

UNIT-I: Tamil Nadu Acts Related To Prevention of Crime

Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-Offenders, Forest-Offenders, Goondas, Immoral Traffic Offenders and Slum-Grabbers Act, 1982

An Act to provide for **preventive detention** of bootleggers, drug-offenders, (Inserted by Tamil Nadu Act 1 of 1988) [forest-offenders] Goondas, immoral traffic offenders and slum-grabbers for preventing their dangerous activities pre-judicial to the maintenance of public order.

Be it enacted by the Legislature of the State of Tamil Nadu in the Thirty third Year of the Republic of India as follows:"

1. Short Title, Extent And Commencement " (1) This Act may be called the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug-offenders, [forest offenders] Goondas, Immoral Traffic Offenders and Slum-grabbers Act 1982.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall be deemed to have come into force on the 5th January 1982.

2. Definition " In this Act, unless the context otherwise requires."

(a) "acting in any manner prejudicial to the maintenance of public order" means."

In the case of a bootlegger, drug offender, goonda, immoral traffic offender or slum grabbers when he is engaged, or is making preparations for engaging, in any of his activities as a bootlegger, drug offender, goonda, immoral traffic offender or slum grabbers when he is engaged, or is making which affect adversely, or are likely to affect adversely, the maintenance of public order;

(b) "**Bootlegger**" means a person, who distils, manufactures, stores, transports, imports, exports, sells or distributes any liquor, intoxicating drug or other intoxicant in contravention of any of the provisions of the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) and the rules, notifications and orders made there under, or in contravention of any other law for the time being in force, or who knowingly expends or applies any money or supplies any animal, vehicle, vessel or other conveyance or any receptacle or any other material whatsoever in furtherance or support of the doing of any of the above mentioned

things by or through any other person, or who abets in any other manner the doing of any such thing;

(c) "**Detention order**" means an order made under section 3;

(d) "**Detenu**" means a person detained under a detention order;

(e) "**Drug-offender**" means a person, who manufactures, stocks, imports, exports, sells or distributes any drug or cultivates any plant or does any other thing in contravention of any of the provisions of the Drugs and Cosmetics Act, 1940 (Central Act XXIII of 1940), or (Inserted by Tamil Nadu Act 52 of 1986) [the Narcotic Drugs and Psychotropic Substances Act (Central Act 61 of 1985] and the rules, notifications and orders made under either Act, or in contravention of any other law for, the time being in force, or who knowingly expends or applies any money in things by or through any other person, or who abets in any other manner the doing of any such thing;

(f) "**Goonda**" means a person, who either by himself or as a member of or leader of a gang, habitually commits, or attempts to commit or abets the commission of offences, punishable under Chapter XVI or Chapter XVII or Chapter XXII of the Indian Penal Code (Central Act XLV of 1860);

(g) "**Immoral traffic offender**" means a person who commits or abets the commission of, any offence under the Suppression of Immoral Traffic in Women and Girls Act, 1956 (Central Act 104 of 1956);

(h) "**Slum-grabber**" means a person, who illegally takes possession of any land (whether belonging to Government, local authority or any other person) or enters into, or creates illegal tenancies or leave and license agreements or any other agreement in respect of such lands; or who constructs unauthorized structures thereon for sale or hire, or gives such lands to any person on rental or leave and license basis for construction or use and occupation, of unauthorized structures or who knowingly gives financial aid to any person for taking illegal possession of such lands, or for construction of unauthorized structures thereon, or who collects or attempts to collect from any occupier of such lands, rent, compensation or other charges by criminal intimidation or who evicts or attempts to evict any such occupier by force without resorting to the lawful procedure; or who abets in any manner the doing of any of the above mentioned things;

(i) **"Unauthorized structure"** means any structure constructed without express permission in writing of the appropriate authority under, and in accordance with, any law for the time being in force in the area concerned.

3. Power to Make Orders Detaining Certain Persons

(1) The State Government may, if satisfied with respect to any bootlegger or drug-offender (Inserted by Tamil Nadu Act 1of 1988) [or forest-offender] or goonda or immoral traffic offender or slum- grabber that with a view to prevent him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do, make an order directing that such person be detained.

Sec 3(l) "Detention. Doctor's opinion was very much relied on by the detaining authority for arriving at subjective satisfaction. The copy of the same was not furnished to the detenu.

S.3 (l) "Vital documents not given to detenu. Neither placed before the detaining authority "Detention cannot be sustained. "

S.3 (l) and (2) " The Government in exercise of powers conferred by S.3(2) read with proviso delegated the powers by directing the amendment for a further period of three months. It is clear from the order has rightly exercised the powers. In any event by virtue of the inclusion of "Forest Offenders" in the preamble portion, it cannot be said that the entire order is invalid. Non furnishing of legible copies of material document is fatal.

S.3(l) It is necessary for the detaining authority to come to the conclusion that there was an imminent possibility of their coming out on bail, without their being enlarged on bail there is a bleak possibility of themselves engaging in the prejudicial activities to the maintenance of public order "

S.3 (l) The detention orders were passed by the Authority on the basis of material placed before it by the police. Any material received by the Authority in the shape of telegrams could not be taken into consideration. Telegram to be confirmed by subsequent communication.

S.3 (l) Detention, Discrepancy was noticed in the documents and uncertainty of samples" Detention cannot be sustained. " (1993) MWN (CrI.) 264.

S.3 (l) Detention" Copy of the document given illegible "Detention cannot be sustained".

S.3 (1) Since the bail applications and order of Bail which were relied on by the detaining authority were not given. Detention cannot be sustained " (1988).

(2) If having regard to the circumstances prevailing, or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government are satisfied that it is necessary so to do, they may, by order in writing, direct that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (1), exercise the powers conferred by the said sub-section; Provided that the period specified in the order made by the State Government under this sub-section shall not, in the first instance, exceed three months, but the State Government may, if satisfied as aforesaid that it is necessary so to do amend such order to extend such period from time to time by any period not exceeding three months at any one time.

(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the State Government together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the State Government.

4. Execution of Detention Orders

A detention order may be executed at any place in the State in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

5. Power to Regulate Place And Conditions Of Detention

“Every person in respect of whom a detention order has been made shall be liable”

(a) To be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the State Government may, by general or special order, specify; and

(b) To be removed from one place of detention to another place of detention, within the State by order of the State Government. (Inserted by Tamil Nadu Act 52 of 1986)

5-A. Grounds of Detention Severable.

“Where a person has been detained in pursuance of an order of detention [whether made before or after the commencement of the Tamil Nadu Prevention of Dangerous

Activities of Bootleggers, Drug-offenders, Goondas, Immoral Traffic Offenders and Slum-grabbers (Amendment) Act, 1986] under section 3 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly"

(a) Such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are" (i) Vague, (ii) non-existent, (iii) not relevant, (iv) not connected or not proximately connected with such person, or, (v) invalid for any other reason whatsoever, and it is not, therefore, possible to hold that the Government or officer making such order would have been satisfied as provided in section 3 with reference to the remaining ground or grounds and made the order of detention;

(b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds.

6. Detention Orders Not To Be Invalid or Inoperative on Certain Grounds

"No detention order shall be invalid or inoperative merely by reason"

(a) That the person to be detained there under, though within the State, is outside the limits of the territorial jurisdiction of the officer making the order, or

(b) That the place of detention of such person, though within the State, is outside the said limits.

7. Powers In Relation to Absconding Persons

(1) If the State Government have, or an officer mentioned in sub-section (2) of section 3 has, reason to believe that a person in respect of whom a detention order has been made has absconded, or is concealing himself so that the order cannot be executed, then the provisions of sections 82 to 86 (both inclusive) of the Code of Criminal procedure, 1973 (Central Act 2 of 1974), shall apply in respect of such person and his property, subject to the modifications mentioned in this sub-section and, irrespective of the place where such person ordinarily resides, the detention order made against him shall be deemed to be a warrant issued by a competent Court. Where the detention order is made by the State Government, an officer, not below the rank of District Magistrate or Commissioner of Police authorised by the State Government in this behalf, or where the detention order is made by an officer mentioned in sub-section (2) of section 3, such officer, as the case may be, shall irrespective

of his ordinary jurisdiction, be deemed to be empowered to exercise all the powers of the competent Court under section 82, 83, 84 and 85 of the said Code for issuing a proclamation for such person and for attachment and sale of his property situated in any part of the State and for taking any other action under the said sections. An appeal from any order made by any such officer rejecting an application for restoration of attached property shall lie to the Court of Session, having jurisdiction in the place where the said person ordinarily resides, as provided in section 86 of the said Code.

(2) (a) Notwithstanding anything contained in sub-section (1), if the State Government have, or an officer mentioned in sub-section (2) of section 3 has, reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the State Government or the officer, as the case may be, may, by order notified in the Tamil Nadu Government Gazette, direct the said person to appear before such officer, at such place and within such period as may be specified in the order.

(b) If such person fails to comply with such order, unless he proves that it was not possible for him to comply therewith, and that he had within the period specified in the order, informed the officer mentioned in the order of the reasons which rendered compliance therewith impossible and of his whereabouts, or proves that it was not possible for him to so inform the officer mentioned in the order, he shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

(c) Notwithstanding anything contained in the said Code, every offence under clause (b) shall be cognizable

8. Grounds of Order of Detention to be Disclosed to Persons Affected By the Order

(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

9. Constitution of Advisory Boards - (1) The State Government shall, whenever necessary, constitute one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of a Chairman and two other members, who are, or have been Judges of any High Court or who are qualified under the Constitution of India to be appointed as Judges of a High Court.

10. Reference to Advisory Board

In every case where a detention order has been made under this Act, the State Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted by them under section 9, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in the case where the order has been made by an officer, also the report by such officer under sub-section (3) of section 3.

11. Procedure of Advisory Boards

(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the State Government or from any person called for the purpose through the State Government or from the person concerned, and if, in any particular case, the Advisory Board considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the State Government, within seven weeks from the date of detention of the person concerned.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) The proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

(5) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board.

12. Action upon Report of Advisory Board

(1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the State Government may confirm the detention order and continue the detention of the person concerned for such period, not exceeding the maximum period specified in section 13, as they think fit.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of the person concerned, the State Government shall revoke the detention order and cause the person to be released forthwith.

13. Maximum Period of Detention

(1) The maximum period for which any person may be detained, in pursuance of any detention order made under this Act which has been confirmed under section 12, shall be twelve month's from the date of detention.

14. Revocation of Detention Orders

(1) Without prejudice to the provisions of section 15 of the Tamil Nadu General clauses Act, 1891 (Tamil Nadu Act I of 1891), a detention order may, at any time, be revoked or modified by the State Government, notwithstanding that the order has been made by an officer mentioned in sub-section (2) of section 3.

Provided that in a case, where no fresh facts have arisen after the revocation or expiry of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall in no case extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order.

15. Temporary Release of Persons Detained

(1) The State Government, may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period, either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time cancel his release.

(2) In directing the release of any detenu under sub-section (1), the State Government may require him to enter into a bond, with or without sureties, for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or canceling his release: as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfill any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

16. Protection of Action Taken In Good Faith

No suit, prosecution or other legal proceedings shall lie against the State Government or any officer or person for anything in good faith done or intended to be done in pursuance of this Act.

17. Detention orders against any boot-legger, drug-offender, (Inserted by Tamil Nadu Act 1 of 1988) [forest offender] goonda, immoral traffic offender, or slum-grabber to be made under this Act and not under National Security Act.

On and after the commencement of this Act no order of detention under the National Security Act, 1980 (Central Act 65 of 1980) shall be made by the State Government or any of their officers under that Act in respect of any boot-logger drug-offender (Inserted by Tamil Nadu Act 1 of 1988) [forest offender] goonda, immoral traffic offender or slum-grabber in the State of Tamil Nadu, on the ground of preventing him from acting in any manner prejudicial to the maintenance of public order where an order of detention may be or can be made against such person, under this Act.

18. Repeal and saving

(1) The Tamil Nadu Prevention of Dangerous Activities of Boot-leggers, Drug-Offenders, Goondas, Immoral Traffic Offenders and Slum-grabbers Ordinance 1982 (Tamil Nadu Ordinance I of 1982) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act. Tamil Nadu State Acts.

Unit-II: Prohibition Act

Tamil Nadu Property (Prevention of Damage and Loss) Act 1992

An Act to provide for punishment and compensation for damage and loss caused to (Substituted by Tamil Nadu Act 46 of 1994) any property and the public in the State of Tamil Nadu and matters connected therewith.

Be it enacted by the Legislative-Assembly of the State of Tamil Nadu in the Forty-five year of the Republic of India as follows:"

1. Short Title and Commencement

(1) (Substituted by Tamil Nadu Act 46 of 1994) [This Act may be called the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992.]

(2) It shall come into force at once.

2. Definitions " In This Act, Unless the Context Otherwise Requires

(1) "**Government**" means the State Government:

(2) "**Mischief**" shall have the same meaning as in section 425 of the Indian Penal Code:

(3) "**Political party**" means a political party recognized by the Election Commission under the Election Symbols (Reservation and Allotment) Order, 1968. (Substituted by Tamil Nadu Act 46 of 1994)

(4) "**Property**" means any property, movable or immovable or machinery owned by or in possession of, or under the control of any person including (a) The Central Government; or, (b) The State Government; or, (c) Any local authority; or, (d) The Tamil Nadu State Electricity Board; or, (e) Any University in this State; or (f) any co-operative society including a land development bank registered or deemed to be registered under the Tamil Nadu Co - operative Societies Act, 1983; or (g) Any corporate body constituted under any Act passed by Parliament or the Legislative Assembly of this State; or (h) Any other corporation owned or controlled by the Central Government or the State Government; or (Substituted by Tamil Nadu Act 46 of 1994) (i) Any institution concern or undertaking; or (j) any company.

3. Punishment for Committing Mischief in Respect of (Substituted By Tamil Nadu Act 46 Of 1994) [Property]." Whoever

(i) Commits mischief by doing any act in respect of any (Substituted by Tamil Nadu Act 46 of 1994) property and thereby causes damage or loss to such property to the amount of one hundred rupees or upwards; or

(ii) Commits mischief by doing any act which causes or which he knows to be likely to cause a diminution of the supply of water to the public or to any person for any purpose or an inundation of, or obstruction to, any public drainage, or

(iii) Commits mischief by doing any act which renders any public road, bridge, navigable channel, natural or artificial impassable or less safe for traveling or conveying property,

Shall be punished with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine:

Provided that the Court may, for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than one year.

4. Mischief Causing Damage to (Substituted By Tamil Nadu Act 46 of 1996) Property by Fire or Explosive Substance

Whoever commits mischief by fire or any explosive substance intending, to cause or knowing it to be likely that he will thereby cause damage to any (Substituted by Tamil Nadu Act 46 of 1996) property to the amount of one hundred rupees or upwards, shall be punished with rigorous imprisonment for a term which shall not be less than two years but which may extend to ten years and with fine:

Provided that the Court may for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than two years.

5. Punishment for Throwing Stones, Bricks, Etc., Upon Persons Travelling In Motor Vehicles

Whoever commits or instigates, incites or otherwise abets the act of throwing stones, bricks, soda-bottles or any other material whatsoever upon the persons traveling in any motor vehicle, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine:

Provided that the court may, for any adequate and special reason to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

6. Special Provision Regarding Bail

No person accused or convicted of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond unless the prosecution has been given an opportunity to oppose the application for such release.

7. Order to Pay Compensation

(1) when imposing a sentence of fine for an offence under this Act, the court may when passing judgment, order the whole or any part of the fine recovered to be applied"

(a) In defraying expenses properly incurred in the prosecution;

(b) In the payment, to any person, of compensation for any loss or injury caused by the offence;

(c) In replacing or as the case may be, restoring to the previous state, the (Substituted by Tamil Nadu Act 46 of 1996) [property including any road], bridge, navigable channel, natural or artificial.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) An order under this section may also be made by an Appellate Court or by the High Court when exercising its powers of revision.

(4) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

(5) Save as otherwise provided, when a court imposes a sentence, of which fine does not form a part, the court may, when passing judgment order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

8. Power to Try Offences

No court inferior to that of a Chief Metropolitan Magistrate or a Court of Session shall try any offence punishable under this Act.

9. Liability to Pay Compensation in Certain Cases

Notwithstanding anything contained in this Act, where an offence punishable under this Act has been committed during any procession, assembly, meeting, agitation, demonstration or any other activity organized by a political party or communal, language or ethnic group, it shall be presumed that the offence has also been committed by such political party or communal, language or ethnic group and such political party or communal, language or ethnic group shall be liable to pay compensation for damage or loss caused to any (Substituted by Tamil Nadu Act 46 of 1996) [property], in accordance with the provisions of this Act and the rules made there under.

10. Claim for Compensation

(1) Any claim for compensation for damage or loss caused to the property shall be made by (i) any person who has been affected by such damage or loss; or (ii) such officer empowered by the authorities specified in sub clauses (a) to (j) of clause (4) of section 2."

(2). Every application for claim for compensation for damage or loss caused to the (Substituted by Tamil Nadu Act 46 of 1996) Property shall be in such form and containing such particulars as may be prescribed.

11 .Authority To Decide Compensation. (Substituted by Tamil Nadu Act 46 of 1996)

(1) Every claim for compensation for damage or loss caused to the (Substituted by Tamil Nadu Act 46 of 1996) [property] shall be made to such authority as may be prescribed

(2) In arriving at the quantum of compensation for damage or loss caused to the (Substituted by Tamil Nadu Act 46 of 1996) [property], the authority prescribed under sub-section (1) shall have regard to " (a) the value of the property, (b) the extent of damage to the (Substituted by Tamil Nadu Act 46 of 1996) [property]; and, (c) such other matters as may be prescribed.

(3) The authority prescribed under sub-section (1) in deciding the claim for compensation shall follow such procedure as may be prescribed.

(4) The authority prescribed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 for the purpose of"

- (a) Taking evidence on oath;
- (b) Enforcing the attendance of witnesses;
- (c) Discovery and production of documents and material objects; and

(d) for such other purposes as may be prescribed:

12. Recovery of Compensation as Arrear of Land Revenue

The authority prescribed under sub-section (1) of section 11, on determination of the compensation amount (Substituted by Tamil Nadu Act 46 of 1996) [for any damage or loss to property and on the application of the officer prescribed] under sub-section (1) of section 10, may issue a certificate for the amount to the Collector and the Collector shall proceed to recover the same in the same manner as an arrear of land revenue.

"12-A. Appeal

(1) Any person aggrieved by an order made by the authority prescribed under sub-section (1) of section II may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the Government in this behalf.

(2) In deciding the appeal, the authority specified under sub-section (1) shall follow such procedure as may be prescribed and the decision of such authority on such appeal shall be final and shall not be called in question in any court of law".

13. Power to Make Rules

(1) The Government may make rules for carrying out all or any of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for"

(a) The officer by whom an application for compensation to be made:

(b) The form of application for compensation and particulars it may contain and fees if any, to be paid, in respect of the application for compensation:

(c) The authority to whom the claim for compensation has to be made:

(d) The matters to be taken into account in arriving at the quantum of compensation by the authority prescribed under Section II;

(e) The procedure to be followed in deciding the claim for compensation by the authority prescribed under section II; and

(f) Any other matter which is to be or may be prescribed.

