Monthly Policy Review

September 2020

Highlights of this Issue

Monsoon session 2020 of Parliament held; 25 Bills passed (p. 2)
Bills passed in the session include three Bills related to agriculture trade and contract farming, three labour Codes that consolidate and replace 25 Acts, and an amendment to the Foreign Contribution Regulation Act, 2010.

20 Bills introduced in Parliament during Monsoon session (p. 3)
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Draft regulatory guidelines for development of vaccines released (p. 3)
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Current account surplus at 3.9% of GDP during the first quarter of 2020-21 (p. 7)
Current account balance in the first quarter of 2020-21 recorded a surplus of USD 19.8 billion (3.9% of GDP) as compared to a current account deficit of USD 15 billion (2.1% of GDP) in the first quarter of 2019-20.

FDI policy in defence amended to permit FDI up to 74% under automatic route (p. 20)
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Defence Acquisition Procedure, 2020 released (p. 21)
The Defence Acquisition Procedure revises the Defence Procurement Procedure, 2016. It adds a new category for acquisition, and increases the indigenous content requirement for various categories of acquisition.

Standing Committee submits report on virtual courts (p. 19)
Recommendations include: (i) continuing the virtual court system on an experimental basis with consent of parties, and (ii) ultimately implementing a full-fledged virtual court system on a pilot basis through a consultative process.

Standing Committee on Finance submits report on financing for startups (p. 9)
The Committee recommended ways to expand financing for startups such as abolition of long-term capital gains tax on investment in startups and allowing insurance companies and banks to channelise investment in startups.

Guidelines to regulate and control groundwater extraction notified (p. 24)
The guidelines exempt domestic consumers, rural drinking water schemes, armed forces, farmers, and micro and small enterprises drawing water up to certain a limit from the requirement of a no objection certificate.

TRAI releases guidelines on OTT communication and cloud computing services (p. 22)
TRAI recommended that there should be no regulatory intervention on over-the-top (OTT) communication services at the moment. It also provided its recommendations on the industry body of cloud computing service providers.

October 1, 2020

PRS Legislative Research ▪ Institute for Policy Research Studies
3rd Floor, Gandharva Mahavidyalaya ▪ 212, Deen Dayal Upadhyaya Marg ▪ New Delhi – 110002
Tel: (011) 43434035, 23234801 ▪ www.prsindia.org

Parliament

Prachi Kaur (prachi@prsindia.org)

Monsoon Session 2020 of Parliament held

The Monsoon session of Parliament was held from September 14, 2020 to September 23, 2020.[1] Arrangements were made in both the Houses to ensure physical distancing protocols owing to the Coronavirus pandemic. During the session, Parliament functioned in two parts with one House sitting in the morning and the other sitting in the afternoon.[1] The session was curtailed by eight days because of the public health emergency and several MPs getting infected with COVID-19.[1]

During this session, 20 Bills were introduced (excluding the Appropriation Bills).[2] Of these, 11 were to replace Ordinances.

25 Bills were passed by Parliament (excluding the Appropriation Bills).[2] These include three Bills related to agriculture trade and contract farming, the three labour Codes on Social Security, Industrial Relations, and Occupational Safety, the Foreign Contribution (Regulation) Amendment Bill, 2020, the Epidemic Diseases (Amendment) Bill, 2020, and the Aircraft (Amendment) Bill, 2019.[2] Of the 20 Bills introduced, 17 Bills (85%) were passed within this session.[2]

For more details on legislative business taken up during the Monsoon Session 2020, please see here. For details on the functioning of Parliament during the session, please see here.

COVID-19

As of September 30, 2020, there were 62,25,763 confirmed cases of COVID-19 in India.[3] Of these, 51,87,825 had been cured/discharged and 97,497 persons had died.[3] For details on the number of daily cases in the country and across states, please see here.

With the spread of COVID-19, the central government has announced several policy decisions to contain the spread, and financial measures to support citizens and businesses who would get affected. For details on the major notifications released by centre and the states, please see here. Key announcements made in this regard in September 2020 are as follows.

Lockdown extended till October 31 with additional relaxations

Roshni Sinha (roshni@prsindia.org)

To contain the spread of COVID-19, the National Disaster Management Authority (NDMA) had imposed a 21-day national lockdown in March.[4] Since then, the lockdown has been extended eight times, with the latest extension till October 31, 2020.[5] The lockdown will continue to remain in force in containment zones, demarcated on the basis of guidelines issued by the Ministry of Health and Family Welfare (MoHFW). In such zones, movement will only be permitted for medical emergencies and for supply of essential goods and services.

