999

- Section 107 which prescribes the penalty for falsely representing a trademark as registered has been decriminalized and a penalty of 1.5% of the total sales or turnover in business or of the gross receipts in profession, as computed in the audited accounts of such person, or INR 5,00,000, whichever is less has been prescribed.
- Section 108 which prescribes the penalty for improperly describing a place of business as connected with the Trade Marks Office and Section 109 which prescribes the penalty for falsification of entries in the register have been omitted.
- A new Section 112A has been inserted to provide for adjudication of penalties by any officer appointed by the Registrar. An appeal mechanism, from the order of such adjudicating officer has been provided by the newly inserted Section 112B.

The Geographical Indications of Goods (Registration and Protection) Act, 1999

- A new Section 37A has been inserted to provide for adjudication of penalties by any officer appointed by the Registrar. An appeal mechanism, from the order of such adjudicating officer has been provided by the newly inserted Section 37B.
- Section 42 which prescribes the penalty for falsely representing a geographical indication as registered has been decriminalized and a penalty of 1.5% of the total sales or turnover in business or of the gross receipts in profession, as computed in the audited accounts of such person, or INR 5,00,000, whichever is less, has been prescribed.
- Section 43 which prescribes the penalty for improperly describing a place of business as connected with the Geographical Indications Registry and Section 44 which prescribes the penalty for falsification of entries in the register have been omitted.

The Boilers Act, 1923

- Section 22 has been decriminalized and for failure by the owner of a boiler to report an accident to a boiler or boiler component when so required under Section 18, a penalty of up to INR 5,000 has been prescribed.
- Section 23 has been decriminalized and now provides that (i) the use of a boiler which has been transferred from one state to another without the reporting as required under Section 6 (b), and (ii) failure to cause the register number allotted to the boiler under the Boilers Act to be permanently marked on the boiler as required under Section 7 (6), shall be liable to penalty of up to INR 1,00,000 and in the case of a continuing contravention or failure, with an additional penalty of up to INR 1,000 for every day during which such contravention or failure continues.
- A new Section 26A has been inserted which provides for adjudication of penalties by the District Magistrate or Additional District Magistrate as may be authorised by the State Government or Union Territory administration to act as the adjudicating officer. An appeal mechanism, from the order of such adjudicating officer has been provided by the newly inserted Section 26B.

The Drugs and Cosmetics Act, 1940

- Section 29 has been amended to increase the maximum penalty for the use of any report of a test or analysis made by the Central Drugs Laboratory or by a Government Analyst, or any extract from such report, for the purpose of advertising any drug or cosmetic, from INR 500 to INR 1,00,000.

- Section 30 has been decriminalized and now provides that in the event of subsequent offence under Section 29, such person shall be punishable with a penalty of up to INR 5,00,000.
- Section 32B has been amended to make the following offences compoundable under Section 32B: (i) offence under Section 27(d) i.e., the manufacture for sale or for distribution, or sale or stocking or exhibiting or offering for sale or distribution of any

drugs, other than drugs referred under clauses (a), (b) or (c) of Section 27, in contravention of the provisions of Chapter IV of the Drugs and Cosmetics Act, 1940; and (ii) offence under Section 27A (ii) i.e., manufacture for sale or for distribution, or sale or stocking or exhibiting or offering for sale any cosmetic other than those referred in clause (i) of Section 27A in contravention of the provisions of Chapter IV of the Drugs and Cosmetics Act, 1940.

ABOUT SAGUS LEGAL

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Delhi Office:

First Floor, S-35B,
Panchsheel Park,
New Delhi – 110017

Gurugram Office:

I-46, Emaar Emerald Hills,
Sector 65, Gurugram – 122001

Satellite Office:

Bhubaneswar, Odisha
Email: info@saguslegal.com
Phone No.: +91 1146552925
Website: <https://www.saguslegal.com/>



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