(3) Even rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly agrees in making any modification in any such rule or notification or the Legislative Assembly agrees that the rule or notification should not be made or issued, the rule or notification shall

thereafter have effect only in such modified form or be of no effect, as the case may be, so, however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

14. Saving. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force and nothing contained herein shall exempt any person from any proceeding by way of investigation or otherwise which might, apart from this Act, be instituted against him.

15. Repeal. The Tamil Nadu Public Property (Prevention of Destruction and Loss) Act, 1982 is hereby repealed.

The Tamil Nadu Prohibition Act, 1937

It is an act introduces and extends the prohibition of the manufacture, sale and consumption of intoxicating liquors and drugs in the state of Tamil Nadu.

Salient Features of this Act

Chapter I- Preliminary (Sec 1- 3)

Intoxicating drug includes Bhang, Siddhi, and Ganja

- Any mixture with or without neutral materials of any of above forms of intoxicating drug or any drink prepared and
- Liquor includes Toddy (arrack), spirits of wine (denaturated spirits), spirits, wine, beer and all liquid consisting of or containing alcohol.
- Spirit means any alcohol and includes any liquor containing alcohol and obtained by distillation, whether such liquor is denatured or not.

Chapter II- Prohibition and Penalties (Sec 4- 15c)

Sec 4 provides that, whoever

- Imports, exports, transports or possesses liquor or intoxicating drug or
- Manufactures liquor or any intoxicating drug or
- Cultivates the hemp plant; or collect any portion of such plant from which an intoxicating drug are be manufactured; or
- Constructs or works any distillery or brewery or;

- Any materials which have undergone any process towards the manufacture of liquor or any intoxicating drug or from which any liquor or intoxicating drug has been manufactured.
- Bottles any liquor for purpose of sale or;
- Sells liquor or any intoxicating drug or ;
- Consumes or buys liquor or any intoxicating drug or;
- Allows any of the acts aforesaid upon premises in his immediate possession, shall be punished.

In case of an offence failing under clause (b), (f), (g), (h) or clause (i) or an offence failing under clause (k) in so far as it relates to an act specified in any of the clauses aforesaid, with imprisonment for a term which may extend to two years and with fine which may extend to five thousand rupees, but in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and such fine shall not be less than thousand rupees.

Sec 4A provides that, whoever is found in a state intoxication in any private place shall be punished with imprisonment which may extend to imprisonment with six months or fine may extend to one thousand rupees or both.

Sec 5 provides that, whoever renders (or) attempts to render fit for human consumption any spirit whether manufactured in India- whether he knows such attempts is punishable, shall be punished with imprisonment may extend to 2 years or fine five thousand rupees.

- **For the 1st time-** Punishment shall be imprisonment not less than 6 months or fine Rs750.
- **For 2nd time-** Punishment shall be imprisonment not less than 9 months or fine Rs 1000.
- **For 3rd time or more -** Punishment shall be imprisonment not less than 1 year or fine Rs 1500.

Sec 6 provides that, Whoever prints or publishes in any newspaper, book, booklet or any other single or periodical publication or otherwise displays or distributes any advertisement or other matter, soliciting the use of, or offering any liquor or intoxicating

drug other than liquor or drugs shall be punished with imprisonment which may extend to six months or with fine which extend to one thousand rupees or both.

Sec 10 provides that, any officer or person exercising powers under this act who unlawfully releases or abets the escape of any person arrested under this act, or abets the commission of any offence against this act, shall be punished with imprisonment which may extend to six months, or fine which may extend to five hundred rupees or both.

Sec 15 provides that, all offences under this act shall be cognizable.

State government have power to provide that a breach of any of the conditions subject to which the exemption is noticed shall be punished with imprisonment which may extend to six months or with fine which may extend one thousand rupees or with both.

Chapter III - Exemptions and Licences (Sec 16 – 24A)

Sec 20a provides that, the authority competent to grant license to permit, as the case may be shall have regard to the following matters, namely;

- Suitability of the applicant
- A person (applicant) who will abide by the provisions of this act and the rules

Sec 21 provides that, every licence or permit granted under

- Be granted on payment or payment of such fees
- Be in such form and contain such particulars of the state government may direct either generally or in any particular case.

Sec 21a, provides that, every person or institution which sells foreign liquor; shall collect from purchase and pay over to the government as such intervals and in such manner as may be prescribed, a sales tax calculated at the rate of 75 paise in the rupee or such other rate as may be noticed by the government from time to time, on the price of the liquor so sold.

Sec 23 provides that, the collector may cancel or suspend any such license,

- If any fee payable by the holder there be not duly paid; or
- Any breach
- Convicted of any offence against this act, or of any cognizable and non-bailable offence;

- State government may cancel or suspend any such any license.

Chapter IV- Establishment and Control (Sec 25- 27)

This act provides that, Collector of a district is a head of Prohibition committee.

- ✓ Every member of a prohibition committee shall obsequy the working of this act report.
- ✓ Every member of a prohibition committee shall obsequy the working of this act report to police station.

Chapter V- Powers, duties and procedure of officers etc., (Sec 28 – 53A)

Sec 28- if any collector, Prohibition officer or magistrate may issue warrant for the search for any liquor, intoxicating drug, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed.

Every person arrested under this section shall be admitted to bail.

Sec 29- Collector, Prohibition officer, police officer not below the rank of Sub inspector, may after recording his reasons and the grounds of his belief, at any time by day or night enter and search any place and may seize anything found therein. Which he has reason to believe to be unable to confiscation.

Sec 32 provides that any Prohibition officer, any officer of police or land revenue departments;

- May arrest without warrant any person found committing offence punishable under sec 4.
- May seize and detain any liquor, drug or other article which he has reason to believe to be

Sec 33- if any person refuses to give his name and residence or who gives a name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

Sec 38- if any person arrested under sec 28,29,32,or 33, unless bail have been accepted, forwarded him to the nearest police station or prohibition officer.

Sec 41 provides that, any person has consumed liquor or any intoxicating drug may produce such person for examination, before any medical officer authorized by state

government and request the medical officer to furnish a certificate on his finding, whether such person has consumed any liquor or intoxicating drug or is in a state of intoxication or not.

If any one resistance to production or refusal to allow examination under this section shall be deemed to offence under sec 186 of IPC.

Sec 50 provides that any person arrested for an offence, produced before the magistrate within a period of 24 hours.

Chapter VI- Rules and Notifications (Sec 54-55)

Sec 54 provides that, state government may make rules for the purpose of carrying right and effect the provision of this act.

Local jurisdiction of police, prohibition officers in regard to inquiries and the exercise of preventive and investigating powers and declaring how de-naturated spirit shall be manufactured.

This act amended on 1958, 1979, 1981 (2 times), 1982, 1983, 1985, 1986, 1989.

Chapter VII- Legal Proceedings (Sec 56- 57)

Unit-III: Police Acts

The Police Act of 1861

a] A study of the history, of the Police Act of 1861 reveals that close on the heels of police mutiny in 1857, the Commission was appointed in 1860 to examine all systems of police then existing in India and to draft proposals for making a comprehensive system suitable to the then British Government.

b] On the basis of the recommendations of the Commission, the Police Act of 1861 was formulated for re-organising the police and for making it a more efficient instrument for the prevention and detection of crime.

c] The Police Act of 1861 instituted the system of police, which is still in force in India.

d] It has been amended and repealed in part by the Central Acts of 1871, 1874, 1882, 1888, 1895, 1903, 1904, 1914, and 1920.

e] It was adapted by the Adaptation of Laws Orders of 1937, 1948 and 1950.

f] The following Central Acts were enacted to achieve the object of the Police Act of 1861 more effectively.

(i) The Police Act (iii) of 1888 was enacted for relaxing those provisions of Acts for which restricted the employment of police officers to the Presidency, State or place or of the Police establishment of which they were members.

(ii) The Police (incitement to Disaffection) Act, (XXII) of 1922 was enacted to provide a penalty for spreading disaffection among the police and for kindred offences.

(iii) The Police Act (LXIV) of 1949 was enacted to provide for the constitution of a general police district for two or more Union Territories and for establishment of a police force therefore.

(iv) The Police Force (Restriction of Rights) Act (NO.XXXIII) of 1966 was enacted to provide for the restriction of certain rights conferred by part III of the Constitution in their application to the members of the Forces charged with the maintenance of public order so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

g] Commissioners of Police are posted in various big cities, to most of these places the system of Commissioner of Police was extended in the post-Independent era. In Tamil Nadu: (i) Chennai (ii) Madurai (iii) Coimbatore (iv) Trichy (v) Salem (vi) Tirunelveli has this system. The working of the Commissioners of Police is governed by special local legislations. The Police Act of 1861, however, is not having provisions for commissioners so now it may be repealed to include commissioners of police.

Salient Features of Indian Police Act 1861

The preamble declared the intention of the act as “to reorganize the police and make it more efficient instrument for the prevention and detection of crime”.

- Section 2 provided the constitution of the force, including its strength and pay etc for the members would be ordered by the local government.
- Section 3 vested its superintendence in the local government, subject to the latter’s “general control”.
- Section 4 provided that the administration of the police of a province be vested on an Inspector General of police and Deputy and Assistant IG and that of a district in a SP and ASP under the “general control and Direction” of the District Magistrate.
- The act gave police powers District Magistrate and gave magisterial powers to IG and made provisions for departmental and judicial Punishment.
- Section 5 provides magisterial powers to IG.
- Section 6 gives magisterial powers to DIGs, AIGs, SPs, ASPs, and DSPs.
- Section 7 and 29 made provision for the infliction of departmental and judicial punishments respectively on police officers.
- Section 13 and 14 provided for the supply of additional police at the cost of individuals.
- Section 17 provided for the appointment of ‘*residents of the neighbourhood*’ as special police officers ‘when any unlawful assembly or riot or disturbance has taken place’.
- Section 19 for the award of punishment to persons refusing to serve as special police officers.

- Section 22 says that every police officer is taken as to be in office at 24 hours.
- Section 23 provides the role, duties, powers and responsibilities as spelt out in the police act of 1861 (sec.23):
 - a. Prevent the commission of offences and public nuisances;
 - b. Detect and bring offenders to justice;
 - c. Apprehend all persons whom the police are legally authorized to apprehend.;
 - d. Collect and communicate intelligence affecting the public peace;
 - e. Obey and execute all orders and warrants lawfully issued to the Police by any competent authority;
 - f. Take charge of unclaimed property and furnish an inventory thereof to the Magistrate of the District, and be guided by his orders regarding their disposal;
 - g. Keep order on the public roads, thoroughfares, ghats, landing places and at all other places of public resort; and
 - h. Prevent obstructions on the occasions of assemblies and processions on the public roads.
- Section gives provision to grant licence for assemblies and processions by SP and ASPs.
- Section 33 for the general control of the magistrate.
- Section 42 says if a case is not filed in court within 3 months (90 days) of reporting the court will not accept the case.
- Section 44 says that all complaints and charges should be accorded in General Diary, names of person arrested and names of witness etc.

Drawbacks of the Police Act 1861:

1] The police were totally subordinate to the executive government in the discharge of its duties. No reference was made at all to the role of police as a servant of the law as such.

2] The Indian Police Act, 1861, was enacted soon after on the model of the Madras Act, formalizing the present organizational set up and making the police at the district level

function under the control and direction of the chief executive of the district, namely, the District Magistrate. The police force has since then remained an instrument in the hands of the State Government,

3] This position is very clearly reflected in the manner in whom police role, duties, powers and responsibilities have been spelt out in the Police Act of 1861.

4] Police, being engaged in doing something that intimately affects the public interest is supposed to be a social service, which is expected to make use of law for establishing social order. But in the Police Act of 1861, there is no reflection of this aspect.

5] Some Outdated Provisions in the Police Act 1861 relating to appointment of special police officers (sections 17,18 and 19) have become obsolete because in the situation envisioned by the Act, the volunteers of home Guards (Statutorily constituted) are deployed in all States.

6] It is not understood why the Police Act of 1861 should be burdened with sections 24 to 27, and also 34 of the Act. The former four sections conceivably belong to the realm of the Code of Criminal Procedure and the latter one section to that of the Indian Penal Code.

7] A lot of urbanization has taken place in the country. There is then an unmistakable trend towards further urbanization in evidence. Even despite that, section 31 of the Police Act of 1861 talks of public roads, public streets, thorough fares, ghats and landing places but not specifically of air ports, sea ports, railway stations, bus stands, shopping centres, cinema houses etc.

8] A policeman being, continually vulnerable to attacks for the manner in which he chooses to exercise this discretion needs protection from malicious and vexatious prosecution. Unfortunately, section 42 of the Police Act of 1861 miserably fails to provide adequate protection.

9] Section 7 of the Police Act of 1861 provides for the award of punishment to erring police officer. While the punishments comprise fine, deprivation of good conduct pay and removal from office of distinction or special emoluments continue to adorn the Act, purposeful punishments like removal from service, withholding of increments or promotion etc. are not there.

10] Collection and communication of criminal intelligence are not there.

11] The Police Act of 1861 has nowhere provided for the manner in which police officers are supposed to deal with citizens. It should have been laid down that it should be the duty of every police officer always to combine courtesy with firmness in his dealings with citizens.

12] Certain provisions have been more honoured in breach than in the observance. First, the pay and allowances and other conditions of service of Deputy Superintendents of Police are to be such as may be determined by the Union Government. However, all State Governments have taken these powers.

In conclusion, it can be stated that a re-conceived, re-oriented, re-structured consolidated and updated Police Act as envisaged by National Police Commission will positively have an edge over the archaic and outdated Police Act of 1861 and when inducted on to the Statute Book predictably serve as an effective change agent for internal police administration. And since answers to many police problems seem to lie in the continued improvement of internal police administration, the proposed new Police Act will pave way for better policing.

The Motor Vehicles Act, 1988

An Act to consolidate and amend the law relating to motor vehicles.

Be it enacted by parliament in the Thirty-ninth Year of the Republic of India as follows.

Statement of Objects and Reasons. - The motor vehicles Act, 1939 (4 of 1939), consolidates and amends the law relating to motor vehicles. This has been amended several times to keep it up to date. The need was; however, felt that this Act should; now *inter alia*, take into account also changes in the road transport technology, pattern of passenger and freight movements, developments, of the road network in the country and particularly the improved techniques in the motor vehicles management.

Chapter – I - Preliminary

1. Short Title, Extent and Commencement. –

(1) This Act may be called The Motor Vehicles Act, 1988.

(2) It extends to the whole of India.

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

2. Definitions. – In this Act, unless the context otherwise requires, In this section clearly deals with the definitions of followings

(1) **Area**, in relation to any provision of this Act, means such area as the State Government may, having regard to the requirements of that provision, specify by notification in the Official Gazette;

(2) **“Articulated vehicle”** means a motor vehicle to which a semi-trailer is attached;

(3) **“Axle weight”** means in relation to an axle of a vehicle the total weight transmitted by the several wheels attached to that axle to the surface on which the vehicle rests;

(4) **“Certificate of registration”** means the certificate issued by a competent authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter IV;

(5) **“Conductor”**, in relation to a stage carriage, means a person engaged in collecting fares from passengers, regulating their entrance into, or exit from, the stage carriage and performing such other functions as may be prescribed;

(6) **“Conductor’s licence”** means the licence issued by a competent authority under Chapter III authorizing the person specified therein to act as a conductor;

(7) **“Contract carriage”** means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum –

(a) On a time basis, whether or not with reference to any route or distance; or

(b) From one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey, or includes –

(i) a maxicab; and (ii) a motorcab notwithstanding that separate fares are charged for its passengers;

(8) “**Dealer**” includes a person who is engaged –

(b) In building bodies for attachment to chassis;

(c) Or in the repair of motor vehicles; or

(d) In the business of hypothecation, leasing or hire-purchase of motor

(9) “**Driver**” includes, in relation to a motor vehicle which is drawn by another motor vehicle, the person who acts as a steersman of the drawn vehicle;

(10) “**Driving licence**” means the licence issued by a competent authority under Chapter II authorizing the person specified therein to drive, otherwise than as a learner, a motor vehicle or a motor vehicle of any specified class or description;

(11) “**Educational institution bus**” means an omnibus, which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities;

(12) “**Fares**” includes sums payable for a season ticket or in respect of the hire of a contract carriage;

(13) “**Goods**” includes livestock, and anything (other than equipment ordinarily used with the vehicle) carried by a vehicle except living persons, but does not include luggage or personal effects carried in a motor car or in a trailer attached to a motor car or the personal luggage of passengers travelling in the vehicle;

(14) “**Goods carriage**” means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods;

(15) “**Gross vehicle weight**” means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle;

(16) “**Heavy goods vehicle**” means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilograms;

(17) **“Heavy passenger motor vehicle”** means any public service vehicle or private service vehicle or educational institution bus or omnibus the gross vehicle weight of any of which, or a motor car the unladen weight of which, exceeds 12,000 kilograms.

(18) **“Invalid carriage”** means a motor vehicle specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability, and used solely by or for such a person;

(19) **“Learner’s licence”** means the licence issued by a competent authority under Chapter II authorizing the person specified therein to drive as a learner, a motor vehicle or a motor vehicle of any specified class or description;

(20) **“Licensing authority”** means an authority empowered to issue licence under Chapter II or, as the case may be, chapter III ;

(21) **“Light motor vehicle”** means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed 2[7500] kilograms ;

(22) **“Maxi cab”** means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver, for hire or reward ;

(23) **“Medium goods vehicle”** means any goods carriage other than a light motor vehicle or a heavy goods vehicle ;

(24) **“Medium passenger motor vehicle”** means any public service vehicle or private service vehicle, or educational institution bus other than a motor cycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle;

(25) **“Motor car”** means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage;

(26) **“Motor cycle”** means a two-wheeled motor vehicle, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle;

(28) **“Motor vehicle” or “vehicle”** means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer ; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding [twenty-five cubic centimeters]

(29) **“Omnibus”** means any motor vehicle constructed or adapted to carry more than six persons excluding the driver;

(30) **“Owner”** means a person in whose name a motor vehicle stands registered and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement ;

(31) **“Permit”** means a permit issued by a State or Regional Transport Authority or an authority prescribed in this behalf under this Act authorising the use of motor vehicle as a transport vehicle;

(32) **“Prescribed”** means prescribed by rules made under this Act;

(33) **“Private service vehicle”** means a motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with, his trade or business otherwise than for hire or reward but does not include a motor vehicle used for public purposes;

(34) **“Public place”** means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage ;

(35) **“Public service vehicle”** means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxicab, a motorcab, contract carriage, and stage carriage ;

(36) **“Registered axle weight”** means in respect of the axle of any vehicle, the axle weight certified and registered by the registering authority as permissible for that axle;

(37) **“Registering authority”** means an authority empowered to register motor vehicles under Chapter IV;

(38) **“Route”** means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another ;

(39) **“Semi-trailer”** means a vehicle not mechanically propelled (other than a trailer), which is intended to be connected to a motor vehicle and which is so constructed that a portion of it is super-imposed on, and a part of whose weight is borne by, that motor vehicle ;

(40) “**Stage carriage**” means a motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey ;

(41) “**State Government**” in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution;

(42) “**State transport undertaking**” means any undertaking providing road transport service. It means a service of motor vehicles carrying passengers or goods or both by road for hire or reward;

(43) “**Tourist vehicle**” means a contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as may be prescribed in this behalf;

(44) “**Tractor**” means a motor vehicle which is not itself constructed to carry any load (other than equipment used for the purpose of propulsion); but excludes a road-roller;

(45) “**Traffic signs**” includes all signals, warning sign posts, direction posts, markings on the road or other devices for the information, guidance or direction of drivers of motor vehicles

(46) “**Trailer**” means any vehicle, other than a semi-trailer and a sidecar, drawn or intended to be drawn by a motor vehicle;

(47) “**Transport vehicle**” means a public service vehicle, a goods carriage, an educational institution bus or a private service vehicle;

(48) “**Unladen weight**” means the weight of a vehicle or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body ;

(49) “**Weight**” means the total weight transmitted for the time being by the wheels of a vehicle to the surface on which the vehicle rests.