States are not permitted to impose local lockdown outside the containment zones without prior consultation with the central government. In areas outside containment zones, only certain activities will remain prohibited, with provisions for their phased resumption.

First, states may decide to re-open educational institutions and coaching institutions after October 15, 2020 in a graded manner, and in consultation with school/institution management. This will be subject to certain conditions such as: (i) online/distance learning must continue to be the preferred mode of learning, and (ii) students may attend schools/institutions with written consent of parents. Further, research scholars and postgraduate students in science and technology stream requiring laboratory or experimental works may access their institutes from October 15, 2020 based on satisfaction of the Head of Institution (for centrally funded institutions) and based on state government decision for all other institutions.

Second, the following activities will be allowed to re-open from October 15, 2020: (i) swimming pools used for training of sportspersons, based on standard operating procedures (SOPs) issued by the Ministry of Youth Affairs and Sports, (ii) cinemas, theatres and multiplexes up to 50% capacity in areas outside containment zones based on SOPs issued by the Ministry of Information and Broadcasting, and (iii) entertainment parks and similar places based on SOPs issued by MoHFW.

Third, social, academic, political and other large-scale congregations beyond 100 persons will be permitted from October 15, 2020 in areas outside containment zones subject to: (i) maximum 50% capacity with a ceiling of 200 persons in closed spaces, and (ii) assessment of the size of the ground/space and other social distancing measures in open spaces. State governments will issue detailed SOPs in this regard.

Fourth, international travel will be prohibited, unless permitted by Ministry of Home Affairs. Travel by trains, domestic air travel, and international movement will continue to be regulated by SOPs issued in this regard. Further, no restriction may be imposed on intra-state and inter-state movement of persons and goods including those for land-border trade with neighbouring countries (based on treaties).

The Epidemic Diseases (Amendment) Bill, 2020 passed

Shruti Gupta (shruti@prsindia.org)

The Epidemic Diseases (Amendment) Bill, 2020 was passed by Parliament.[6] It amends the Epidemic Diseases Act, 1897. The Act provides for the prevention of the spread of dangerous epidemic diseases. The Bill replaces an Ordinance which amends the Act to provide for protection for healthcare personnel from acts of violence. It also penalises any action that causes damage to property, in which a healthcare service personnel has direct interest, in relation to the epidemic.[7,8]

For a PRS Bill Summary, see here.

Parliament passed the Bill to amend taxation laws and relax certain provisions

Suyash Tiwari (suyash@prsindia.org)

The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Bill, 2020 was passed by Parliament.[9] It replaces the Ordinance promulgated in March 2020.[10] The Bill provides certain compliance-related relaxations under tax laws such as the Income Tax Act, 1961 (IT Act). These relaxations have been provided in view of the spread of the COVID-19 pandemic.

The Bill extends various deadlines including those for filing returns and claiming deductions under the IT Act. It also allows the central government to extend the deadlines for various GST-related compliances and actions under the Central Goods and Services Tax Act, 2017.

For more details on the Bill, please see here.

The Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020 passed by Parliament

Saket Surya (saket@prsindia.org)

The Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020 was passed by Parliament.[11] It replaces the Ordinance promulgated on June 5, 2020 to amend the Insolvency and Bankruptcy Code, 2016.[12] The Code provides a time-bound process for resolving insolvency in companies and among individuals. Insolvency is a situation where individuals or companies are unable to repay their outstanding debt. The Bill seeks to temporarily suspend initiation of the corporate insolvency resolution process (CIRP) for defaults that occur for a period of six months from March 25, 2020. It allows the central government to extend this period by six months.

For an analysis of the Bill, see here.

Suspension period extended by three months

The Ministry of Corporate Affairs notified an extension in the suspension of CIRP under the Insolvency and Bankruptcy (Second Amendment) Act, 2020 for a further period of three months from September 25, 2020.[13]

Bills to reduce salaries and entitlements of MPs and Ministers passed by Parliament

Prachi Kaur (prachi@prsindia.org)

Parliament passed two Bills to amend Acts which provide for the salaries and emoluments of MPs and Ministers.[14,15] These Bills replace Ordinances which were promulgated in April 2020. They reduce the salary (one lakh rupees per month) of MPs by 30% for one year. There is also a reduction of 30% in the sumptuary allowance of Ministers (meant for official entertainment of visitors, which was Rs 3,000 per month for the Prime Minister, Rs 2,000 per month for cabinet ministers, and Rs 1,000 per month for ministers of state).[14,15]

For an analysis of the Bills, please see here.