Chapter II -Licensing of Drivers of Motor Vehicles

3. Necessity For Driving Licence – It provides for the need to have a licence to drive a motor vehicle & a special authorization to drive a transport vehicle. Sub-clause (2) empowers

the Central Government to prescribe conditions subject to which a vehicle may be driven by a person receiving instructions in driving.

4. Age Limit in Connection With Driving of Motor Vehicles

It provides that a person who has completed sixteen years of age may drive a motor cycle without gear. To drive a motor vehicle other than a transport vehicle, the person must have completed eighteen years of age and to drive a transport vehicle a person must have completed twenty year of age. This clause seeks to prohibit the issue of a licence to drive a motor cycle or a motor vehicle to those persons who do not satisfy the above age requirements.

5. Responsibility of Owners of Motor Vehicles for Contravention of Sec 3 And 4

It prohibits the owner or person in charge of a motor vehicle permitting any person who does not satisfy the age requirement to drive the vehicle.

6. Restrictions on the Holding of Driving Licences

It seeks to impose certain restrictions on the holding of driving licences by certain persons.

7. Restrictions on the Granting of Learner's Licences for Certain Vehicles

It prescribes certain minimum driving experience in light motor vehicle before a person becomes qualified to drive a medium or heavy passenger motor vehicle or goods carriages. This clause also prohibits the grant of licence to drive a motor cycle without gear to any person who has completed sixteen years of age without production of a consent letter from the guardian.

8. Grant of Learner's Licence

It lays down the procedure in making an application for the grant of learner's licence. A pass in the test on the rules on the road and a strict medical test are pre-conditions for the issue of the learner's licence. This clause, however, seeks to empower the Central Government to exempt any class of persons from the above tests.

9. Grant of Driving Licence

It sets out the procedures in the grant of driving licences. A pass in the test of competence to drive a motor vehicle of the type to which the application refers, is a pre-condition for the grant of driving licence. This clause also seeks to empower the Central Government to exempt certain class of persons from the test of competence to drive. This

clause also seeks to impose a condition that applicants for licence to drive a transport vehicle should produce along with the application a driving certificate from a recognized driving institution. It also provides the circumstances under which a licensing authority may refuse to issue a driving licence.

10. Form and Contents of Licences to Drive

It empowers the Central Government to prescribe the form of learner's licence and the form of driving licence.

11. Additions to Driving Licence

It makes provisions for the addition of another class of motor vehicle to any driving licence on application made by the holder of the licence, and lays down the procedure in making the application.

12. Licensing and Regulation of Schools or Establishments for Imparting Instruction in Driving of Motor Vehicles

It confers upon the Central Government the power to make rules for the licensing of driving schools by the State Government for imparting instruction in driving motor vehicle. The rules provide for the qualifications of the instructors of the driving schools, conditions subject to which the licences may be granted, the authorities to grant the licence, appellate authorities, etc., the time within which the existing establishments, if any, should apply for the licence. It also empowers the Central Government to exempt any persons or establishments from the operation of the provision of this clause.

13. Extent of Effectiveness of Licences to Drive Motor Vehicles

It specified the extent of validity of a learner's licence and a driving licence. The licences are to be valid throughout India.

14. Currency of Licences to Drive Motor Vehicles

It lay down that a learner's licence shall be valid for six months. It also provides that in respect of persons who have not attained 40 years of age, the issue and renewal of driving licence, to drive non-transport vehicle, shall be for 20 year or until the date on which the holder attains 40 years of age, whichever is earlier and in respect of persons who have attained 40 years of age, for every 5 years. The issue and renewal of driving licence to drive transport vehicle will be for 3 years and the driving licence shall be deemed to continue to be effective for 30 days after the date of its expiry.

15. Renewal of Driving Licences

It provides that if the application for renewal of driving licence is made within 30 days of its expiry, it shall be renewed from the date of its expiry and application for renewal made after 30 days and before 5 years of its expiry, it shall be renewed from the date of such renewal. Application for renewal of driving licence to drive transport vehicle and application for renewal of driving licence to drive non-transport vehicle from persons who have attained 45 years of age shall be accompanied by a medical certificate.

16. Revocation of Driving Licence On Grounds Of Disease or Disability

It seeks to empower the licensing authorities to revoke the driving licences if the holder of driving licence is found medically unfit to drive by virtue of any disease or disability.

17. Orders Refusing Or Revoking Driving Licences And Appeals There Form

It requires that when the licensing authority refuses to renew, issue or revokes a licence, it shall give its reasons in writing to the holder of the licence. This also provides for appeal against the orders of the licensing authority to the prescribed authority.

18. Driving Licences to Drive Motor Vehicles, Belonging To the Central Government

It confers upon the Central Government the power to prescribe the authority for the grant of driving licences to drive motor vehicles, which are the property of the Central Government, and are used for Government purposes relating to the defence of the country.

19. Power of Licensing Authority To Disqualify From Holding A Driving Licence Or Revoke Such Licence

It contains provisions for the disqualification of the holder of the licence, by the licensing authorities, for holding or obtaining the licence for a specified period or for revoking the licence for the reasons enumerated in this clause. It also makes provision for appeal against the orders of the licensing authorities to the prescribed authorities.

20. Power of Court to Disqualify- It seeks to authorise the Courts to disqualify the holders of driving licences for a specified period on conviction under this Act.

21. Suspension of Driving Licence in Certain Cases

It provides for automatic suspension of the driving licence of the person who has caused the death of or grievous hurt to one or more persons, for a period of 6 months or until the person is discharged or acquitted by the Court, whichever is earlier.

22. Suspension or Cancellation of Driving Licence on Conviction

It confers upon the Court convicting the holders of licences for certain offences, the powers to suspend or cancel the driving licences. It also provides for a compulsory test of competence to drive and a strict medical test for the drivers involved in fatal accidents before the licence is returned to the holder. Failure in any one of the two tests will entail in cancellation of the licence under clause 19.

23. Effect of Disqualification Order

It lays down that on the orders of the Courts disqualifying the holder of the licence, the licence shall cease to be effective.

24. Endorsement

It requires the Court or the Authorities making an order of disqualification, to make entries of such disqualifications in the driving licences held by that person.

25. Transfer of Endorsement and Issue of Driving Licence Free From Endorsement

It enables the licensing authorities to transfer the endorsements of disqualification to any new or duplicate licences issued to the holder of the licence. It also provides for the issue of fresh driving licence free of endorsements, if during a continuous period of three years from the last endorsement, there has been no further order of endorsement.

26. Maintenance of State Registers of Driving Licences

It contains provisions for the maintenance of a State register of driving licences by the States in such form as may be prescribed by the Central Government. It also provides that the State Governments shall furnish a copy of the State register on direction by the Central Government.

27. Power of Central Government to Make Rules

It seeks to empower the Central Government to make rules on certain matters where the Act directs the Central Government to do so.

28. Power of State Government to Make Rules

It seeks to empower the State Government to make rules on certain matters where the Act specifically confers the power on the State Governments.

Chapter III - Licensing of Conductors of Stage Carriages

This chapter is discuss about the following sections

29. Necessity for conductor's licence.
30. Grant of conductor's licence.
31. Disqualifications for the grant of conductor's licence.
32. Revocation of a conductor's licence on grounds of disease or disability.
33. Orders refusing, etc. conductor's licences and appeals there from.
34. Power of licensing authority to disqualify.
35. Power of Court to disqualify.
36. Certain provisions of Chapter II to apply to conductor's licence.
37. Savings.
38. Power of State Government to make rules.

Chapter IV- Registration of Motor Vehicles

This chapter is discuss about the following sections

39. Necessity for registration of vehicles
40. Registration, where to be made.
41. Registration, how to be made.
42. Special provision for registration of motor vehicles of diplomatic officers, etc.
43. Temporary registration
44. Production of vehicle at the time of registration.
45. Refusal of registration or renewal of the certificate of registration.
46. Effectiveness is India of registration.
47. Assignment of new registration mark on removal to another State.
48. No objection certificate.
49. Change of residence or place of business.
50. Transfer of ownership.
51. Special provisions regarding motor vehicle subject to hire purchase agreement,
etc.-
52. Alteration in motor vehicle.
53. Suspension of registration.

54. Cancellation of registration suspended under section 53.
55. Cancellation of registration.
56. Certificate of fitness of transport vehicles.
57. Appeals.
58. Special provisions in regard to transport vehicles.
59. Power to fix the age limit of motor vehicle.
60. Registration of vehicles belonging to the Central Government.
61. Application of Chapter to trailers.
62. Information regarding stolen and recovered motor vehicle to be furnished by the police to the State Transport Authority.
63. Maintenance of State Registers of Motor Vehicles.
64. Power of the Central Government to make rules.
65. Power of the State Government to make rules.

Chapter V - Control of Transport Vehicles

This chapter is discuss about the following sections

66. Necessity for permits.
67. Powers to State Government to control road transport.
68. Transport Authorities
69. General provision as to applications for permits
70. Application for stage carriage permits
71. Procedure of Regional Transport Authority in considering application for stage carriage permit
72. Grant of stage carriage permit
73. Application for contract carriage permits
74. Grant of contract carriage permit
75. Scheme for renting of motor cabs.
76. Application for private service vehicle permit.
77. Application for goods carriage permits
78. Consideration of application for goods carriage permits
79. Grant of goods carriage permit.

80. Procedure in applying for and granting permits
81. Duration and renewal of permits.
82. Transfer of permit.
83. Replacement of vehicles.
84. General conditions attaching to all permits.
85. General form of permits.
86. Cancellation and suspension of permits.
87. Temporary permits.
88. Validation of permits for use outside region in which granted.
89. Appeals.
90. Revision.
91. Restriction hours of work of drivers.
92. Voidance of contracts restrictive of liability.
93. Agent or canvasser to obtain licence.
94. Bar on jurisdiction of Civil Courts.
95. Power of State Government to make rules as to stage carriages and contract carriages
96. Power of State Government to make rules for the purposes of this Chapter

Chapter – VI - Special Provisions Relating To State Transport Undertakings

This chapter is discuss about the following sections

97. Definition - Clause 97 seeks to define certain expression used in this Chapter.
98. Chapter to override Chapter V and other laws.
99. Preparation and publication of proposal regarding road transport service of a State transport undertaking.
100. Objection to the proposal.
101. Operation of additional services by a State transport undertaking in certain circumstances.
102. Cancellation or modification of scheme.
103. Issue of permits to State transport undertakings.
104. Restriction on grant of permits in respect of a notified area or notified route.

105. Principles and method of determining compensation and payment thereof.
106. Disposal of article found in vehicles.
107. Power of State Government to make rules.
108. Certain powers of State Government exercisable by the Central Government.

Chapter VII - Construction, Equipment and Maintenance of Motor Vehicles

This chapter is discuss about the following sections

- 109- General provision regarding construction and maintenance of vehicles.
110. Power of Central Government to make rules.
111. Power of State Government to make rules.

Chapter VIII - Control of Traffic

This chapter is discuss about the following sections

112. Limits of speed
113. Limits of weight and limitations on use.
114. Power to have vehicle weighed.
115. Power to restrict the use of vehicles.
116. Power to erect traffic signs.
117. Parking places and halting stations.
118. Driving regulations.
119. Duty to obey traffic signs.
120. Vehicles with left hand control.
121. Signals and signaling devices.
122. Leaving vehicle in dangerous position
123. Riding on running board, etc.
124. Prohibition against travelling without pass or ticket.
125. Obstruction of driver.
126. Stationary Vehicles.
127. Removal of motor vehicles abandoned or left unattended on a public place.
128. Safety measures for drivers and pillion riders.
129. Wearing of protective headgear.

- 130. Duty to produce licence and certificate of registration.
- 131. Duty of the driver to take certain precautions at unguarded railway level crossings.
- 132. Duty of driver to stop in certain cases.
- 133. Duty of owner of motor vehicle to give information
- 134. Duty of driver in case of accident and injury to a person.
- 135. Schemes to be framed for the investigation of accident cases and wayside amenities, etc.
- 136. Inspection of vehicle involved in accident.
- 137. Power of Central Government to make rules.
- 138. Power of State Government to make rules.

Chapter IX - Motor Vehicles Temporarily Leaving or Visiting India

- 139. Power of Central Government to make rules.

Chapter X - Liability without Fault In Certain Cases

This chapter is discuss about the following sections

- 140. Liability to pay compensation in certain cases on the principle of no fault.
- 141. Provisions as to other right to claim compensation for death or permanent disablement
- 142. Permanent disablement.
- 143. Applicability of Chapter to certain claims under Act 8 of 1923.
- 144. Overriding effect.

Chapter XI - Insurance of Motor Vehicles against Third Party Risks

This chapter is discuss about the following sections

- 145. Definitions.
- 146. Necessity for insurance against third party risk.
- 147. Requirement of policies and limits of liability.
- 148. Validity of polices of insurance issued in reciprocating countries.

149. Duty of insurers to satisfy judgments and awards against persons insured in respect of third party risks.

150. Rights of third parties against insurers on insolvency of the insured.

151. Duty to give information as to insurance.

152. Settlement between insurers and insured persons.

153. Saving in respect of section 150,151 and 152.

154. Insolvency of insured persons not to affect liability of insured or claims by third parties.

155. Effect of death on certain causes of action.

156. Effect of certificate of insurance.

157. Transfer of certificate of insurance.

158. Production of certain certificates licence and permit in certain cases.

159. Production of certificate of insurance on application for authority to use vehicle.

160. Duty to furnish particulars of vehicle involved in accident.

161. Special provisions as to compensation in case of hit and run motor accident.

162. Refund in certain cases of compensation paid under section 161.

163. Scheme for payment of compensation in case of hit and run motor accidents.

164. Power of Central Government to make rules.

Chapter XII -Claims Tribunals

This chapter is discuss about the following sections

165. Claims Tribunals.

166. Application for compensation.

167. Option regarding claims for compensation in certain cases.

168. Award of the Claims Tribunal.

169. Procedure and powers of Claims Tribunals.

170. Impleading insurer in certain cases.

171. Award of interest where any claim is allowed.

172. Award of compensatory costs in certain cases.

173. Appeals.

174. Recovery of money from insurer as arrear of land revenue.

175. Bar on jurisdiction of Civil Courts.

176. Power of State Government to make rules.

Chapter XIII - Offences, Penalties and Procedure

This chapter is discussing about the following section Act, its penalties and its procedures.

177. General Provision for Punishment of Offences.

The Punishment of the offences is listed follows;

Section	Description of Offence	Maximum of punishment Term of Imprisonment/ Fine
S. 178(1)	Any person traveling in a stage carriage without ticket or pass, or not producing ticket or pass on requisition	Rs.500
S. 178(2)	Conductor of a stage carriage willfully or negligently failing to accept fare or issue ticket or supplied a ticket of a lesser value or Check in Inspector willfully or negligently failing or refusing to check pass or ticket	Rs.500
S. 178(3)	Permit holder of contract carriage refusing to ply or to carry passengers: (a) in the case of two-wheelers or three-wheelers (b) in the case of others	Rs.50 Rs.200
S. 179(1)	Any person disobeying directions given by any person or authority empowered, or obstruction any person or authority in the discharge of his functions under the MV Act	Rs.500
S. 179(2)	Any passenger withholding the required information or giving false information	One month or Rs. 500 or both
S. 180	Owner or person in-charge of a vehicle permitting an unlicensed person or an under-aged person to drive it (Parents/guardians/ friends permitting minor to drive vehicle)	3months or Rs. 1000 or both
S. 181	Driving without holding an effective driving licence and Driving by an under-aged person (Minor driving vehicle)	3months or Rs. 500 or both
S. 182	(i) Disqualified conductor acting as conductor or (ii) applying for or obtaining a conductors licence or (iii) seeking a licence without disclosing endorsements made on licence previously held.	One month or Rs. 100 or both
S. 182 (1)	(i) Disqualified person driving a vehicle or (ii) applying for or obtaining a driving licence or (iii) seeking a licence without disclosing endorsements made on driving licence preciously	3 month or Rs. 500

	held	
S.182-A	Any manufacturer using sub-standard articles or process	Rs.1,000 for first offence Rs. 5,000 for second or subsequent offence
S. 183(1)	Driving a vehicle at an excessive speed	Rs.400 for first offence Rs. 1,000 for second or subsequent offence
S. 183(2)	Any person permitting his employee or a person subject to his control to drive a vehicle at an excessive speed	Rs. 300 for first offence Rs. 500 for second or subsequent offence
S. 184/ S.188	Driving dangerously / its Abetment	6 months or Rs. 1,000 for first offence or both 2 years or Rs.2,000 for second or subsequent offence within 3 years of previous commission or both
S. 185/S.188	Driving by a drunken person or by a person under influence or drugs / its Abetment	6 months or Rs. 2,000 for first offence or both 2 years or Rs.3,000 for second or subsequent offence within 3 years of previous commission or both
S. 186/ S.188	Driving when mentally or physically unfit to drive / its Abetment	Rs. 200 for first offence Rs. 500 for second or subsequent offence
S.187	When the driver or conductor of a motor vehicle is accused of any offence under the MV Act, the owner of such vehicle failing, on demand, by a police officer authorized to give information regarding the name and address of and the licence held by the driver or conductor	3 months or Rs.500 for the first offence or both 6 months or Rs. 1,000 for subsequent offence or both
S.187	When any person is injured or any property of a third party is damaged in a motor vehicle accident, the driver or person in charge of the vehicle: (a) Not providing medical aid to the victim of the accident. (b) Not giving the information regarding accident, etc., on demand by a police officer or at the nearest police station (c) Not giving	3 months or Rs.500 for the first offence or both 6 months or Rs. 1,000 for subsequent offence or both
S. 189	Racing and trials of speed	One month or Rs. 500 or both
S. 190(1)	Any person driving or permitting to drive in any public place a defective motor vehicle or trailer, if such defect results in an accident causing bodily injury or damage to property	Rs. 250 for first offence. Imprisonment of three month or fine up to Rs. 1000 for 2nd offence.
S. 190(2)	Any person driving or permitting to drive in any	Rs.1,000 for first offence

	public place any motor vehicle which violates the standards prescribed in relation to road safety, control of noise and air pollution. (Using vehicle with defective or without silencer, etc.)	Rs. 2,000 for second or subsequent offence
S. 190(3)	Any person driving or permitting to drive in any public place a motor vehicle which violates the provisions of MV Act or Rules relating to dangerous or hazardous goods	One year or Rs. 3,000 for first offence or both 3 years or Rs. 5,000 for second or subsequent offence or both
S. 191	Any importer or dealer selling, delivering or offering to sell or deliver a motor vehicle or trailer in such a condition or altered condition that its use in a public place would contravene Chapter VII of MV Act	Rs.500
S.192(1)	Any person driving or owner permitting to drive vehicle without effective registration or displaying false registration marks in any public or in any other place (Using “unregistered vehicle” or displaying “Applied For”)	Up to Rs. 5,000 for first offence but not less than Rs. 2,000 One year or up to Rs. 10,000 for second or subsequent offence but not less than Rs.5,000 or both
S.192 A	Any person driving or permitting to drive a vehicle without the necessary permit for the route or area in which or for the purpose for which it is being used	Up to Rs. 5,000 for first offence but not less than Rs. 2,000 Up to one year but not being less than 3 months, up to Rs.10,000 for second or subsequent offence but not less than Rs.5,000
S. 193	Any person engaging himself as an agent or canvasser in contravention of S. 93 or Rules made there under	Rs. 1,000 for first offence 6 months or Rs.2,000 for second or subsequent offence or both
S.194	Violation of restriction of time on HTVs on specified roads/ areas	Rs. 2,000
S.194(1)	Driving or permitting to drive a vehicle carrying excess load	Minimum Rs. 2,000 and additional Rs. 1,000 per ton of excess load together with charges for offloading the excess load
S.194(2)	Driver refusing to stop and submit his vehicle to weighing or removing the load prior to weighing	Rs. 3,000
S.196	Driving an uninsured vehicle	3 months or Rs. 1,000 or both
S. 197	Taking vehicle without authority	3 months or Rs. 500 or both
S. 198	Unauthorized interference with vehicle	Rs. 100

199. Offences by Companies

Where the contravention is committed by a company then the person who was in charge and was responsible to the company shall be liable for the punishment.