Draft regulatory guidelines for development of vaccines released

Shruti Gupta (shruti@prsindia.org)

The Central Drugs Standard Control Organisation (CDSCO) released draft regulatory guidelines on development of vaccines, with a special focus on COVID-19 vaccines.[16] The guidelines seek to ensure: (i) that vaccines are well-characterised and manufactured consistently, (ii) the stability of vaccines in storage and throughout its shelf-life, (iii) data generation to measure immune response, (iv) conducting clinical trials to establish safety, and (v) assessment of adverse effects following immunisation and vaccination. Key features of the guidelines include:

- **Manufacturing**: It prescribes the following to ensure safe and standard manufacturing: (i) use of appropriate laboratory methods, (ii) consistency in production, (iii) use of representative vaccine lots in pre-clinical studies, (iv) robust stability testing and testing by CDSCO and concerned State Licensing Authority, and (v) non-clinical studies to measure immune response.
- **Non-clinical trials**: The guidelines state that a COVID-19 vaccine carries a threat of vaccine-associated Enhanced Respiratory Disease (ERD) and prescribes non-clinical safety studies before initiating clinical trials to ensure minimal risk. ERD is the result of certain immunisations where antibodies to infectious diseases are not produced.
- **Immunogenicity:** Immunogenicity is the ability of a foreign substance (like a vaccine) to provoke an immune response. To study immunogenicity across different factors and samples, the guidelines state that the trials should be conducted to analyse formulation, vaccine response, co-administration, and maternal immunisation in a comparative framework.

Comments on the draft guidelines are invited by October 12, 2020.[17]

Insurance for health workers under PMGKP extended by six months

Shruti Gupta (shruti@prsindia.org)

The government has extended the insurance scheme for health workers under the Pradhan Mantri Garib Kalyan Package (PMGKP). The Scheme was announced in March 2020 for a period of 90 days.[18] The government has now extended the scheme by six months, till December 2020.[19]

Under the Scheme, insurance cover of up to Rs 50 lakh is provided to 22 lakh healthcare providers, including private hospital staff engaged in responsibilities related to the COVID-19 pandemic.[20] The insurance provided is over and above any other insurance cover being availed by the beneficiary and does not require any additional registration. The premium for the Scheme is borne by the Ministry of Health and Family Welfare.

Advisory guidelines for migrant workers returning to destination states issued

Roshni Sinha (roshni@prsindia.org)

The Ministry of Labour and Employment issued advisory guidelines to state governments for welfare of migrant workers returning to destination states during COVID-19.[21] These guidelines include:

- **Nodal officers**: States may nominate nodal officers at the state and district/block/tehsil level to coordinate all issues for migrant workers. The nodal officers of the origin and destination states may hold periodic review meetings in this regard.
- **Screening and testing**: The origin and destination states must ensure screening and testing of migrant workers as per protocols developed by the Ministry of Health and Family Welfare. Workers should not be put through any financial burden for testing, treatment or quarantine for COVID-19.
- **Database**: To build a database of migrant workers, the origin state must collect data in respect of migrant workers (in format specified in the advisory) and share the information with the destination state.
- **Enrolment in schemes**: Origin and destination state governments must ensure enrolment of migrant workers in various government schemes for social security. Further, data of workers who are not covered by these schemes should be shared with: (i) the Director General of Labour Welfare to facilitate their coverage by these schemes, and (ii) concerned labour authorities to facilitate compliance with existing labour laws on wages, occupational safety, health and working conditions. Origin and destination state governments must also ensure enrolment of migrant workers in Ayushman Bharat scheme.
- **Provision of ration**: Vulnerable migrant workers should be identified and provided ration by the district administration.

Limits for spending under State Disaster Response Fund specified

Roshni Sinha (roshni@prsindia.org)

The Disaster Management Act, 2005, mandates the creation of State Disaster Response Funds to manage disasters. The Ministry of Home Affairs has allowed states to spend up to 50% of the funds lying in the State Disaster Response Fund (SDRF) to contain COVID-19.[22] This limit was previously set at 35%.[23]

The permission applies towards expenditure on: (i) quarantine, sample collection and screening facilities, and (ii) procurement of essential equipment/labs for COVID-19.

Report of the Expert Committee on Resolution Framework for COVID-related Stress released

Madhunika Iyer (madhunika@prsindia.org)

An Expert Committee (Chair: K. V. Kamath), constituted to make recommendations related to the Resolution Framework for COVID-related Stress, submitted its Report to the Reserve Bank of India (RBI).[24] The Resolution Framework was released by RBI in August 2020.[25]

The Framework provides a special window for resolution of borrower stress caused by COVID-19. Borrower accounts that were standard (not overdue or overdue for less than 30 days) on March 1, 2020 are eligible to restructure their loan (by implementing a resolution plan) without triggering a downgrade in asset classification. The Framework must be invoked by December 31, 2020. Separate frameworks have been provided for personal and non-personal loans.

The Committee was constituted to identify sector-wise financial parameters to be used in assessment of a resolution plan for non-personal borrowers. The Committee was also asked to evaluate resolution plans involving borrowers with total exposure of Rs 1,500 crore and above.

The Committee identified five financial ratios related to solvency, liquidity, and coverage for assessment of resolution plans. Solvency ratios (such as total debt to earnings before interest, depreciation and tax ratio) denote the ability of a company to meet long-term financial obligations. Liquidity ratio or current ratio denotes the ability to meet short-term obligations. Coverage ratio (such as debt service coverage ratio) denotes the extent to which cash flow can cover debt payments (in a given time period).

The Committee selected 26 sectors, including power, construction, and real estate, and recommended sector-specific values for the financial ratios to be used to assess whether resolution plans may be undertaken for certain borrowers. For example, in the construction sector, resolution plans may be considered for those borrowers whose financial performance is projected to be such that the total debt/EBIDTA ratio will be four or less by 2021-22 and debt service coverage ratio will be one or more by 2022-23 (among other parameter thresholds).

For sectors where thresholds have not been specified: (i) lenders can make their own assessment regarding the solvency ratios, (ii) the current ratio and debt service coverage ratio should be one or more, and (iii) average debt service coverage ratio should be 1.2 or above.

Extension of time for companies to hold the Annual General Meeting for 2019-20

Madhunika Iyer (madhunika@prsindia.org)

The Ministry of Corporate Affairs (MCA) extended the deadline for companies to hold the Annual General Meeting (AGM) for 2019-20 from September 30 to December 31, 2020.[26] This is applicable for companies whose financial year ended on March 31, 2020.

In April, MCA had allowed companies whose financial year ended on December 31, 2019 to hold the AGM by September 30, 2020, an extension of three months.[27]

UGC issues revised academic calendar for universities in view of COVID-19

Anurag Vaishnav (anurag@prsindia.org)

The University Grants Commission (UGC) has issued a revised academic calendar for first year students for the academic year 2020-21 in view of the prevailing situation due to the COVID-19 pandemic.[28] In view of the pandemic, UGC had initially issued guidelines in April 2020 proposing commencement of classes for first year students from September 1, 2020. According to the revised calendar, classes for first year students may commence from November 1, 2020. The following calendar is suggested for first year students for the academic session 2020-21.

Table 1: Academic calendar for 2020-21

Particular	Date
Admission process to be completed	October 31, 2020
Commencement of classes	November 1, 2020
Conduct of examinations	March 8-March 26 2021
Semester break	March 27 – April 4 2021
Commencement of classes for even semester	May 5, 2021
Conduct of examinations	August 9 – August 21, 2021
Next academic session begins	August 30, 2021

Students cancelling their admission till November 30, 2020 should get full refund on the deposited fees. Post this period, a processing fee of up to Rs 1,000 may be charged for cancellations up to December 31, 2020.

To expedite the admission process, universities may give provisional admission and the relevant documents for qualifying examinations can be collected later (till December 31, 2020). Further, they may follow a six-day week pattern in the academic sessions 2020-21 and 2021-22, and reduce session breaks to compensate for the loss of time. Note that the universities may alter these guidelines to deal with particular situations as they see fit.

Guidelines to resume metro operations in graded manner released

Shruti Gupta (shruti@prsindia.org)

The Ministry of Housing and Urban Affairs released the Standard Operating Procedure (SOP) for metro rail operations during the COVID-19 pandemic.[29] This is following the order to allow metro rails to operate from September 7, 2020 in a graded manner.[30] Metro rail operations were halted in March when a national lockdown was imposed under the Disaster Management Act, 2005.[31] Key features of the SOP include:

- **Graded resumption:** Metros with more than one line should open different lines gradually so that all corridors become operational by September 12, 2020. Frequency of trains should be regulated to avoid overcrowding.
- **Entry and Exit:** Exit gates and stations in containment zones will be closed. All passengers and staff must wear face masks. Only asymptomatic persons will be allowed entry after thermal screening and use of the Aarogya Setu app will be encouraged.
- **Inside stations:** Suitable markings will be made at stations and inside trains to ensure social distancing. Sanitisers will be provided at the entry of each station and sanitisation of all areas having human contact will be done at regular intervals. Further, intake of fresh air in air-conditioning system will be increased.
- **Payment:** Use of smart cards and cashless transaction will be encouraged. Tokens and paper slips will be used after sanitisation.
- **Awareness:** An information, education, and communication campaign will be launched for passengers and staff.
- **Administration:** Metro rail corporations must maintain close liaison with state police and local administration to regulate crowds inside stations.