200. Composition of Certain Offences

201. Penalty for Causing Obstruction to Free Flow of Traffic

Penalty for keeping a disabled vehicle on public road causing impediment to the free flow of traffic.

202. Power to Arrest without Warrant

Police Officers the Power to arrest without warrant persons committing certain serious offences such as drunken driving, taking vehicle without authority, etc.

203. Breath Tests

Police Officers to require any person driving a motor vehicle in a public place to provide for breath test and if, it is found that there is presence of alcohol in his blood or urine, the Police Officer may arrest him without warrant.

204. Laboratory Test

The procedure for Laboratory test of blood and urine to be followed by Police officers in suspected cases of drunken driving.

205. Presumption of Unfitness to Drive

Refusal by a driver to submit himself to breath test or urine test to prove drunkenness without any reasonable case will amount to presumption by the Prosecution of the driver's unfitness to drive.

206. Power of Police Officer to Impound Document

Powers to police officers to impound documents in certain cases.

207. Power to Detain Vehicles Used Without Certificate Of Registration Permit, Etc. –

Empowers a police officer to impound a motor vehicle if he has reason to believe that the vehicle is being driven without registration, without a permit, driven by a person who has no driving licence or plying on unauthorised route and the vehicle may be released only after satisfying that the vehicle complies with the requirement of this section.

208. Summary Disposal of Cases

Provides for summary disposal of certain cases and the procedure to be followed in such cases.

209. Restriction on Conviction - It places some restrictions on conviction of persons for certain offences.

210. Courts to Send Intimation about Conviction -It requires the Court convicting persons holding driving licence to send intimation of the punishment awarded with the name and address of the licence holder, licence No., etc., to the licensing authority.

Chapter XIV - Miscellaneous

211. Power to levy fee.

212. Publication, commencement and laying of rules and notifications.

213. Appointment of motor vehicles officers.

214. Effect of appeal and revision on orders passed by original authority.

215. Road Safety Councils and Committees.

216. Power to remove difficulties.

217. Repeal and savings.

217-A. Renewal of permits, driving licences and registration granted under the Motor Vehicles Act, 1939.

The Arms Act, 1959 (Act No. 54 of 1959)

An Act to consolidate and amend the law relating to arms and ammunition.

Be it Enacted by Parliament in the Tenth Year of the Republic of India as follows:

Chapter I – Preliminary

1. Short title, extent and commencement - This Act may be called the Arms Act, 1959.

(2) It extends to the whole of India.

(5) It shall come into force on such date¹, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

(a) “**Acquisition**” with its grammatical variations and cognate expressions includes hiring, borrowing, or accepting as a gift;

(b) “**Ammunition**” means ammunition for any firearm, and includes—

(i) Rockets, bombs, grenades, shells [and other missiles,]

(ii) Articles designed for torpedo service and submarine mining;

(iii) other articles containing, or designed or adapted to contain, explosive, fulminating or fissionable material or noxious liquid, gas or other such thing, whether capable of use with firearms or not,

(iv) Charges-for firearms and accessories for such charges,

(v) Fuses and friction tubes,

(vi) Parts of, and machinery for manufacturing, ammunition, and

(vii) Such ingredients of ammunition as the Central Government, by notification in the Official Gazette, specify in this behalf;

(e) **“Firearms”** means arms of any description designed or adapted to discharge a projectile or projectiles of any kind by the action of any explosive or other forms of energy, and includes, (i) Artillery, hand-grenades, riot-pistols or weapons of any kind designed or adapted for the discharge of any noxious liquid, gas or other such things,

(ii) Accessories for any such firearms designed or adapted to diminish the noise or flash caused by the firing thereof,

(iii) Parts of, and machinery for manufacturing, firearms, and

(iv) Carriages, platforms and appliances for mounting, transporting and serving;

(h) **“Prohibited ammunition”** means any ammunition, containing, or designed or adapted to contain any noxious liquid, gas or other such thing, and includes rockets, bombs, grenades, shells, (missiles) articles designed for torpedo service and submarine mining and such other articles as the Central Government may, by notification in the Official Gazette, specify to be prohibited ammunition ;

Chapter II - Acquisition, Possession, Manufacture, Sale, Import, Export and Transport of Arms and Ammunition (Sec 3- 12)

Sec 3 provided that no person shall acquire, have in his possession, or carry any firearm or ammunition unless he holds in this behalf a licence issued.

A person who has in his possession *more firearms than three* shall deposit, within ninety days from such commencement of this act, the remaining firearms with the officer in charge of the nearest police station.

Sec 5 Provided that no firearm or ammunition in respect of which a licence is required and no arms in respect of which a licence is required shall be so sold or transferred by any person unless-

(a) he has informed in writing the *district magistrate* having jurisdiction or the *officer in charge* of the nearest police station of his intention to sell or transfer such firearms, ammunition or other arms and the name and address of the person to whom he intends to sell or transfer such firearms, ammunition or the other arms, and (b) A period of not less than forty-five days has expired after the giving of such information.

Sec 6 provides that no person shall shorten the barrel of a firearm or convert an imitation firearm into a firearm unless he holds a licence issued under this act.

Sec 7 provides that, no person shall acquire, sell, transfer, convert, repair, test or prove any prohibited ammunition unless he has been specially authorized by Central Government.

Sec 8 provides that, no person shall remove, alter and forger a name, number or identification mark stamped by central government. No person shall sell the fire arms without the name of the maker, number and identification mark.

Sec 9 provides that no person, who has not completed the age of twenty-one years, or who has been sentenced on conviction of any offence involving violence or moral turpitude to imprisonment for [any term] at any time during a period of five years after the expiration of the sentence, a bond for keeping the peace or for good behaviour, at any time during the term of the bond shall acquire, have in his possession or carry any firearm or ammunition.

Sec 10 provides that, No person shall bring into, or take out of India by sea, land or air any arms or ammunition unless he holds in this behalf a licence issued *in* accordance with the provisions of this Act and the rules.

Sec 12 provides that, if any person shall transport over India or any part there of arms or ammunition without proper licence, that can be prohibited.

Chapter III - Provisions Relating To Licenses (Sec 13 - 18)

Sec 13. Grant of licenses: if any person needs a license for using arms, they have to give an application form for the grant of a license to the licensing authority with prescribed fee.

On receipt of an application, the licensing authority shall call for the report of the officer in charge of the nearest police station on that application, and such officer shall send this report within the prescribed time.

Then, The licensing authority, after such inquiry, if any, as it may, consider necessary; and after considering the report received shall, subject to the other provisions, by order in writing either grant the licence or refuse to grant the same.

Provided that where the officer in charge of the nearest police station does not send the report in the application within the prescribed time, the licensing authority may, if it deems fit make such order, after the expiry of the prescribed time, without farther waiting for that report.

Sec 14- Refusal of License - licensing authority shall refuse to grant where such licence is required in respect of any prohibited arms or prohibited ammunition. To be prohibited by this Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition, or to be of unsound mind person, or a person to be for any reason unfit for a licence under this Act or the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property,

Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

Sec 15 – Duration and renewal of Licence – It provides that a licence under section 3 shall, unless revoked earlier continue in force for a *period of three years* from the date on which it is granted. A licence may be granted for a shorter period if the person by whom the licence is required so desires or if the licensing authority for reasons to be recorded in writing considers in any case that the licence should be granted for a shorter period.

Sec 16- Fees, etc., for licence: Provides that different fees, different conditions and different forms may be prescribed for different types of licences.

Sec 17 - Variation, suspension and revocation of licences- The licensing authority may by order in writing suspend a licence for such periods as it thinks fit or revoke a licence as follows:

- Holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence.
- Necessary for the security of the public peace or public safety.
- If the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or if any of the conditions of the licence has been contravened.
- Where the licensing authority makes an order varying a licence an order suspending or revoking a licence, it shall record in writing the reasons there for and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.
- A court convicting the holder of a licence of any offence under this Act or the rules made there under may also suspend or revoke the licence.
- The Central Government may order to suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.
- On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

Sec 18 – Appeals - Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority or the authority to whom the licensing authority is subordinate, suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed : Provided that no appeal shall lie against any order made by, or under the direction of the Government.

Chapter IV - Powers and Procedure (19 - 24)

Sec 19 provides that any police officer or any other officer specially empowered in this behalf by the Central Government may demand the production of his licence from any person who is carrying any arms or ammunition. If the person upon whom a demand is made refuses or fails to produce the licence or to show that he is entitled by virtue of this Act or any other law for the time being in force to carry such arms or ammunition without a licence, the officer concerned may require him to give his name and address and if such officer considers it necessary, seize from that person the arms or ammunition which he is carrying. If that person refuses to give his name and address or if the officer concerned suspects that person of giving a false name or address or of intending to abscond, such officer may arrest him without warrant.

Sec 20 provides that Where any person found carrying or conveying any arms or ammunition whether covered by a licence or not, in such manner or under such circumstances as to being carried by him with intent to use them, for any unlawful purpose any magistrate, any police officer or any other public servant or any person employed or working, upon a railway, aircraft, vessel, vehicle or any other means of conveyance, may arrest him without warrant and seize from him such arms or ammunition.

Sec 22 (Search and seizure by magistrate) provides that, any person has in **his possession any arms or ammunition for any unlawful purpose**, or that such person cannot be left in the possession of any arms or ammunition without danger to the public peace or safety, the magistrate may, after having recorded the reasons for his belief, cause a search to be made of the house or premises occupied by such person or in which the magistrate has reason to believe that such arms or ammunition are or is to be found and may have such arms or ammunition, if any, seized and detain the same in safe custody for such period as he thinks necessary.

Sec 23 provides that any magistrate, any police officer or any other officer specially empowered by the Central Government, may for the purpose of ascertaining whether any contravention of this Act or the rules made there under is being or is likely to be committed, stop and search any vessel, vehicle or other means of conveyance and seize any arms or ammunition that may be found therein along with such vessel, vehicle or other means of conveyance.

Sec 24 provides that, The Central Government may at any time order the seizure of any arms or ammunition in the possession of any person, not with. May detain the same for such period as it thinks necessary for the public peace and safety.

Chapter V - Offences and Penalties (25 - 33)

Sec 25 provides that, if any one carries any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable **with imprisonment for a term which shall not be less than five years**, but which may extend to **ten years** and shall also be liable to **fine**.

Whoever manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer of any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with **imprisonment for a term which shall not be less than seven years** but which may extend to **imprisonment for life** and shall also be liable to **fine**.

Whoever commits an offence punishable in any disturbed area shall be punishable with imprisonment for a term which shall **not be less than three years** but which may **extend to seven years** and shall also be liable to fine.

Whoever sells or transfers any firearm, ammunition or other arms, without informing the district magistrate having jurisdiction or the officer in charge of the nearest police station, of the intended sale or transfer of that firearm, ammunition or other arms; or before the expiration of the period of **forty five days** from the date of giving such information to such district magistrate or the officer in charge of the police station. In contravention of the provisions of clause (a) or clause (b) of the provision to sub-section (2) of section 5, shall be punishable with imprisonment for a term which may **extend to six months**, or with **fine of an amount which may extend to five hundred rupees**, or with both.

Whoever fails to deliver-up a licence when so required by the licensing authority, fails to surrender a licence to the appropriate authority on its suspension or revocation shall be punishable with imprisonment for a term which **may extend to six months**, or with fine of an amount which may **extend to five hundred rupees**, or with both.

Whoever, when required und-section 19 to give his name and address, refuses to give such name and address or gives a name or address which subsequently transpires to be false

shall be punishable with imprisonment for a term which **may extend to six months**, or with fine of an amount which **may extend to two hundred rupees**, or with both.

Sec 27 provides that, whoever uses any arms or ammunition shall be punishable with imprisonment for a term which **shall not be less than three years but which may extend to seven years** and shall also be liable to fine. And whoever uses any prohibited arms or prohibited ammunition shall be punishable with imprisonment for a term which **shall not be less than seven years but which may extend to imprisonment for life** and shall also be liable to fine.

Whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of section 7 and such use or act results in the death of any other person, shall be punishable with death.

Sec 28 provides that whoever makes or attempts to make any use whatsoever of a firearm or an imitation firearm with intent to resist or prevent the lawful arrest or detention of himself or any other person shall be punishable with imprisonment for a term which may extend to seven years [and with fine.

Sec 29 provides that, if anyone purchasing arms, etc., from unlicensed person or for delivering arms, etc.. Shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

Sec 30 provides that whoever contravenes any condition of a licence or any provision of this Act or any rule made thereunder, for which no punishment is provided elsewhere in this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

Sec 31 provides that whoever having been convicted of an offence under this Act is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence.

Chapter VI - Miscellaneous (34 - 46)

Sec 38 provides that, every offence under this Act shall be cognizable.

Sec 46 provides that the Indian Arms Act, 1878, is hereby repealed.

Unit-IV: Explosives and Narcotics Acts

The Indian Explosive Act, 1884,

An Act to regulate the manufacture, possession, use, sale, [2 transport, import and export] of Explosives.

Whereas, it is expedient to regulate the manufacture, possession, use, sale, transport and importation of explosives. It is hereby enacted as follows:

1. Short title. – (1) This Act may be called the Explosives Act, 1884; and

(2) It extends to the whole of India

2. Commencement (1) This Act shall come into force on such day as the Central Government, by notification in the Official Gazette, appoints:

4. Definitions In this Act, unless the context otherwise requires, -

(a) "**Aircraft**" means any machine which can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface, and includes balloons, whether fixed or free, airships, kites, gliders and flying machines;

(b) "**Carriage**" includes any carriage, wagon, cart, truck, vehicle or other means of conveying goods or passengers by land, in whatever manner the same may be propelled;

(c) "**District Magistrate**", in relation to any area for which a Commissioner of Police has been appointed, means the Commissioner of Police thereof and includes - (a) and such Deputy Commissioner of Police, exercising jurisdiction over the whole or any part such area, as may be specified by the State Government in this behalf in relation to such area or part; and (b) an Additional District Magistrate;

(d) "**Explosives**" means gunpowder, nitroglycerine, nitroglycol, gun-cotton, di-nitro-toluenetri nitrotoluene, picric acid, di-nitor-phenol, tri-nitor-resorcinol (styphnic act), cyclo-trimethylenetrinitramine, penta-erythritol-tetranitrate, tetryl, nitroguanidine, lead azide, lead styphnate, fulminate of mercury or any other metal, diazo-di-nitor-phenol, coloured fires or any other substance whether a single chemical compound or a mixture of substances, whether solid or liquid or gaseous used or manufactured with a view to produce a practical effect by explosion or pyrotechnic effect; and includes fog-signals, fireworks, fuses, rockets,

percussion caps, detonators, cartridges, ammunition of all descriptions and every adaptation or preparation of an explosive as defined in this clause;

(e) "**Export**" means taking out of India to a place outside India by land, sea or air;

(f) "**Import**" means to bring into India from a place outside India by land, sea or air;

(g) "**Master**", -

(a) in relation to any vessel or aircraft means any person, other than a pilot, harbour master, assistant harbour master or berthing master, having for the time being the charge or control of such vessel or aircraft, as the case may be; and

(b) In relation to any boat belonging to a ship, means the master of that ship;

(h) "**Manufacture**" in relation to an explosive includes the process of -

(1) dividing the explosive into its component parts or otherwise breaking up or unmaking the explosive, or making fit for use any damaged explosive; and

(2) Re-making, altering or repairing the explosive;

(i) "**Prescribed**" means prescribed by rules made under this Act;

(j) "**Vessel**" includes any ship, boat, sailing vessel, or other description of vessel used in navigation whether propelled by oars or otherwise and anything made for the conveyance, mainly by water, or human beings or of goods and a caisson.]

5. Power to Make Rules as to Licensing of the Manufacture, Possession, Use, Sale, Transport and Importation of Explosives. -

(1) The Central Government may, for any part of 1[India,] make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a licence granted as provided by those rules, the manufacture, possession, use sale, 2[transport, import and export] of explosives, or any specified class of explosives.

(2) Rules under this section may provide for all or any of the following among other matters, that is to say:-

(a) The authority by which licenses may be granted;

(b) The fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses;

(c) The manner in which application for licenses must be and the matters to be specified in such applications;

(d) The form in which, and the conditions on and subject to which, licenses must be granted;

(e) The period for which licenses are to remain in force 1 ***

(f) The exemption absolutely or subject to conditions of any explosives 3[or any person or class of persons] from the operation of the rules.

5-A. Persons Already In Business In Respect Of Certain Explosives to Carry a Business without Licence for a Certain Period -

Notwithstanding anything in section 5 or in the rules made there under where, immediately before the commencement of the Indian Explosives (Amendment) Act, 1978, any person was carrying on the business of manufacture, sale, transport, import or export of any explosives [for which no licence was required under this Act before its amendment by the Indian Explosives (Amendment) Act, 1978], then, such person shall be entitled to continue to carry on such business without licence in respect of such explosive -

(a) For a period of three months from the date of such commencement; or

(b) If before the expiry of the said period of three months, such person has made an application for grant of licence under this Act for such business in such explosive, until the final disposal of his application, whichever is later.

6. Power for Central Government to Prohibit the Manufacture, Possession or Importation of Specially Dangerous Explosives. -

(1) Notwithstanding anything in the rules under the last foregoing section, the 1[Central Government] may, from time to time, by notification in the 2 [Official Gazette], -

(a) Prohibit, either absolutely or subject to conditions, the manufacture, possession or importation of any explosive which is of so dangerous a character that, in the opinion of the [Central Government], it is expedient for the public safety to issue the notification;

Prohibition of manufacture, possession, sale or transport of explosives by young persons and certain other persons. Notwithstanding anything in the foregoing provisions of this Act

(a) No person, -

i) Who has not completed the age of eighteen years, or

ii) who has been sentenced on conviction of any offence involving violence or moral turpitude for a term of not less than six months, at any time during a period of five years after the expiration of the sentence, or

iii) Who has been ordered to execute under Chapter VIII of the Code of Criminal Procedure, 1973 (2 of 1974), a bond for keeping the peace or for good behavior, at any time during the term of the bond, or

iv) Whose licence under this Act has been cancelled, whether before or after the commencement of the Indian Explosives (Amendment) Act, 1978, for contravention of the provisions of this Act or of the rules made there under, at any time during a period of five years from the date of cancellation of such licence,

Shall, -

(2) Manufacture, sell, transport, import or export any explosive, or

(3) Possess any such explosive as the Central Government may, having regard to the nature thereof, by notification in the Official Gazette, specify;

(b) No person shall sell, deliver or despatch any explosive to a person whom he knows or has reason to believe at the time of such sale, delivery or despatch, -

i) to be prohibited under clause (a) to manufacture, sell, transport, import, export or possess such explosive, or ii) To be unsound mind.

6-B Grant of licenses

(1) Where a person makes an application for licence under Section 5, the authority prescribed in the rules made under that section for grant of licences (hereinafter referred to in this Act as the licensing authority), after making such inquiry, if any as it may consider necessary, shall, subject to the other provisions of this Act, by order in writing either grant the licence or refuse to grant the same.

4) The licensing authority shall grant a licence -

(a) Where it is required for the purpose of manufacture of explosives if the licensing authority is satisfied that the person by whom licence is required

i) Possesses technical know-how and experience in the manufacture of explosives; or

ii) Has sin his employment or undertakes to employ a person or persons

(b) Where it is required for any other purpose, if the licensing authority is satisfied that the person by whom licence is required has a good reason for obtaining the same.

6-C Refusal of Licences

(1) -Notwithstanding anything contained in Section 6-B, the licensing authority shall refuse to grant a licence -

(a) Where such licence is required in respect of any prohibited explosive; or

(b) Where such licence is required by a person whom the licensing authority has reason to believe -

(i) To be prohibited by this Act or by any other law for the time being in force to manufacture, possess, sell, transport, import or export and explosive, or

(ii) To be of unsound mind, or

(iii) To be for any reason unfit for a licence under this Act; or

(c) Where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(2) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of opinion that it will not be in the public interest to furnish such statement.

6-D Licensing Authority competent to impose conditions in addition to prescribed conditions. – A licence granted under Section 6-B may contain in addition to prescribed conditions such other conditions as may be considered necessary by the licensing authority in any particular case.

6-E Variation, Suspension and Revocation of Licences

(1) The licensing authority may vary the condition subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the holder of licence by notice in writing to deliver-up the licence to it within such time as may be specified in the notice.

(2) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(3) The licensing authority may, by order in writing, suspend a licence for such period as it thinks fit or revoke a licence, -

(a) If the licensing authority is satisfied that the holder of licence is prohibited by this Act or by any other law for the time being in force to manufacture, possess, sell, transport,

import or export any explosives, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(b) If the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(c) If the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for the licence; or

(d) If any of the conditions of the licence has been contravened; or

(e) If the holder of the licence has failed to comply with a notice under sub-section (1) requiring him to deliver-up the licence

(4) The licensing authority may also revoke a licence on the application of the holder thereof.

(5) Where the licensing authority makes an order varying the conditions of a licence under subsection (1) or an order suspending or revoking a licence under sub-section (3), it shall record in writing the reasons there for and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(6) A court conviction the holder of a licence of any offence under this Act or the rules made there under may also suspend or revoke a licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(7) An order of suspension or revocation under sub-section (6) may also be made by an appellate court or by the High court when exercising its powers of revision.

(8) The Central Government may, by order in the Official Gazette, suspend or revoke, or direct any licensing authority to suspend or revoke, all or any licences granted under this Act throughout India or any part thereof.

(9) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

6-F Appeals

(1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against an order made by, or under the direction of, the Central Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefore Provided that an appeal may be admitted after the expiry of the period prescribed there for if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Limitation Act, 1963 (36 of 1963), with respect to the computation of periods of limitation there under.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

7. Power to Make Rules Conferring Powers of Inspection, Search, Seizure, Detention and Removal

(1) The Central Government may make rules consistent with the Act authorizing any officer, either by name or in virtue of his office -

(a) To enter, inspect and examine 1[any place, aircraft, carriage or vessel] in which an explosive is being manufactured, possessed, used, sold, 2[transported, imported or exported] under a licence granted under this Act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed, used, sold, 2[transported, imported or exported] in contravention of this Act or of the rules made under this Act;

(b) To search for explosives therein;

(c) To take samples of any explosive found therein on payment of the value thereof;
and

(d) to seize, detain and remove any explosive or ingredient thereof found therein and, if necessary, also destroy such explosive or ingredient;]

(2) The provisions of the 4 [Code of Criminal Procedure, 1973 (2 of 1974),] relating to searches under that Code shall, so far as the same are applicable, apply to searches by officers authorized by rules under this section.

8. Notice of Accidents

Whenever there occurs in or about, or in connection with, any place in which an explosive is manufactured, possessed or used, or 5[any aircraft, carriage or vessel,] either conveying an explosive or on or from which an explosive is being loaded or unloaded, any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or of a description usually attended with such loss or injury, the occupier of the place, or 6[the master of the aircraft or vessel,] or the person in charge of the carriage, as the case may be, shall within such time and in such manner as may be by rule prescribed give notice thereof and of the attendant loss of human life or personal injury, if any, to the 7[Chief Controller of Explosives] and to the officer in charge of the nearest police station.

Where any accident such as in referred to in Section 8 occurs in or about or in connection with 1[any place, aircraft, carriage or vessel] under the control of nay of the [Armed forces of the Union] an inquiry into the causes of the accident shall be held by the naval, military or air force authority concerned, and where any such accident occurs in any other circumstances, the District Magistrate 3*** shall in cases attended by loss of human life, or may, in any other case, hold or direct a Magistrate subordinate to him to hold, such an inquiry.

(2) Any person holding an inquiry under this section shall have all the powers of a Magistrate in holding an inquiry into an offence under the 4[Code of Criminal Procedure, 1973 (2 of 1974)] and may exercise such of the powers conferred on any officer by rules under section 7 as he may think it necessary or expedient to exercise for the purpose of the inquiry.

(3) The person holding an inquiry under this section shall make a report to the Central Government stating the causes of the accident and its circumstances.

(4) The Central Government may make rules -

(a) To regulate the procedure at inquiries under this section;

(b) To enable the 5[Chief Controller of Explosives] to be present or represented at any such inquiry;

(c) To permit the 5[Chief Controller of Explosives] or his representative to examine any witness at the inquiry;

(d) To provide that where the 5[Chief Controller of Explosives] is not present or represented at any such inquiry, a report of the proceedings thereof shall be sent to him;

(e) To prescribe the manner in which and the time within which notice referred to in Section 8 shall be given.

9A. Inquiry into More Serious Accidents

(1) The Central Government may, where it is of opinion, whether it is of opinion, whether or not it has received the report on an inquiry under Section 9, that an inquiry of more formal character should be held into causes of an accident such as is referred to in Section 8, appoint the 5 [Chief Controller of Explosives] or any other competent person to hold such enquiry, and may also appoint one or more persons possessing legal or special knowledge to act as assessors in such inquiry.

(2) Where the Central Government orders an inquiry under this section it may also direct that any inquiry under Section 9 pending at the time shall be discontinued.

(3) The person appointed to hold an inquiry under this section shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by such person as aforesaid to

furnish any information shall be deemed to be legally bound so to do within the meaning of Section 176 of the Indian Penal Code (45 of (1860).

(4) Any person holding an inquiry under this section may exercise such of the powers conferred on any officer by rules under Section 7 as he may think it necessary or expedient to exercise for purposes of the inquiry.

(5) The person holding an inquiry under this section shall make a report to the Central Government stating the causes of the accident and its circumstances, and adding any observations which he or any of the assessors may think fit to make; and the Central Government shall cause every report so made to be published at such time and in such manner as it may think fit.

(6) The Central Government may make rules for regulating the procedure at inquiries under this section.

9-B Punishment of Certain Offences

(1) Whoever, in contravention of rules made under Section 5 or of the conditions of a licence granted under the said rules-

(a) Manufactures, imports or exports any explosive shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both;

(b) possesses, uses, sells or transports any explosive shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two years or with fine which may extend to three thousand rupees or with both; and

(c) In any other case, with fine which may extend to one thousand rupees.

(2) Whoever in contravention of a notification issued under Section 6 manufactures, possesses or imports any explosive shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to five thousand rupees or with both; and in the case of importation by water, the owner and master of the vessel or in the case of importation by air, the owner and the master of the aircraft, in which the explosive is imported shall, in the absence of reasonable excuse, each be punishable with fine which may extend to five thousand rupees.

(3) Whoever,-

(a) Manufactures, sells, transports, imports, exports or possesses any explosive in contravention of the provisions of clause (a) of Section 6-A; or

(b) Sells, delivers or dispatches any explosive in contravention of the provisions of clause (b) of that section, shall be punishable with imprisonment for a term which may extend to three years or with fine or with both; or

(c) In contravention of the provisions of Section 8 fails to give notice of any accident shall be punishable,-

(i) With fine which may extend to five hundred rupees, or

(ii) If the accident is attended by loss of human life, with imprisonment for a term which may extend to three months or fine or with both.

9-C. Offences by Companies

(1) Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or 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 offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where as offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to 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.

10. Forfeiture of Explosives

When a person is convicted of an offence punishable under this Act, or the rules made under this Act, the Court before which he is convicted may direct that explosive, or ingredient of the explosive, or the substance (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient or substance, shall, with the receptacles containing the same, be forfeited.

11. Distress of Aircraft or Vessel

Where the owner or master of any aircraft or vessel is adjudged under this Act to pay a fine for any offence committed with, or in relation to, that aircraft or vessel, the Court may, in addition to any power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of, -

- (a) The aircraft and its furniture or so much of the furniture, or
- (b) The vessel and the tackle, apparel and furniture of such vessel or so much of the tackle, apparel and furniture thereof, as is necessary for the payment of fine.

12. Abetment and Attempts

Whoever abets, within the meaning of the Indian Penal Code (45 of 1860), the commission of an offence punishable under this Act, or the rules made under this Act, or attempts to commit any such offence and in such attempt does any act towards the commission of the same, shall be punished as if he had committed the offence.

13. Power to Arrest without Warrant Persons Committing Dangerous Offences

Whoever is found committing any act for which he is punishable under this Act, or the rules under this Act, and which tends to cause explosive or fire in or about any place where an explosive is manufactured or stored, or any railway or port, or any carriage, 2[aircraft or vessel] may be apprehended without a warrant by a Police Officer, or by the occupier of, or the agent or servant of, or other person authorized by the railway administration or 3[conservator or the port or officer in charge of the air port,] and be removed from the place where he is arrested and conveyed as soon as conveniently may be before a Magistrate.

14. Saving and Power to Exempt

(1) Nothing in this Act, except Sections 8, 9 and 9-A, shall apply to the manufacture, possession, use, transport or importation of any explosive -

(a) By any of 4[Armed Forces of the Union, and Ordnance Factories or other establishments of such Forces in accordance with rules or regulations made by the Central Government;

(b) By any person employed under the Central Government or under a State Government in execution of this Act.

(2) The Central Government may by notification in the Official Gazette exempt, absolutely or subject to any such conditions as it may think fit to impose, any explosive and any person or class of persons from all or any of the provisions of this Act or the rules made there under.

15. Saving of Indian Arms Act, 1959

Nothing in this Act shall affect the provisions of the 1[Arms Act, 1959 (54 of 1959)]: Provided that an authority granting a licence under this Act of the manufacture, possession, sale, transport or importation of an explosive may, if empowered in this behalf by the rules under which the licence is granted, direct by an order written on the licence that it shall have the effect of a like licence granted under the Arms Act.

16. Saving as to Liability under Other Law

Nothing in this Act or the rules under this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty that provided by this Act or those rules: Provided that a person shall not be punished twice for the same offence.

17. Extension of Definition of "Explosive" to Other Explosive Substances

The Central Government may, from time to time, by notification in the Official Gazette, declare that any substance which appears to the Central Government to be specially dangerous to life or property, by reason either of its explosive properties or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act, and the provision of this Act (Subject to such exceptions, limitations and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the definition of the term "**explosive**" in this Act.

17-A- Power to Delegate

The Central Government may, by notification in the Official Gazette, direct that any power to function which may be exercised or performed by it under this Act other than the power under Section 5, 6, 6-A, 14 and 17 may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed also by-

- (a) Such officer or authority subordinate to the Central Government, or
- (b) Such State Government or such officer or authority subordinate of the State Government.]

18. Procedure for Making, Publication and Confirmation of Rules

(1) An authority making rules, under this Act shall, before making the rules, publish a draft of the proposed rules of the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Central Government, from time to time, by notification in the Official Gazette, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion, which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect until it has been published in the Official Gazette.

(6) The publication in the Official Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made, and if it requires sanction, that it has been duly sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

(8) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

The Explosive Substances Act, 1908
Act No. 6 of 1908 1*
[8th June, 1908.]

1. Short Title, Extent and Application.

(1) This Act may be called the Explosive Substances Act, 1908.

It extends to the whole of India 3*, and applies also to citizens of India [outside India].

2. Definition of "Explosive Substance"

In this Act the expression "explosive substance" shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement.

3. Punishment for Causing Explosion Likely to Endanger Life Or Property

Any person who unlawfully and maliciously causes by any explosive substance and explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment for a term which may extend to ten years, to which fine may be added.

4. Punishment for Attempt to Cause Explosion, or For Making or Keeping Explosive with Intent to Endanger Life or Property. Any Person Who Unlawfully And Maliciously—

(a) Does any act with intent to cause by an explosive substance, or conspires to cause by an explosive substance, an explosion in 1*[India] of a nature likely to endanger life or to cause serious injury to property; or

(b) makes or has in his possession or under his control any explosive substance with intent by means thereof to endanger life, or cause serious injury to property in 1*[India], or to enable any other person by means thereof to endanger life or cause serious injury to property in 1*[India];

Shall, whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not, be punished with transportation for a term which may extend to twenty years, to which fine may be added, or with imprisonment for a term which may extend to seven years, to which fine may be added.

5. Punishment for Making or Possessing Explosives under Suspicious Circumstances

Any person who makes or knowingly has in his possession or under his control any explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punishable with transportation for a term which may extend to fourteen years, to which fine may be added, or with imprisonment for a term which may extend to five years, to which fine may be added.

6. Punishment of Abettors

Any person who by the supply of or solicitation for money, the providing of premises, the supply of materials, or in any manner whatsoever, procures, counsels, aids, abets, or is accessory to, the commission of any offence under this Act shall be punished with the punishment provided for the offence.

7. Restriction on Trial of Offences

No Court shall proceed to the trial of any person for an offence against this Act except with the consent of 3* the Central Government.

The Narcotic Drug and Psychotropic Substances Act-1985

India has a long history of opium and cannabis use, especially for medicinal, religious and recreational reasons. State regulation and community tolerance ceased after the enactment of the *Narcotic Drugs and Psychotropic Substances Act* (NDPS) in 1985, which created a restrictive regime around drugs. Clampdown on cannabis and opium in the late 1980's purportedly triggered more dangerous use – chasing and injecting heroin and other opioids.

The NDPS Act, 1985 is one of the harshest laws in the country. It prohibits cultivation, production, possession, sale, purchase, trade, use and consumption of narcotic drugs and psychotropic substances except for medical and scientific purposes under license.

The Narcotic Drugs and Psychotropic Substances Bill, 1985 was introduced in the Lok Sabha on 23 August 1985. It was passed by both the Houses of Parliament, received assent from then President Giani Zail Singh on 16 September 1985, and came into force on 14 November 1985. The NDPS Act has since been amended thrice - in 1988, 2001 and 2014. The Act extends to the whole of India and it applies also to all Indian citizens outside India and to all persons on ships and aircraft registered in India.

Under one of the provisions of the act, the Narcotics Control Bureau was set up with effect from March 1986. The Act is designed to fulfill India's treaty obligations under the Single Convention on Narcotic Drugs, Convention on Psychotropic Substances, and United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Chapter I: Preliminary

1. Short Title, Extent and Commencement

The short title for the Act is the Narcotic Drugs and Psychotropic Substances Act, 1985. It extends to the whole of India. It came into force after the Central Government notified it in the Gazette of India on 14 November 1985.

2. Definitions

Section 2 of the Act defines the various terms used in it, unless the context otherwise requires. Some of the definitions are listed below. Words and expressions used in the Act, and not defined, but defined in the Code of Criminal Procedure, 1973 have the meanings respectively assigned to them in that Code.

"Cannabis (hemp)" means: (a) charas, that is, the separated resin, in whatever form, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as hashish oil or liquid hashish; (b) ganja, that is, the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops), by whatever name they may be known or designated; and (c) any mixture, with

or without any neutral material, of any of the above forms of cannabis or a drink prepared there from;

"Cannabis plant" means any plant of the genus cannabis.

"Coca derivative" means: (a) crude cocaine, that is, any extract of coca leaf which can be used, directly or indirectly, for the manufacture of cocaine; (b) ecgonine and all the derivatives of ecgonine from which it can be recovered; (c) cocaine, that is, methyl ester of benzoyl-ecgonine and its salts; and (d) all preparations containing more than 0.1 per cent. of cocaine

"Coca leaf" means: (a) the leaf of the coca plant except a leaf from which all ecgonine cocaine and any other ecgonine alkaloids have been removed; (b) any mixture thereof with or without any neutral material, but does not include any preparation containing not more than 0.1 per cent of cocaine;

"Coca plant " means the plant of any species of the genus *Erythroxylon*;

"Controlled substance" means any substance which the Central Government may, having regard to the available information as to its possible use in the production or manufacture of narcotic drugs or psychotropic substances or to the provisions of any International Convention, by notification in the Official Gazette, declare to be a controlled substances.

"Conveyance" means a conveyance of any description whatsoever and includes any aircraft, vehicle or vessel;

"Illicit traffic", in relation to narcotic drugs and psychotropic substances, means: (i) cultivating any coca plant or gathering any portion of coca plant; (ii) cultivating the opium poppy or any cannabis plant; (iii) engaging in the production, manufacture, possession, sale, purchase, transportation, warehousing, concealment, use or consumption, import inter-State, export inter-State, import into India, export from India or transshipment, of narcotic drugs or psychotropic substances; (iv) dealing in any activities in narcotic drugs or psychotropic substances other than those referred to in sub-clauses (i) to (iii); or (v) handling or letting out any premises for the carrying on of any of the activities referred to in sub-clauses (i) to (iv), other than those permitted under this Act, or any rule or order made or any condition of any license, term or authorization issued, there under, and includes: (1) financing, directly or indirectly, any of the aforementioned activities; (2) abetting or conspiring in the furtherance

of or in support of doing any of the aforementioned activities; and (3) harboring persons engaged in any of the aforementioned activities.