Based on this, the Delhi, Noida, Chennai, Kochi, Bangalore, Jaipur, Hyderabad, Kolkata, Gujarat and Lucknow metro rail corporations have also prepared their SOPs.[29] Of these metro operations have resumed in all cities, except for Gujarat and Kolkata.[32,33,34,35,36] The government of Maharashtra has decided not to resume metro operations before October, 2020.[29]

Indian Railways announces additional special trains

Saket Surya (saket@prsindia.org)

The Ministry of Railways announced to run additional special trains including: (i) 40 pairs of special trains from September 12, and (ii) 20 pairs of special trains from September 21.[37,38] These will be fully reserved trains. These are in addition to the 30 special Rajdhani type trains and 200 special mail express trains being run from May 12 and June 1, respectively.[37] All regular passenger train services continue to remain suspended.

Guidelines for RT-PCR test at entry airports for international arriving passengers issued

Aditya Kumar (aditya@prsindia.org)

The Ministry of Civil Aviation issued guidelines for facilitating real-time polymerase chain reaction (RT-PCR) test at airports for international passenger arrivals.[39] The facility will be provided on a pilot basis. At present, the passengers are required to take this test within 96 hours before starting their journey from abroad.[40] Passengers with a negative RT-PCR test result may be exempted from institutional quarantine.[40]

As per the guidelines, airport operators will have to create a sample collection-cum-waiting lounge for facilitating the RT-PCR tests. The airports will have to provide for online booking of the RT-PCR test.[39] The sample collection and tests will have to be conducted as per the applicable protocols. The test results will be available within 1.5 hours to seven hours. During this time, the passport of passengers awaiting the test results will be retained by the authorised representative of the state authority. Airports will have to provide the passengers with option to wait in the lounge or to isolate themselves in designated hotels till they receive test results.[39]

Passengers with negative test report will be allowed to board the connecting flight. They will be stamped on hand as 'RT-PCR negative' and with applicable date of state quarantine.

Capacity limit of domestic flights increased to 60%

Aditya Kumar (aditya@prsindia.org)

The Ministry of Civil Aviation issued an order to increase the capacity limit of domestic flights from 45% to 60% with effect from September 2, 2020.[41] The domestic flight operations had resumed partially in May 2020.[42]

Price of liquid medical oxygen and medical oxygen cylinders capped

Shruti Gupta (shruti@prsindia.org)

The National Pharmaceutical Pricing Authority (NPPA) capped the factory price of domestically produced liquid medical oxygen and medical oxygen cylinders for six months to ensure its continued availability throughout the country.[43] Previously, there was no price cap for liquid medical oxygen. The NPPA directive caps its price at Rs 15 per cubic metre. The price cap for medical oxygen cylinder has been revised from Rs 17 per cubic metre to Rs 26 per cubic metre (exclusive of GST), subject to transport costs at the state level. The existing rate for contracts with state governments for the purchase of oxygen will continue to apply.[43]

Macroeconomic Development

Madhunika Iyer (madhunika@prsindia.org)

Current account surplus at 3.9% of GDP during the first quarter of 2020-21

India's current account balance in the first quarter (April-June) of 2020-21 recorded a surplus of USD 19.8 billion (3.9% of GDP) as compared to a deficit of USD 15 billion (2.1% of GDP) in the first quarter of 2019-20.[44] This was primarily driven by a steeper decline in imports relative to exports on a year-on-year basis.

The capital account captures transactions that change the asset/liability position of entities in India. Net inflow (inflow minus outflow) in the capital account fell from USD 29 billion (in Q1 2019-20) to USD 0.5 billion. This was primarily due to a fall in net inflow of foreign investment from USD 18.8 billion in Q1 of 2019-20 to USD 0.3 billion in Q1 of 2020-21.

Foreign exchange reserves increased by USD 19.8 billion in the first quarter of 2020-21 as compared to an increase of USD 14 billion in the first quarter of 2019-20.

Table 2: Balance of Payments, Q1 2020-21 (USD billion)

	Q1 2019-20	Q4 2019-20	Q1 2020-21
Current Account	-15.0	0.6	19.8
Capital Account	28.6	17.4	0.5
Errors and Omissions	0.4	0.9	-0.5
Change in reserves	14.0	18.8	19.8

Sources: Reserve Bank of India; PRS.