"Manufacture", in relation to narcotic drugs or psychotropic substances, includes: (1) all processes other than production by which such drugs or substances may be obtained; (2) refining of such drugs or substances; (3) transformation of such drugs or substances; and (4) making of preparation (otherwise than in a pharmacy on prescription) with or containing such drugs or substances.

"Manufactured drug" means: (a) all coca derivatives, medicinal cannabis, opium derivative and poppy straw concentrate; (b) any other narcotic substance or preparation which the Central Government may, having regard to the available information as to its nature or to a decision, if any, under any International Convention, by notification in the Official Gazette, declare to be a manufactured drug; but does not include any narcotic substance or preparation which the Central Government may, having regard to the available information as to its nature or to a decision, if any, under any International Convention, by notification in the Official Gazette, declare not to be a manufactured drug.

"Medicinal cannabis". That is, medicinal hemp, means any extract or tincture of cannabis (hemp).

"Narcotic drug" means coca leaf, cannabis (hemp), opium, poppy straw and includes all manufactured drugs.

"Opium" means: (a) the coagulated juice of the opium poppy; and (b) any mixture, with or without any neutral material, of the coagulated juice of the opium poppy, but does not include any preparation containing not more than 0.2 per cent. of morphine; (xvi) **"opium derivative"** means: (a) medicinal opium, that is, opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the Indian Pharmacopoeia or any other pharmacopoeia notified in this behalf by the Central Government, whether in powder form or granulated or otherwise or mixed with neutral materials; (b) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking and the dross or other residue remaining after opium is smoked; (c) phenanthrene alkaloids, namely, morphine, codeine, the baine and their salts; (d) diacetylmorphine, that is, the alkaloid also

known as dia-morphine or heroin and its salts; and (e) all preparations containing more than 0.2 per cent of morphine or containing any diacetylmorphine;

"Opium poppy" means: (a) the plant of the species *Papaver somniferum* L.; and (b) the plant of any other species of *Papaver* from which opium or any phenanthrene alkaloid can be extracted and which the Central Government may, by notification in the Official Gazette, declare to be opium poppy for the purposes of this Act;

"Poppy straw" means all parts (except the seeds) of the opium poppy after harvesting whether in their original form or cut, crushed or powdered and whether or not juice has been extracted there from;

"Poppy straw concentrate" means the material arising when poppy straw has entered into a process for the concentration of its alkaloids;

"Preparation", in relation to a narcotic drug or psychotropic substance, means any one or more such drugs or substances in dosage form or any solution or mixture, in whatever physical state, containing one or more such drugs or substances;

"Production" means the separation of opium, poppy straw, coca leaves or cannabis from the plants from which they are obtained;

"Psychotropic substance" means any substance, natural or synthetic, or any natural material or any salt or preparation of such substance or material included in the list of psychotropic substances specified in the Schedule;

"Use", in relation to narcotic drugs and psychotropic substances, means any kind of use except personal consumption.

For the purposes of clauses "coca derivative", "coca leaf", "opium" and "opium derivative" the percentages in the case of liquid preparations shall be calculated on the basis that a preparation containing one per cent of a substance means a preparation in which one gram of substance, if solid, or one milliliter of substances, if liquid, is contained in every one hundred milliliter of the preparation and so on in proportion for any greater or less percentage, provided that the Central Government may, having regard to the developments in the field of methods of calculating percentages in liquid preparations prescribe, by rules, any other basis which it may deem appropriate for such calculation.

3. Power to Add To or Omit From the List of Psychotropic Substances

The Central Government may, if satisfied that it is necessary or expedient so to do on the basis of the information and evidence which has become available to it with respect to the nature and effects of, and the abuse or the scope for abuse of, any substance (natural or synthetic) or natural material or any salt or preparation of such substance or material; and the modifications or provisions (if any) which have been made to, or in, any International Convention with respect to such substance, natural material or salt or preparation of such substance or material, by notification in the Official Gazette, add to, or, as the case may be, omit from, the list of psychotropic substances specified in the Schedule such substance or natural material or salt or preparation of such substance or material.

Chapter II: Authorities and Officers

4. Central Government to Take Measures for Preventing and Combating Abuse of and Illicit Traffic in Narcotic Drugs, Etc.

Subject to the provisions of this Act, the Central Government can take all such measures as it deems necessary or expedient for the purpose of preventing and combating abuse of narcotic drugs and psychotropic substances and the illicit traffic. These measures include with respect to all or any of the following matters, namely

Coordination of actions by various officers, State Governments and other authorities under this Act, or under any other law for the time being in force in connection with the enforcement of the provisions of this Act.

Obligations under the International Conventions.

Assistance to the concerned authorities in foreign countries and concerned international organizations with a view to facilitating coordination and universal action for prevention and suppression of illicit traffic in narcotic drugs and psychotropic substances; (d) identification, treatment, education, after care, rehabilitation and social re-integration of addicts.

Such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act and preventing and combating the abuse of narcotic drugs and psychotropic substances and illicit traffic therein.

The Central Government may also by order, published in the Official Gazette, constitute an authority or a hierarchy of authorities by such name or names as may be specified in the order for the purpose of exercising such of the powers and functions of the Central Government under this Act and for taking measures with respect to such of the matters referred to above as may be mentioned in the order, and subject to the supervision and control of the

Central Government and the provisions of such order, such authority or authorities may exercise the powers and take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers and take such measures.

5. Officers of the Central Government

The Central Government appointed a Narcotics Commissioner under this section of the Act, and may also appoint such other officers with such designations as it thinks fit for the purposes of this Act. The Narcotics Commissioner shall, either by himself or through officers subordinate to him, exercise all powers and perform all functions relating to the superintendence of the cultivation of the opium poppy and production of opium and shall also exercise and perform such other powers and functions as may be entrusted to him by the Central Government. The appointed officers are subject to the general control and direction of the Central Government, or, if so directed by that Government, also of the Central Board of Excise and Customs or any other authority or officer.

6. The Narcotic Drugs and Psychotropic Substances Consultative Committee

The Central Government may constitute, by notification in the Official Gazette, an advisory committee to be called "The Narcotic Drugs and Psychotropic Substances Consultative Committee" (hereafter in this section referred to as the Committee) to advise the Central Government on such matters relating to the administration of this Act as are referred to it by that Government from time to time. The Committee shall consist of a Chairman and such other members, not exceeding twenty, as may be appointed by the Central Government. The Committee shall meet when required to do so by the Central Government and shall have power to regulate its own procedure. The Committee may, if it deems it necessary so to do for the efficient discharge of any of its functions, constitute one or more subcommittees and may appoint to any such sub-committee, whether generally or for the consideration of any

particular matter, any person (including a non-official) who is not a member of the Committee. The term of office of, the manner of filling casual vacancies in the offices of and the allowances, if any, payable to, the Chairman and other members of the Committee, and the conditions and restrictions subject to which the Committee may appoint a person who is not a member of the Committee as a member of any of its sub-committees, shall be such as may be prescribed by rules made by the Central Government.

7. Officers of State Government

The State Government may appoint such officers with such designations as it thinks fit for the purposes of this Act. The appointed officers are subject to the general control and direction of the State Government, or, if so directed by that Government, also of any other authority or officer.

Chapter II A: National Fund for Control of Drug Abuse

The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Fund for Control of Drug Abuse (hereafter in this Chapter referred to as the Fund) and there shall be credited thereto:

- An amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.
- The sale proceeds of any property forfeited under Chapter VA.
- Any grants that may be made by any person or institution.
- Any income from investment of the amounts credited to the Fund under the aforesaid provisions.

The Fund shall be applied by the Central Government to meet the expenditure incurred in connection with the measures taken for combating illicit traffic in, or controlling abuse of, narcotic drugs and psychotropic substances for all or any of the purposes specified in sub-section (1) of section 71 of the Act. The Central Government may constitute a Governing Body as it thinks fit to advise that Government in regard to the application of the Fund. The Governing Body shall consist of a Chairman (not below the rank of an Additional Secretary to the Central Government) and such other members not exceeding six as the Central Government may appoint. The Governing Body shall have the power to regulate its own procedure.

7B. Annual Report of Activities Financed Under the Fund

The Central Government shall, as soon as may be, after the end of each financial year, cause to be published in the Official Gazette, a report giving an account of the activities financed under the previous section during the financial year, together with a statement of accounts.

Chapter III: Prohibition, Control and Regulation

8. Prohibition of Certain Operations

This section prohibits any person from cultivating any coca plant or gathering any portion of coca plant; or cultivating the opium poppy or any cannabis plant; or producing, manufacturing, possessing, selling, purchasing, transporting, ware-housing, using, consuming, import inter-State export inter-State import into India, exporting from India or transshipment of any narcotic drug or psychotropic substance, except for medical or scientific purposes and in the manner and to the extent provided by the provisions of this Act or the rules or orders made

There under and in a case where any such provision, imposes any requirement by way of license, permit or authorization also in accordance with the terms and conditions of such license, permit or authorization.

Nothing in this section applies to the export of poppy straw for decorative purposes.

9. Power of Central Government to Permit, Control and Regulate

Subject to the provisions of section 8, the Central Government may, by rules, permit, regulate and prescribe any other matter requisite to render effective the control of the Central Government over any of the matters specified below:

- The cultivation, or gathering of any portion (such cultivation or gathering being only on account of the Central Government) of coca plant, or the production, possession, sale, purchase, transport, import inter- State, export inter-State, use or consumption of coca leaves
- The cultivation (such cultivation being only on account of Central Government) of the opium poppy
- The production and manufacture of opium and production of poppy straw

- The sale of opium and opium derivatives from the Central Government factories for export from India or sale
- To State Government or to manufacturing chemists
- The manufacture of manufactured drugs (other than prepared opium) but not including manufacture of medicinal opium or any preparation containing any manufactured drug from materials which the maker is lawfully entitled to possess
- The manufacture, possession, transport, imports inter-State, export inter-State, sale, purchase, consumption or use of psychotropic substances;
- The import into India and export from India and transshipment of narcotic drugs and psychotropic substances.

In particular and without prejudice to the generality of the foregoing power, such rules may:

- Empower the Central Government to fix from time to time the limits within which licenses may be given for the cultivation of the opium poppy;
- Require that all opium, the produce of land cultivated with the opium poppy, shall be delivered by the cultivators to the officers authorized in this behalf by the Central Government;
- Prescribe the forms and conditions of licenses for cultivation of the opium poppy and for production and manufacture of opium; the fees that may be charged therefor; the authorities by which such licenses may be granted, withheld, refused or cancelled and the authorities before which appeals against the order of withholding, refusal or cancellation of licenses shall lie;
- Prescribe that opium shall be weighed, examined and classified according to its quality and consistence by the officers authorized in this behalf by the Central Government in the presence of the cultivator at the time of delivery by the cultivator;
- Empower the Central Government to fix from time to time the price to be paid to the cultivators for the opium delivered;
- Provide for the weighment, examination and classification, according to the quality and consistence, of the opium received at the factory and the deductions from or additions (if any) to the standard price to be made in accordance with the result of such examination; and the authorities by which the decisions with regard to the

weighment, examination, classification, deductions or additions shall be made and the authorities before which appeals against such decisions shall lie;

- Require that opium delivered by a cultivator, if found as a result of examination in the Central Government factory to be adulterated, may be confiscated by the officers authorized in this behalf
- Prescribe the forms and conditions of licenses for the manufacture of manufactured drugs, the authorities by which such licenses may be granted and the fees that may be charged there for
- Prescribe the forms and conditions of licenses or permits for the manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of psychotropic substances, the authorities by which such licenses or permits may be granted and the fees that may be charged there for
- prescribe the ports and other places at which any kind of narcotic drugs or psychotropic substances may be imported into India or exported from India or transshipped; the forms and conditions of certificates, authorizations or permits, as the case may be, for such import, export or transshipment; the authorities by which such certificate, authorizations or permits may be granted and the fees that may be charged there for.

9a. Power to Control and Regulate Controlled Substances

If the Central Government is of the opinion that, having regard to the use of any controlled substance in the production or manufacture of any narcotic drug or psychotropic substance, it is necessary or expedient so to do in the public interest, it may, by order, provide for regulating or prohibiting the production, manufacture, supply and distribution thereof and trade and commerce therein. An order made thereunder may provide for regulating by licenses, permits or otherwise, the production, manufacture, possession, transport, import inter-State, export inter- State, sale, purchase, consumption, use, storage, distribution, disposal or acquisition of any controlled substance.

10. Power of State Government to permit, control and regulate Subject to the provisions of section 8, the State Government may, by rules, permit, regulate, and prescribe any other matter requisite to render effective the control of the State Government over any of the matters specified below:

1. The possession, transport, imports inter-State, export inter-State, warehousing, sale, purchase, consumption and use of poppy straw.

2. The possession, transport, imports inter-State, export inter-State, sale, purchase, consumption and use of opium;

3. The cultivation of any cannabis plant, production, manufacture, possession, transport, import inter-State, export inter-State, sale, purchase, consumption or use of cannabis (excluding charas);

4. The manufacture of medicinal opium or any preparation containing any manufactured drug from materials which the maker is lawfully entitled to possess;

5. The possession, transport, purchase, sale, import inter-State, export inter-State, use or consumption of manufactured drugs other than prepared opium and of coca leaf and any preparation containing any manufactured drug;

6. The manufacture and possession of prepared opium from opium lawfully possessed by an addict registered with the State Government on medical advice for his personal consumption

Provided that save in so far as may be expressly provided in the rules made under points 4 and 5, nothing in section 8 shall apply to the import inter-State, export inter-State, transport, possession, purchase, sale, use or consumption of manufactured drugs which are the property and in the possession of the Government, provided further that such drugs as are referred to in the preceding proviso shall not be sold or otherwise delivered to any person who, under the rules made by the State Government under the aforesaid sub-clauses, is not entitled to their possession.

In particular and without prejudice to the generality of the foregoing power, such rules may:

- ✓ Empower the State Government to declare any place to be a warehouse wherein it shall be the duty of the owners to deposit all such poppy straw as is legally imported inter-State and is intended for export inter-State or export from India; to regulate the safe custody of such poppy straw warehoused and the removal of such poppy straw for sale or export inter-State or export from India; to levy fees for such warehousing and to Prescribe the manner in which and the period after which the poppy straw warehoused shall be disposed of in default of payment of fees

- ✓ Provide that the limits within which licenses may be given for the cultivation of any cannabis plant shall be fixed from time to time by or under the orders of the State Government;
- ✓ Provide that only the cultivators licensed by the prescribed authority of the State Government shall be authorized to engage in cultivation of any cannabis plant;
- ✓ Require that all cannabis, the produce of land cultivated with. cannabis plant, shall be delivered by the cultivators to the officers of the State Government authorized in this behalf;
- ✓ Empower the State Government to fix from time to time, the price to be paid to the cultivators for the cannabis delivered;
- ✓ Prescribe the forms and conditions of licenses or permits for the purposes specified in points 1 to 4 of the previous list in this section, and the authorities by which such licenses or permits may be granted and the fees that may be charged there for.

11. Narcotic Drugs and Psychotropic Substances, Etc., Not Liable To Distress or Attachment

Notwithstanding anything to the contrary contained in any law or contract, no narcotic drug, psychotropic substance, coca plant, the opium poppy or cannabis plant shall be liable to be detained or attached by any person for the recovery of any money under any order or decree of any court or authority or otherwise.

12. Restrictions over External Dealings in Narcotic Drugs and Psychotropic Substances

No person shall engage in or control any trade whereby a narcotic drug or psychotropic substance is obtained outside India and supplied to any person outside India save with the previous authorization of the Central Government and subject to such conditions as may be imposed by that Government in this behalf.

13. Special Provisions Relating to Coca Plant and Coca Leaves For Use in the Preparation of Flavoring Agent

Notwithstanding anything contained in section 8, the Central Government may permit, with or without conditions, and on behalf of Government, the cultivation of any coca plant or gathering of any portion thereof or the production, possession, sale, purchase, transport, import inter-State, export inter-State or import into India of coca leaves for use in

the preparation of any flavoring agent which shall not contain any alkaloid and to the extent necessary for such use.

14. Special Provision Relating to Cannabis - Notwithstanding anything contained in section 8, Government may, by general or special order and subject to such conditions as may be specified in such order, allow cultivation of any cannabis plant for industrial purposes only of obtaining fiber or seed or for horticultural purposes.

Chapter IV: Offences and Penalties (Sec 15 – 25A)

Chapter IV describes offences under the Act, and the punishments to be applied for contravening provisions of the Act. The various sections under this chapter prescribe a minimum term of rigorous imprisonment of 10 years, which may extend to 20 years for offenders, and also a fine which shall not be less than one lakh rupees but which may extend to two lakh rupees. In all cases, the court may impose a higher fine, for reasons to be recorded in the judgment.

- ✓ Where the contravention involves a *small quantity*, with rigorous imprisonment for a term which may extend to 1 year, or with a fine which may extend to Rs10, 000 or both;
- ✓ where the contravention involves a quantity lesser than *commercial quantity* but greater than a *small quantity*, with rigorous imprisonment for a term which may extend to 10 years and with fine which may extend to Rs1 lakh ;
- ✓ Where the contravention involves a *commercial quantity*, with rigorous imprisonment for a term which shall not be less than 10 years but which may extend to 20 years and also a fine which shall not be less than 1 lakh (US\$1,600) but which may extend to Rs2 lakh .

The table below lists the current definition of a *small quantity* and a *commercial quantity* for some popular drugs.

Drug	Small Quantity	Commercial Quantity
Amphetamine	2 grams (0.071 oz)	50 grams (1.8 oz)
Charas	100 grams (3.5 oz)	1 kilogram (2.2 lb)
Cocaine	2 grams (0.071 oz)	100 grams (3.5 oz)
Ganja	1 kilogram (2.2 lb)	20 kilograms (44 lb)

Heroin	5 grams (0.18 oz)	250 grams (8.8 oz)
LSD	2 milligrams (0.031 gr)	100 milligrams (1.5 gr)
Methadone	2 grams (0.071 oz)	50 grams (1.8 oz)
Morphine	5 grams (0.18 oz)	250 grams (8.8 oz)
Opium	25 grams (0.88 oz)	2.5 kilograms (5.5 lb)

26. Punishment for Certain Acts by Licensee or His Servants

If the holder of any license, permit or authorization granted under this Act or any rule or order made there under or any person in his employ and acting on his behalf:

- ✓ Omits, without any reasonable cause, to maintain accounts or to submit any return in accordance with the provisions of this Act, or any rule made there under;
- ✓ Fails to produce without any reasonable cause such license, permit or authorization on demand of any officer authorized by the Central Government or State Government in this behalf;
- ✓ Keeps any accounts or makes any statement which is false or which he knows or has reason to believe to be incorrect; or
- ✓ Willfully and knowingly does any act in breach of any of the conditions of license, permit or authorization for which a penalty is not prescribed elsewhere in this Act, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

27. Punishment for Illegal Possession in Small Quantity for Personal Consumption of Any Narcotic Drug or Psychotropic Substance or Consumption of Such Drug or Substance

Any person who contravenes any provision of this Act, or any rule or order made or permit issued there under, possesses in a small quantity, any narcotic drug or psychotropic substance, which is proved to have been intended for his personal consumption and not for sale or distribution, or consumes any narcotic drug or psychotropic substance, shall, notwithstanding anything contained in this Chapter, be punishable:

- ✓ Where the narcotic drug or psychotropic substance possessed or consumed is cocaine, morphine, diacetylmorphine or any other narcotic drug or any psychotropic substance

as may be specified in this behalf by the Central Government, by notification in the Official Gazette, with imprisonment for a term which may extend to one year or with fine or with both; and

- ✓ Where the narcotic drug or psychotropic substance possessed or consumed is other than those specified in or under the previous point, with imprisonment for a term which may extend to six months or with fine or with both.