Finance

First Supplementary Demands for Grants for 2020-21 passed by Parliament

Suyash Tiwari (suyash@prsindia.org)

The first Supplementary Demands for Grants for 2020-21 was passed by Parliament.[45] The first Supplementary Demands propose an incremental cash outgo of Rs 1,66,984 crore, an increase of 5.5% in expenditure over the Rs 30,42,230 crore approved in the 2020-21 budget. This additional amount will be spent on various areas, including:

- **Revenue deficit grants:** Rs 44,340 crore has been approved for providing revenue deficit grants to states. The 15th Finance Commission had recommended a transfer of Rs 74,450 crore to states as revenue deficit grants for 2020-21, of which Rs 30,000 crore was allocated in the 2020-21 budget.
- **Rural employment:** Rs 40,000 crore has been approved for the Mahatma Gandhi National Rural Employment Guarantee Scheme. This increases the allocation for the scheme by 65% to Rs 1,01,500 crore.
- **Women Jan Dhan accounts:** Rs 30,957 crore has been approved for providing Rs 500 per month to women Jan Dhan account holders for a period of three months. This is a part of the relief measures announced under the PM Garib Kalyan Yojana.
- **Health:** Rs 14,232 crore has been approved for expenditure for containment of COVID-19. It will be used for procuring supplies, materials, machines, and equipment, and for providing grants to various hospitals.
- **Food subsidy:** Rs 10,000 crore has been approved for providing food subsidy to states under the decentralised procurement scheme (in which states procure food grains on behalf of the Food Corporation of India).

In addition to the incremental cash outgo of Rs 1,66,984 crore, Parliament also approved a gross expenditure of Rs 68,869 crore under the first Supplementary Demands for Grants. This gross expenditure does not require any additional cash outgo from the Consolidated Fund and will be met through savings, or increased revenue and recoveries. The gross expenditure items include: (i) Rs 20,000 crore for recapitalisation of public sector banks, and (ii) Rs 13,000 crore for providing free gas cylinders to poor households for three months under the PM Ujjwala Yojana.

The Bilateral Netting of Qualified Financial Contracts Bill, 2020 passed by Parliament

Madhunika Iyer (madhunika@prsindia.org)

The Bilateral Netting of Qualified Financial Contracts Bill, 2020 was passed by Parliament.[46] It provides a legal framework for enforcement of netting of qualified financial contracts (derivatives contracts) and close-out netting arrangements. Key features of the Bill include:

- **Bilateral netting**: Netting is the determination of a net amount payable by one party to other, offsetting all claims arising from dealings between the parties.
- **Qualified financial contracts (QFC)**: QFC is any bilateral contract notified as a QFC by a relevant authority. The relevant authorities are Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI), Insurance Regulatory and Development Authority of India (IRDAI), Pension Fund Regulatory and Development Authority (PFRDA), or International Financial Services Centres Authority (IFSCA).
- **Applicability**: The Bill applies to QFCs between two qualified financial market participants (entities designated as such by the relevant authorities), where at least one party is an entity regulated by RBI, SEBI, IRDAI, PFRDA, or IFSCA.
- **Enforceability of netting**: The Bill provides that netting of QFCs is enforceable if the contract has a netting agreement. Netting agreement is an agreement that provides for the netting of amounts involving two or more QFCs. A netting agreement may also include a collateral arrangement. Collateral arrangement is a form of security provided for one or more QFCs in a netting agreement. It may include a pledge of assets, or an arrangement to transfer the title to a collateral, or a third-party guarantor.
- **Close-out netting arrangement**: Close-out netting refers to the termination of all obligations arising out of relevant QFCs. It liquidates present and future obligations arising out of QFCs to which the netting agreement applies. The process may be initiated in case of default or a termination event (event specified in the netting agreement that gives one or both parties the right to terminate transactions under the agreement). The net amount payable under close-out netting would be determined: (i) in accordance with the netting agreement, if one exists, or (ii) through agreement between the parties, or (iii) through arbitration.

For a PRS summary of the Bill, see here.