27A. Punishment for Financing Illicit Traffic and Harboring Offenders

Whoever indulges in financing, directly or indirectly, any, of the activities specified in sub-clauses (i) to (v) of clause (VIII a) of section 2 or harbors any person engaged in any of the aforementioned activities, shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.

28. Punishment for Attempts to Commit Offences

Whoever attempts to commit any offence punishable under this Chapter or to cause such offence to be committed and in such attempt does any act towards the commission of the offence shall be punishable with the punishment provided for the offence.

29. Punishment for Abetment and Criminal Conspiracy

Whoever abets, or is a party to a criminal conspiracy to commit, an offence punishable under this Chapter, shall, whether such offence be or be not committed in consequence of such abetment or in pursuance of such criminal conspiracy, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punishable with the punishment provided for the offence.

30. Preparation

If any person makes preparation to do or omits to do anything which constitutes an offence punishable under any of the provisions of section 15 to section 25 (both inclusive) and from the circumstances of the case it may be reasonably inferred that he was determined to carry out his intention to commit the offence but had been prevented by circumstances independent of his will, he shall be punishable with rigorous imprisonment for a term which shall not be less than one-half of the minimum term (if any), but which may extend to one-half of the maximum term, of imprisonment with which he would have been punishable in

the event of his having committed such offence, and also with fine which shall not be less than one-half of the minimum amount (if any), of fine with which he would have been punishable, but which may extend to one-half of the maximum amount of fine with which he would have ordinarily (that is to say in the absence of special reasons) been punishable, in the event aforesaid.

31. Enhanced Punishment For Certain Offences After Previous Conviction

If any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, any of the offences punishable under section 15 to section 25 (both inclusive) is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence punishable under:

- ✓ Section 15 to section 19, section 20 (except for cultivation of cannabis) and section 21 to section 25 (both inclusive), he shall be punished for the second and every subsequent offence with rigorous imprisonment for a term which shall not be less than fifteen years but which may extend to thirty years and shall also be liable to fine which shall not be less than one lakh fifty thousand rupees but which may extend to three lakh rupees.
- ✓ (b)section 20 (except for cultivation of cannabis), he shall be punished for the second and every subsequent offence for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees.

Where any person is convicted by a competent court of criminal jurisdiction outside India under any law corresponding to the provisions of section 15 to section 25 (both inclusive), section 28 and section 29, such person, in respect of such conviction, shall be dealt with for the purposes of point 1 as if he had been convicted by a court in India.

31a. Death Penalty for Certain Offences after Previous Conviction

32. Punishment for Offence for Which No Punishment Is Provided

Any person who contravenes any provision of this Act or any rule or order made, or any condition of any license, permit or authorization issued there under for which no punishment is separately provided in this Chapter, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

32A. No Suspension, Remission or Commutation in Any Sentence Awarded Under This Act- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any

other law for the time being in force but subject to the provisions of section 33, no sentence awarded under this Act (other than section 27) shall be suspended or remitted or commuted.

33. Application of section 360 of the Code of Criminal Procedure, 1973 and of the Probation of Offenders Act, 1958 - Nothing contained in section 360 of the Code of Criminal Procedure, 1973 or in the Probation of Offenders Act, 1958 shall apply to a person convicted of an offence under this Act unless such person is under eighteen years of age or that the offence for which such person is convicted is punishable under section 26 or section 27.

34. Security for Abstaining From Commission of Offence

Whenever any person is convicted of an offence punishable under any provision of Chapter IV and the court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of any offence under this Act, the court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from commission of any offence under Chapter IV during such period not exceeding three years as it think fit to fix. If the conviction is set aside on appeal or otherwise, the bond so executed shall become void. An order under this section may also be made by an appellate court or by the High Court or Sessions Judge when exercising the powers of revision.

35. Presumption of Culpable Mental State

In any prosecution for an offence under this Act which requires a culpable mental state of the accused, the court shall presume the existence of such mental state but it shall be a defense for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution. In this section "culpable mental state" includes intention, motive, knowledge of a fact and belief in, or reason to believe, a fact. For the purpose of this section, a fact is said to be proved only when the court believes it to exist beyond a reasonable doubt and not merely when its existence is established by a preponderance of probability.

36. Constitution of Special Courts

The Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

36A. Offences Triable By Special Courts

All offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the Government. When a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorize the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate, provided that where such Magistrate considers when such person is forwarded to him as aforesaid; or upon or at any time before the expiry of the period of detention authorized by him, that the detention of such person is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction.

36B. Appeal and Revision

The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973, on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Session trying cases within the local limits of the jurisdiction of the High Court.

36C. Application of Code to Proceedings before A Special Court

Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

36D. Transitional Provisions

Any offence committed under this Act on or after the commencement of the Narcotic Drugs and Psychotropic Substances (Amendment) Act, 1988, until a Special Court is constituted under section 36, shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973, be tried by a Court of Session, provided that offences punishable under sections 26, 27 and 32 may be tried summarily. Nothing in this section shall be

construed to require the transfer to a Special Court of any proceedings in relation to an offence taken cognizance of by a Court of Session and the same shall be heard and disposed of by the Court of Session

37. Offences to Be Cognizable and Non-Bailable

Every offence punishable under this Act shall be cognizable; and no person accused of an offence punishable for a term of imprisonment of five years or more under this Act shall be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity to oppose the application for such release, and where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

38. Offences by Companies

If an offence under Chapter IV 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 offence and shall be liable to be proceeded against and punished accordingly, provided that nothing contained in this section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

39. Power of Court to Release Certain Offenders on Probation

When any addict is found guilty of an offence punishable under section 27 and if the court by which he is found guilty is of the opinion, regard being had to the age, character, antecedents or physical or mental condition of the offender, that it is expedient so to do, then, notwithstanding anything contained in this Act or any other law for the time being in force, the court may, instead of sentencing him at once to any imprisonment, with his consent, direct that he be released for undergoing medical treatment for de-toxification or de-addiction from a hospital or an institution maintained or recognized by Government and on his entering into a bond in the form prescribed by the Central Government, with or without sureties, to appear and furnish before the court within a period not exceeding one year, a report regarding the result of his medical treatment and, in the meantime, to abstain from the commission of any offence under Chapter IV. If it appears to the court, having regard to the report regarding

the result of the medical treatment furnished under this section, that it is expedient so to do, the court may direct the release of the offender after due admonition on his entering into a bond in the form prescribed by the Central Government, with or without sureties, for abstaining from the commission of any offence under Chapter IV during such period not exceeding three years as the court may deem fit to specify or on his failure so to abstain, to appear before the court and receive sentence when called upon during such period.

40. Power of Court to Publish Names, Place of Business, Etc., of Certain Offenders

Where any person is convicted of any of the offences punishable under section 15 to section 25 (both inclusive), section 28, section 29 or section 30, it shall be competent for the court convicting the person to cause the name and place of business or residence of such person, nature of the contravention, the fact that the person has been so convicted and such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of such person in such newspapers or in such manner as the court may direct.

Unit-V: Social legislations

The Protection of Civil Rights Act, 1955

(Act No. 22 of 1955)

(8th May 1955)

An Act to prescribe punishment for the (Preaching and Practice of “Untouchability”) for the enforcement of any disability arising there from and for matters connected therewith.

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows: -

1. Short title, extent and commencement

(1) This Act may be called (the Protection of Civil Rights Act) 1955.

(2) It extends to the whole of India.

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

2. Definitions- In this Act, unless the context otherwise requires: -

(a) “**Civil Rights**” means any right accruing to a person by reason of the abolition of “untouchability” by article 17 of the Constitution; (aa) “**Hotel**” includes a refreshment room, a boarding house, a lodging house, a coffee house and a café; (b) “**Place**” includes a house, building and other structure and premises, and also includes a tent, vehicle and vessel ;) (c) “**Place of public entertainment**” includes any place to which the public are admitted and in which an entertainment is provided or held.

(d) “**Place of public worship**” means a place, by whatever name known, which is used as a place of public religious worship or which is dedicated generally to, or is used generally by persons professing any religion or belonging to any religious denomination or any section thereof, for the performance of any religious service, or for offering prayers therein, (and includes--

(i) All lands and subsidiary shrines appurtenant or attached to any such place;

(ii) A privately owned place of worship which is, fact, allowed by the owner there of to be used as a place of public worship; and

(iii) Such land or subsidiary shrine appurtenant to such privately owned place of worship as is allowed by the owner thereof to be used as a place of public religious worship;)

(da) **“Prescribed”** means prescribed by rules made under this Act;

(db) **“Scheduled Castes”** has the meaning assigned to it in clause (24) of article 366 of the Constitution ;)

(e) **“Shop”** means any premises where goods are sold either wholesale or by retail or both wholesale and by retail (and includes-----

(i) Any place from where goods are sold by a hawker or vendor or from a mobile van or cart;

(ii) A laundry and a hair cutting saloon;

(iii) Any other place where services are rendered to customer.

3. Punishment for Enforcing Religious Disabilities-----Whoever on the Ground of “Untouchability” Prevents Any Person

(a) From entering any place of public worship which is open to other persons professing the same religion or any section thereof, as such person, or

(b) From worshipping or offering prayers or performing any religious service in any place of public worship, or bathing in, or using the waters of, any sacred tank, well, spring or water course (river or lake or bathing at any ghat of such tank, water- course, river or lake) in the same manner and to the same extent as is permissible to the other persons professing the same religion or any section thereof, as such person.

4. Punishment for Enforcing Social Disabilities-----Whoever on the Ground of “Untouchability” Enforces Against Any Person Any Disability With Regard To

(i) Access to any shop, public restaurant, hotel or place of public entertainment; or

(ii) The use of any utensils, and other articles kept in any public restaurant, hotel, *dharamshala, sarai or musafirkhana* for the use of the general public or of (any section thereof); or

(iii) The practice of any profession or the carrying on any of occupation, trade or business or

(iv) The use of, or access to, any river, stream, spring, well, tank, cister, water-tap or other watering place, or any bathing ghat, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public or (any section thereof), have a right to use or have access to; or

(v) The use of, or access to, any place used for a charitable or a public purpose maintained wholly or partly out of State funds or dedicated to the use of the general public or (any section thereof); or

(vi) The enjoyment of any benefit under a charitable trust created for the benefit of the general public or of (any section thereof); or

(vii) The use of, or access to, any public conveyance; or

(viii) The construction, acquisition, or occupation of any residential premises in any locality, whatsoever; or

(x) The observance of any social or religious custom, usage or ceremony or (taking part in, or taking out, any religious, social or cultural procession); or

(xi) The use of jewellery and finery,

Shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

5. Punishment for Refusing To Admit Person to Hospitals, Etc. --Whoever on the Ground of “Untouchability”

(a) Refuses admission on any person to any hospital, dispensary, educational institution or any hostel, if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof; or

(b) Does any act which discriminates against any such person after admission to any of the aforesaid institutions,

Shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

6. Punishment for refusing to sell goods or render services

Whoever on the ground of “Untouchability” refuses to sell any goods or refuses to render any service to any person at the same time and place and on the same terms and conditions at or which such goods are sold or services are rendered to other persons in the ordinary courses of business

Shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

7. Punishment for Other Offences Arising Out Of “Untouchability”

(1) Whoever- (a) prevent any person from exercising any right accruing to him by reason of the abolition of “untouchability” under article 17 of the Constitution; or (b) Molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right; or (c) By words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practice “untouchability” in any form whatsoever; or (d) Insults or attempts to insult, on the ground of “untouchability” a member of Scheduled Castes.

Shall be punishable with imprisonment for a term of not less than one month and not more than six months, and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

(7a. Unlawful Compulsory Labour When to Be Deemed To Be a Practice of “Untouchability”

(1) Whoever compels any person, on the ground of “untouchability”, to do any scavenging or sweeping or to flay any animal, or to remove the umbilical cord or to do any other job of a similar nature shall be deemed to have enforced a disability arising out of “untouchability”.

(2) Whoever is deemed under sub-section (1) to have enforced a disability arising out of “Untouchability” *shall be punishable with imprisonment for a term which shall not be less than three months and not more than six months and also with fine which shall not be less than one hundred rupees and not more than five hundred rupees.*

8. Cancellation or Suspension of Licences in Certain Cases

When a person who is convicted of an offence, under section 6 holds any licence under any law for the time being in force in respect of any profession, trade, calling or employment in relation to which the offence is committed, the court trying the offence may, without prejudice to any other penalty to which such person may be liable under that section, direct that the licence shall stand cancelled or be suspended for such period as the court may

deem fit, and every order of the court so canceling or suspending a licence shall have effect as if it had been passed by the authority competent to cancel or suspend the licence under any such law.

9. Resumption or Suspension of Grants Made By Government

Where the manager or trustee of a place of public worship (or any educational institution or hostel) which is in receipt of a grant of land or money from the Government is convicted of an offence under this Act and such conviction is not reversed or quashed in any appeal or revision, the Government may, if in its opinion the circumstances of the case warrant such a course, direct the suspension or resumption of the whole or any part of such grant.

10. Abetment of Offence

Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence.

(10 A). Power of State Government to Impose Collective Fine

(1) If, after an inquiry in the prescribed manner, the State Government is satisfied that the inhabitants of an area are concerned in, or abetting the commission of, any offence punishable under this Act, or harbouring persons concerned in the commission of such offence or failing to render all the assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence, the State Government may, by notification in the Official Gazette, impose a collective fine on such inhabitants and apportion such fine amongst the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the State Government's judgment of the respective means of such inhabitants and in making any such apportionment the State Government may assign a portion of such fine to a Hindu undivided family to be payable by to:

Provided that the fine apportioned to an inhabitant shall not be realized until the petition, if any denied by him under sub-section (3), is disposed of.

(2) The notification made under sub-section (1) shall be proclaimed in the area by beat of drum or in such other manner as the State Government may think best in the circumstances to bring the imposition of the collective fine to the notice of the inhabitants of the said area.

(3) (a) Any person aggrieved by the imposition of the collective fine under sub-section (1) or by the order of apportionment may, within the prescribed period, file a petition before the State.

(b) The State Government or the authority specified by it shall, after giving to the petitioner a reasonable opportunity of being heard, pass such order as it may think fit. Provided that the amount of the fine exempted or reduced under this section shall not be realizable from any person, and the total fine imposed on the inhabitants of an area under sub-section (1) shall be deemed to have been reduced to that extent.

(4) Notwithstanding anything contained in sub-section (3), the State Government may exempt the victims of any offence punishable under this Act or any person who does not, in its opinion, fall within the category of persons specified in sub-section (1) from the liability to pay the collective fine imposed under sub-section (1) or any portion thereof.

(5) The portion of collective fine payable by any person (including a Hindu undivided family) may be recovered in the manner provided by the Code of Criminal Procedure, 1973 (2 of 1974), for the recovery of fines imposed by a Court as if such portion were a fine imposed by a Magistrate.)

11. Enhanced Penalty on Subsequent Conviction

Whoever having already been convicted of an offence under this Act or of an abetment of such offence is again convicted of any such offence or abetment, (shall, on conviction, be punishable---

(a) *For the second offence*, with imprisonment for a term of not less than six months and not more than one year, and also with fine which shall be not less than two hundred rupees and not more than five hundred rupees;)

(b) *For the third offence* or any offence subsequent to the third offence with imprisonment a term of not less than one year and not more than two years, and also with fine which shall be not less than five hundred and not more than one thousand rupees.)

12. Presumption by Courts in certain cases

Where any act constituting an offence under this Act is committed in relation to a member of a Scheduled Caste, the Court shall presume, unless the contrary is proved, that such act was committed on the ground of “untouchability”.

13. Limitation or Jurisdiction of Civil Courts

(1) No Civil Court shall entertain or continue any suit or proceeding or shall pass any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order or if such execution would in any way be contrary to the provisions of this Act.

(2) No Court shall, in adjudicating any matter or executing any decree or order, recognize any custom or usage imposing any disability on any person on the ground of “untouchability”.

14. Offences by Companies

(1) If the person committing an offence under this Act is 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, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent of any director or 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.

14A. Protection of Action Taken In Good Faith

(1) No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or a State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.)

15. Offences to Be Cognizable and Triable Summarily

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be cognizable and every such offence, except where its punishable with imprisonment for a minimum term exceeding three months, may be tried summarily by a Judicial Magistrate of the first class or in a

metropolitan area by a Metropolitan Magistrate in accordance with the procedure specified in the said Code.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), when any public servant is alleged to have committed the offence of abetment of an offence punishable under this Act, while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence of abetment except with the previous sanction--

(a) Of the Central Government, in the case of a person employed in connection with the affairs of the Union; and

(b) Of the State Government, in the case of a person employed in connection with the affairs of a State.

15A. Duty of State Government to Ensure That the Rights Accruing From the Abolition of “Untouchability” May Be Availed of By the Concerned Person

(1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for ensuring that the rights arising from the abolition of “Untouchability” are made available to, and are availed of by the persons subjected to any disability arising out of “Untouchability”.

(2) In particular, and without prejudice to the generality of the provisions of subsection (1), such measures may include---

(i) The provision of adequate facilities, including legal aid, to the persons subjected to any disability arising out of “untouchability” to enable them to avail themselves of such rights;

(ii) The appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

(iii) The setting up of special courts for the trial of offences under this Act;

(iv) The setting up of Committees at such appropriate levels as the State Government may think fit to assist the State Government in formulating or implementing such measures;

(v) Provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;

(vi) The identification of the areas where persons are under any disability arising out of “untouchability” and adoption of such measures as would ensure the removal of such disability from such areas.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Government under sub-section (1).

(4) The Central Government shall, every year, place on the Table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provision of this section.

16. Act to Over Ride Other Laws

Save as otherwise expressly provided in this Act, the provision of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of any Court or other authority.

16 A. Probation of Offenders Act, 1958 Not To Apply to Persons above the Age of 14 Years

The provisions of the Probation of Offenders Act, 1958 (20 of 1958), shall not apply to any person above the age of fourteen years who is found guilty of having committed any offence punishable under this Act.

16 B. Powers to Make Rules

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the Provisions of this Act.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after, it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.)