The Banking Regulation (Amendment) Bill, 2020 passed by Parliament

Madhunika Iyer (madhunika@prsindia.org)

The Banking Regulation (Amendment) Bill, 2020 was passed by Parliament.[47] It amends the Banking Regulation Act, 1949. The Act regulates the functioning of banks on aspects such as licensing, management, and liquidation. The Bill replaces an Ordinance promulgated on June 26, 2020.[48] Key features of the Bill are:

- **Reconstruction or amalgamation without imposing moratorium**: Under the Act, RBI may, after placing a bank under moratorium, prepare a scheme for reconstruction or amalgamation of the bank to secure its proper management, or in the interest of depositors, general public or the banking system. Banks placed under moratorium face restrictions including on making payments or discharging liabilities. The Bill allows RBI to initiate a scheme for reconstruction or amalgamation of any bank without imposing a moratorium.
- **Co-operative Banks:** The Bill extends the regulatory power of RBI over co-operative banks, and brings regulations in line with those for commercial banks. It places qualification requirements for the Chairman and Board of Directors, empowers RBI to remove them, and to supersede the Board of a state co-operative bank after consulting the state government. The Bill also allows co-operative banks to issue issue equity, preference or special shares and unsecured debt to its members or to any other person residing within its area of operation subject to the prior approval of the RBI.

For a PRS summary of the Bill, see here. For a PRS analysis of the Bill, please see here.

The Factoring Regulation (Amendment) Bill introduced in Lok Sabha

Anurag Vaishnav (anurag@prsindia.org)

The Factoring Regulation (Amendment) Bill, 2020 was introduced in Lok Sabha.[49] The Bill seeks to amend the Factoring Regulation Act, 2011 to widen the scope of entities which can engage in factoring business. Under the Factoring Regulation Act, 2011, factoring business is a business where an entity (referred as factor) acquires the receivables of another entity (referred as assignor) for an amount.

Receivables is the total amount that is owed or yet to be paid by the customers (referred as the debtors) to the assignor for the use of any goods, services or facility. Factor can be a bank, a registered non-banking financial company or any company registered under the Companies Act. Key provisions of the Bill include:

- **Registration of factors:** Under the Act, no company can engage in factoring business without registering with the Reserve Bank of India (RBI). For a non-banking financial company (NBFC) to engage in a factoring business, its: (i) financial assets in the factoring business, and (ii) income from the factoring business should both be more than 50% (of the gross assets or net income) or more than a threshold as notified by the RBI. The Bill removes this threshold for NBFCs.
- **Registration of transactions:** Under the Act, factors are required to register the details of every transaction of assignment of receivables in their favour. These details should be recorded with the Central Registry setup under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 within 30 days. The Bill removes this 30-day time period. It states that the time period, manner of registration, and payment for late registration may be stated by regulations.
- Further, the Bill states that where trade receivables are financed through Trade Receivables Discounting System (TReDS), the details regarding transactions should be filed with the Central Registry by the concerned TReDS, on behalf of the factor. TReDS is an electronic platform for facilitating financing of trade receivables of Micro, Small and Medium Enterprises.

The Bill has been referred to the Standing Committee on Finance, and the Committee is expected to submit its report by December 2020.[50] For a PRS summary of the Bill, see here.

Standing Committee on Finance submits report on financing the startup ecosystem

Madhunika Iyer (madhunika@prsindia.org)

The Standing Committee on Finance (Chair: Mr. Jayant Sinha) submitted its report on Financing the Startup Ecosystem.[51] The Committee recommended changes in taxation and other regulation to broaden avenues for investment in startups and improve domestic investor participation. Key recommendations of the Committee include:

- **Abolition of long-term capital gains tax**: The Committee recommended that tax on long-term capital gains should be abolished for two years on investments in startups made through collective investment vehicles (CIVs). After the two-year period, the Securities Transaction Tax (STT) may be applied to CIVs (instead of long-term capital gains tax) to ensure revenue neutrality for the government. STT is a tax imposed on purchase and sale of securities and is currently applicable for listed securities. CIVs are entities (such as angel funds) that pool funds for investment.
- **Asset management services not be subject to GST**: Foreign investment in startups can be made through alternative investment funds (AIFs) incorporated in India or non-AIFs which are domiciled outside India. Both AIFs and non-AIFs employ fund managers that provide asset management services. Management services provided to non-AIFs is considered as export and non-AIFs are not charged GST. Whereas AIFs are liable to pay GST. It was recommended that management services to foreign investors, whether pooled onshore (AIFs) or offshore (non-AIFs) should be considered as export so they can claim GST exemption.
- **Mobilisation of domestic institutional funds**: The Committee gave recommendations to channelise large pools of domestic capital available with pension funds, banks and insurance companies into alternate asset classes (such as AIFs, private equity, venture capital funds). These include: (i) pension funds should be allowed to invest in unlisted AIFs and the requirement of minimum AIF corpus size of Rs 100 crore be removed, (ii) major banks should be allowed to float fund-of-funds (for investment in funds that invest in startups), and (iii) insurance companies should be allowed to invest directly in VC/PE funds and a higher exposure limit should be permitted for the same. Insurance companies are allowed to hold between 3% to 5% of their investment funds in AIFs.[52,53]

For a PRS summary of the report, see here.