The Prevention of Atrocity Act, 1989

The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 is an Act of the Parliament of India enacted to prevent atrocities against scheduled castes and scheduled tribes. The Act is popularly known as POA, the SC/ST Act, the Prevention of Atrocities Act, or simply the Atrocities Act.

Article 17 of Indian Constitution seeks to abolish 'untouchability' and to forbid all such practices. It is basically a "statement of principle" that needs to be made operational with the ostensible objective to remove humiliation and multifaceted harassments meted to the Dalits and to ensure their fundamental and socio-economic, political, and cultural rights.

This is to free Indian society from blind and irrational adherence to traditional beliefs and to establish a bias free society. For that, Untouchability (Offences) Act 1955 was enacted.

11th September, 1989 - An Act to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

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

Chapter I - Preliminary

1. Short Title, Extent and Commencement

1) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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

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

2. Definitions

(1) In this Act, unless the context otherwise requires,

(a) "**Atrocity**" means an offence punishable under Section 3;

(b) "**Code**" means the Code of Criminal Procedure, 1973 (2 of 1974);

(c) "**Scheduled Castes and Scheduled Tribes**" shall have the meanings assigned to them respectively under clause (24) and clause (25) of Article 366 of the Constitution;

(d) "**Special Court**" means a Court of Session specified as a Special Court in section 14;

(e) "**Special Public Prosecutor**" means a Public Prosecutor specified as a Special Public Prosecutor or an advocate referred to in section 15;

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is, not in force, be construed as a reference to the corresponding law, if any, in force in that area.

Chapter II - Offences of Atrocities

3. Punishments for Offences of Atrocities

(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,

(i) Forces a member of a Scheduled Caste or a Scheduled Tribe to drink or eat any inedible or obnoxious substance;

(ii) Acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premises or neighborhood;

(iii) Forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;

(iv) Wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;

(v) Wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights over any land, premises or water;

(vi) compels or entices a member of a Scheduled Caste or a Scheduled Tribe to do 'beggar' or other similar forms of forced or bonded labor other than any compulsory service for public purposes imposed by Government;

(vii) forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;

(viii) Institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;

(ix) Gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;

(x) Intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(xi) Assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonor or outrage her modesty;

(xii) Being in a position to dominate the will of a woman belonging to a Scheduled Caste or a Scheduled Tribe and uses that position to exploit her sexually to which she would not have otherwise agreed;

(xiii) Corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Caste or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;

(xiv) Denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;

(xv) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

(2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,

(i) Gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled

Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;

(ii) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;

(iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(iv) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;

(v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

(vi) knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence; or

(vii) Being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

4. Punishment for Neglect of Duties

Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, willfully neglects his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

5. Enhanced Punishment for Subsequent Conviction

Whoever, having already been convicted of an offence under this Chapter is convicted for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

6. Application of Certain Provisions of the Indian Penal Code

Subject to the other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter VA, section 149 and Chapter XXIII of the Indian Penal Code (45 of 1860), shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.

7. Forfeiture of Property of Certain Persons

(1) Where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the person which has been used for the commission of that offence, shall stand forfeited to Government.

(2) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realization of any fine imposed under this Chapter.

8. Presumption as to Offences

In a prosecution for an offence under this Chapter, if it is proved that –

(a) The accused rendered any financial assistance to a person accused of, or reasonably suspected of committing, an offence under this Chapter, the Special Court shall presume, unless the contrary is proved, that such person had, abetted the offence;

(b) A group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object.

9. Conferment of Powers

(1) Notwithstanding anything contained in the Code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do,

(a) For the prevention of and for coping with any offence under this Act, or

(b) for any case or class or group of cases under this Act, in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case maybe, for such case or class or group of cases, and in particular, the powers of arrest, investigation and prosecution of persons before any Special Court.

(2) All officers of police and all other officers of Government shall assist the officer referred to in subsection (1) in the execution of the provisions of this Act or any rule, scheme or order made there under.

(3) The provisions of the Code shall, so far as may be, apply to the exercise of the powers by an officer under Subsection (1).

Chapter III - Externment

10. Removal of Person Likely to Commit Offence

(1) Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in 'Scheduled Areas' or 'Tribal areas' as referred to in Article 244 of the Constitution, it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as may be specified in the order.

(2) The Special Court shall, along with the order under subsection (1), communicate to the person directed under that subsection the grounds on which such order has been made.

(3) The Special Court may revoke or modify the order made under sub section (1), for the reasons to be recorded in writing, on the representation made by the person against whom such order has been made or by any other person on his behalf within thirty days from the date of the order.

11. Procedure on Failure of Person to Remove Himself from Area and Enter Thereon After Removal

(1) If a person to whom a direction has been issued under Section 10 to remove himself from any area

(a) Fails to remove himself as directed; Or

(b) Having so removed himself enters such area within the period specified in the order, otherwise than with the permission in writing of the Special Court under subsection (2), the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

(2) The Special Court may, by order in writing, permit any person in respect of whom an order under section 10 has been made, to return to the area from which he was directed to remove himself for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observation of the conditions imposed.

(3) The Special Court may at any time revoke any such permission.

(4) Any person who, with such permission, returns to the area from which he was directed to remove himself shall observe the conditions imposed and at the expiry of the temporary period for which he was permitted to return or on the revocation of such permission before the expiry of such temporary period shall remove himself outside such area and shall not return thereto within the unexpired portion specified under Section 10 without a fresh permission.

(5) If a person fails to observe any of the conditions imposed or to remove himself accordingly or having so removed himself enters or returns to such area without fresh permission the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

12. Taking Measurements And Photographs, Etc. Of Persons against Whom Order Under Section 10 Is Made

(1) Every person against whom an order has been made under Section 10 shall, if so required by the Special Court, allow his measurements and photographs to be taken by a police officer.

(2) If any person referred to in subsection (1) when required to allow his measurements or photographs to be taken, resists or refuses to allow the taking of such measurements or photographs, it shall be lawful to use all necessary means to secure the taking thereof.

(3) Resistance to or refusal to allow the taking of measurements or photographs under subsection (2) shall be deemed to be an offence under section 186 of the Indian Penal Code (45 of 1860).

(4) Where an order under section 10 is revoked, all measurements and photographs (including negatives) taken under subsection (2) shall be destroyed or made over to the person against whom such order is made.

13. Penalty for Noncompliance of Order under Section 10

Any person contravening an order of the Special Court made under Section 10 shall be punishable with imprisonment for a term which may extend to one year and with fine.

Chapter IV- Special Courts

14. Special Court

For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for each district a Court of Session to be a Special Court to try the offences under this Act.

15. Special Public Prosecutor

For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

Chapter V - Miscellaneous

16. Power of State Government to Impose Collective Fine

The provisions of Section 10A of the Protection of Civil Rights Act, 1955 (22 of 1955) shall, so far as may be, apply for the purposes of imposition and realization of collective fine and for all other matters connected therewith under this Act.

17. Preventive Action to Be Taken By the Law and Order Machinery

(1) A District Magistrate or a Sub divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police may, on receiving information and after such enquiry as he may think necessary, has reason to believe that a person or a group of persons not belonging to the Scheduled Castes or the Scheduled Tribes, residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence or has threatened to commit any offence under this Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take necessary action for keeping the peace and good behavior and maintenance of public order and tranquility and may take preventive action.

(2) The provisions of Chapters VIII, X and XI of the Code shall, so far as may be, apply for the purposes of subsection (1).

(3) The State Government may, by notification in the Official Gazette, make one or more schemes specifying the manner in which the officers referred to in sub Section (1) shall take appropriate action specified in such scheme or schemes to prevent atrocities and to restore the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes.

18. Section 438 of the Code Not To Apply To Persons Committing an Offence Under The Act

Nothing in Section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

19. Section 360 of the Code and the provisions of the Probation of Offenders Act not to apply to persons guilty of an offence under the Act

The provisions of Section 360 of the Code and the provisions of the Probation of Offenders Act, 1958 (20 of 1958) shall not apply to any person above the age of eighteen years who is found guilty of having committed an offence under this Act.

20. Act to Override Other Laws

Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

21. Duty of Government to Ensure Effective Implementation of the Act

(1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include,

(i) The provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice

(ii) The provision for travelling and maintenance expenses to witnesses including the victims of atrocities, during investigation and trial of offences under this Act;

(iii) The provision for the economic and social rehabilitation of the victims of the atrocities;

(iv) The appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

(v) The setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;

(vi) Provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;

(3) The Central Government shall take such steps as may be necessary to coordinate the measures taken by the State Governments under sub section (1).

(4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this Section.

22. Protection of Action Taken In Good Faith

No suit, prosecution or other legal proceedings shall lie against the Central Government or against the State Government or any officer or authority of Government or

any other person for anything which is in good faith done or intended to be done under this Act.

23. Power to Make Rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

The Dowry Prohibition Act, 1961 **Act No. 28 Of 1961** **[20th May, 1961]**

An Act to prohibit the giving or taking of dowry. Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows.-

1. Short title, extent and commencement.

(1) This Act may be called the Dowry Prohibition Act, 1961.

(2) It extends to the whole of India except the State of Jam and Kashmir.

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

2. Definition of "Dowry".

In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly-

(a) By one party to a marriage to the other party to the marriage; or

(b) By the parents of either party to a marriage or by a other person, to either party to the marriage or to any other person; at or before or after the marriage us consideration for the

marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation I.-For the removal of doubts, it is hereby declare that any presents made at the time of a marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles, shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the marriage of the said parties.

Explanation II.-The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code. (45 of 1860.)

3. Penalty for Giving or Taking Dowry.

If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

4. Penalty for Demanding Dowry.

If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both:

Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf.

5. Agreement for Giving or Taking Dowry To Be Void.

Any agreement for the giving or taking of dowry shall be void.

6. Dowry to Be For The Benefit Of the Wife or Her Heirs.

(1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman-

(a) If the dowry was received before marriage, within one year after the date of marriage; or

(b) If the dowry was received at the time of or after the marriage, within one year after the date of its receipt; or

(c) If the dowry was received when the woman was a minor, within one year after she has attained the age of eighteen years; and pending such transfer, shall hold it in trust for the benefit of the woman.

(2) If any person fails to transfer any property as required by subsection (1) and within the time limited there for, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both; but such punishment shall not absolve the person from his obligation to transfer the property as required by sub-section (1).

(3) Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being.

(4) Nothing contained in this section shall affect the provisions of sec 3 or sec 4.

7. Cognizance of Offences.

Notwithstanding anything contained in the CrPC, 1898, (5 of 1898.)

(a) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act;

(b) No court shall take cognizance of any such offence except on a complaint made within one year from the date of the offence;

(c) It shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorized by this Act on any person convicted of an offence under this Act.

8. Offences to Be Non-Cognizable, Bailable and Non-Compoundable.

Every offence under this Act shall be non-cognizable, bailable and non-compoundable.

9. Power to Make Rules.

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section 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 successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in

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

10. Repeals - The Andhra Pradesh Dowry Prohibition Act, 1958, (Andhra Pradesh Act 1 of 1958.) and the Bihar Dowry Restraint Act, 1950, (25 of 1950.) are hereby repealed.

Tamil Nadu Prohibition of Eve- Teasing Act, 1998 (T.N. Act 44 of 1998)

Eve teasing in public places has been a perennial problem. Recently, incidents of eve teasing leading to serious injuries to, and even death of a woman have come to the notice of the government. The government are of the view that eve-teasing is a menace to society as a whole and has to be eradicated. With this in view, the Government decided to prohibit eve-teasing in the state of Tamil Nadu.

Accordingly, the Tamil Nadu Prohibition of eve- teasing ordinance, 1988 (Tamil Nadu ordinance No. 4 of 1998) was promulgated by the Governor and the same was published in the Tamil Nadu Government Gazette extraordinary, dated 30th July 1998.

The bill seeks to replace the said ordinance. An Act to prohibit eve- teasing in any place in the State of Tamil Nadu.

BE it enacted by the Legislative assembly of the State of Tamil Nadu in the Forty Ninth year of the Republic of India.

1. Short Title and Commencement

- (1) This Act may be called the Tamil Nadu Prohibition of eve- teasing Act 1998
- (2) It shall be deemed to have come into force on the 30th day of July 1998.

2. Definitions: in this Act, Unless the Context Otherwise Requires:-

- (a) “eve- teasing” means any indecent conduct or act by a man which causes or is likely to cause intimidation, fear, shame or embarrassment to a woman, including abusing or causing hurt or nuisance to, or assault, use of force on a woman.
- (b) “Public service vehicle” shall have the same meaning as defined in clause (35). Of section 2 of the Motor Vehicles Act, 1988 (Central Act XLV of 1860) (35) “public

service vehicle” means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a maxicab, a motorcab, contract carriage, and stage carriage ;

3. Prohibition of Eve- Teasing: - Eve teasing at any place is prohibited.

4. Penalty for Eve- Teasing:

Whoever commits or participates in or abets eve- teasing in or within the precincts of any educational institution, temple or other place of worship, bus stop, road, railway station, cinema theatre, park, beach, place of festival, public service vehicle or any other place shall be punished with imprisonment for a term which may extent to one year or shall be liable to fine which may extent to ten thousand rupees or both.

5. Responsibility of Management or Any Precinct.

(1) Any person who is in charge of educational institution. Temple, or other places of worship, cinema theatre or any other precinct shall,-

- a) Take such steps as he may deem fit to prevent eve- teasing within the precinct;
- b) On a complaint made by an aggrieved person, give information to the police about the eve- teasing

(2) Any person who fails to take action under sub- section (1) shall be liable to fine which may extent to two thousand rupees.

6. Duty of Crew In Public Service Vehicle

(1) Where any eve- teasing is committed in a public service vehicle, the crew of such vehicle shall, on a complaint made by the aggrieved person, take such vehicle to the nearest police station and give information to the police.

(2) At any crew fail to take steps under sub- section (1) shall be liable to fine which may extent to one thousand rupees.

7. Deemed Abetment

(1) Where any vehicle is used in the commission of eve teasing, the driver of such vehicle shall be deemed to have abetted the offence of eve-teasing and shall be punished as provided in section 4.

(2) The vehicle specified in sub section (2) shall be confiscated unless the owner of such vehicle was used in committing eve- teasing without his knowledge.

8. Operation of Other Laws Not Affected - The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

9. Power To Make Rules:-

- (1) The State Government may make rules for carrying out the purposes of this Act.
- (2) All rules made under this Act shall be published in the Tamil Nadu Government gazette and unless they are expressed to come into force on the day on which they are so published.
- (3) Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule, or the Assembly decides that the rule should not be made, the rule shall thereafter have effect only on such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

10. Repeal and Savings:

- (1) The Tamil Nadu prohibition of Eve-teasing Ordinance, 1998 (T.N. Ordinance 4 of 1998) is hereby repealed
- (2) Notwithstanding such repeal, anything done or any action taken under the ordinance shall be deemed to have been done or taken under this act.

Tamil Nadu Prohibition of Ragging Act, 1997

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 14th February 1997 and is hereby published for general information.

Excerpts from Act No.7 of 1997

An Act to prohibit ragging in educational institutions in the State of Tamil Nadu. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty eighth year of Republic India as follows:

Short title, extend commencement

1. This Act may be called the Tamil Nadu Prohibition of Ragging Act, 1997.
2. It extends to the whole of the state of Tamil Nadu.

3. It shall be deemed to have come into force on the 19th day of December 1996.

2) Definition: In this Act unless the context otherwise requires, "**Ragging**" means display of noisy, disorderly conduct doing any act which causes or is likely to cause physical or psychological harm or raise apprehension or fear or shame or embarrassment to a student in any educational institution and includes.

a) Teasing, abusing or playing practical jokes on, or causing hurt to such student or

b) Asking the students to do any act or perform something which such student will not in the ordinary course willingly do.

3) Prohibition of Ragging

Ragging within or without any educational institution is prohibited.

4) Penalty of Ragging

Whoever directly or indirectly commits, participates in, abets or propagates "ragging" within or without any educational institution, shall be punished with imprisonment for a term which may extend to two years and shall also be liable to a fine which may extend to ten thousand rupees.

5) Dismissal of Student

Any student convicted of an offence under section 4 shall be dismissed from the educational institution and such student shall not be admitted in any other educational institution.

6) Suspension of Student

(1) Without prejudice to the foregoing provisions, whenever any student complains of ragging to the Head of an Educational Institution, or to any other person responsible for the management of the educational institution he / she shall inquire into the same immediately and if found true shall suspend the student, who has committed the offence, from the educational institution.

(2) The decision of the Head of the Educational institution or the person responsible for the management of the Educational Institution that any student has indulged in ragging under sub-section (1) shall be final.

7) Deemed Abetment

If the head of the educational institution or the person responsible for the management of the educational institution fails or neglects to take action in the manner

specified in subsection (1) of section 6 when a complaint or ragging is made, such person shall be deemed to have abetted the offence of ragging and shall be punished as provided for in Section 4.

8. Power to Make Rules

1. The state government may take rules for carrying out all or any of the purpose of this act

2. All rules made under this act shall be published in the Tamil Nadu Government Gazette and unless, they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

3. Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of the legislative assembly and if, before the expiry of the session in which it is so placed or the next session, the assembly makes any modification in any such rule, or the assembly decides that the rule should not be made, the rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

9. Repeal and Saving – Tamil Nadu Ordinance 10 of 1996

1. The Tamil Nadu prohibition of ragging ordinance, 1996 is hereby repealed.

2. Notwithstanding such repeal, anything done or any action taken under the ordinance shall be deemed to have been done of under this act.

Recommended Readings

1. Sambandam – Handbook of Criminal Law and Minor Acts (Tamil Nadu) – Deccan Publications, Chennai -83
2. Sambandam – Handbook of Criminal rules of practices with importance PSO – Deccan Publications, Chennai –83

Other Related Websites

1. <http://www.advocatechennai.net/wp-content/uploads/2013/10/Goondas-TN-Act-14-of-1982.pdf>
2. <https://www.legalcrystal.com/act/137195/tamil-nadu-property-prevention-of-damage-and-loss-act-1992-complete-act>
3. <http://nyaaya.in/law/1205/the-tamil-nadu-prohibition-act-1937/>
4. http://jowaipolice.gov.in/Laws_and_References/police_acts_and_manuals/01_The_Police_Act_1861.pdf
5. <http://chdtransport.gov.in/Forms/MVA1988.pdf>
6. <http://www.vifindia.org/sites/default/files/The%20Arms%20Act,%201959.pdf>
7. http://dipp.nic.in/sites/default/files/Explosive_Act_1884_0.pdf
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11. [http://lawmin.nic.in/ld/P-CT/1989/The%20Scheduled%20Castes%20And%20the%20Scheduled%20Tribes%20\(Prevention%20of%20Atrocities\)%20Act,%201989.pdf](http://lawmin.nic.in/ld/P-CT/1989/The%20Scheduled%20Castes%20And%20the%20Scheduled%20Tribes%20(Prevention%20of%20Atrocities)%20Act,%201989.pdf)
12. <http://ncw.nic.in/acts/thedowryprohibitionact1961.pdf>
13. <http://www.draglc.ac.in/pdf/EveteasingAct1998.pdf>
14. <http://nyaaya.in/law/1109/the-tamil-nadu-prohibition-of-ragging-act-1997/>