Working Group Report on formation of a pandemic risk pool released

Madhunika Iyer (madhunika@prsindia.org)

The Working Group on formation of an Indian Pandemic Risk Pool (Chair: Mr. Suresh Mathur) submitted its report to the Insurance Regulatory and Development Authority of India (IRDAI).[54] The Working Group was constituted by IRDAI in July 2020 to study the need for a pandemic risk pool and to recommend the structure of such risk pool.[55] Risk pool is a form of risk management for insurers where participating entities pool their resources and claims against insurers are paid out of the pool. Key recommendations of the Group include:

- **Need for a pandemic risk pool**: The Group recommended formation of an Indian Pandemic Risk Pool to address losses caused by a pandemic to low-income groups and MSMEs. The Group noted the inability of private insurers or the government alone to bear the system-wide risk posed by a pandemic. A risk pool provides a risk sharing mechanism for insurers to enable them to offer a low-cost product.
- **Product coverage**: The pandemic pool in its first phase may provide protection to cover salary of employees of MSMEs. Such protection will cover payment of Rs 6,500 per month (extendable to Rs 7,000) for maximum of 10 employees (extendable to 15), for up to three months or the end of a pandemic induced lockdown, whichever is earlier. It may later be expanded to cover health insurance and life insurance.
- **Government participation**: Losses from a pandemic are expected to be significantly larger than the size of the pool, at least in the initial years. The Group estimated that pool will require government guarantee of between Rs 75,000 crore to Rs 1.23 lakh crore for claims in excess of the size of the pool. The pool is expected to become self-sufficient in 20 to 25 years.
- **Administration of the pool**: The risk pool would be administered by the General Insurance Company (GIC) which also administers the terrorism risk pool and the nuclear risk pool. The Group recommended mandatory participation of general insurers, reinsurance companies and insurers in all sectors covered by the pool (such as health insurance and life insurance if applicable).

Labour

Occupational safety, Health and Working Conditions Code passed by Parliament

Suyash Tiwari (suyash@prsindia.org)

The Occupational Safety, Health and Working Conditions Code, 2020 was passed by Parliament.[56] The Code consolidates 13 existing Acts regulating health, safety, and working conditions. These include the Factories Act, 1948, the Mines Act, 1952, and the Contract Labour (Regulation and Abolition) Act, 1970. Key features of the Code include:

- **Coverage:** The Code will apply to establishments employing at least 10 workers. It will apply to all mines, docks, and establishments carrying out any hazardous or life-threatening activity (may be notified by the central government).
- **Exemptions:** The appropriate government can exempt any workplace or activity from the Code in case of a public emergency, disaster, or pandemic for up to a year. Further, the state government can exempt new factories from the Code for the specified period for creating more economic activity and employment.
- **Registration and license:** Establishments covered by the Code are required to register within 60 days (of commencement of the Code) with registering officers, appointed by the central or state government. Factories may be required to obtain a license to operate. The Code requires those hiring workers such as contract labourers or beedi and cigar workers to obtain licenses.
- **Duties of employers:** Duties of employers include: (i) providing a workplace that is free from hazards, and (ii) informing relevant authorities in case any accident at the workplace leads to death or serious bodily injury to any employee.
- **Work hours:** No worker will be required or allowed to work in any establishment for more than eight hours in a day. For overtime work, workers must be paid at twice the rate of daily wages. Prior consent of workers is required for overtime work.
- **Leave:** Workers cannot be required to work for more than six days a week. Further, they must receive one day of leave for every 20 days of work per year.

For a summary of the Bill, see here. For PRS analysis of the three labour Codes, see here.

Industrial Relations Code, 2020 passed by Parliament

Roshni Sinha (roshni@prsindia.org)

The Industrial Relations Code, 2020 was passed by Parliament.[57] It replaces three labour laws: (i) the Industrial Disputes Act, 1947, (ii) the Trade Unions Act, 1926, and (iii) the Industrial Employment (Standing Orders) Act, 1946. Key features of the Code include:

- **Trade unions:** Trade unions with membership of at least 10% of the workers or 100 workers, whichever is less, will be registered.
- **Negotiating unions:** If there is only one trade union in an establishment, the employer is required to recognise such trade union as the sole negotiating union of the workers. In case of multiple trade unions, the trade union with support of at least 51% of workers will be recognised as the sole negotiating union. If no union has the support of 51%, then a negotiating council will be formed consisting of representatives of unions that have at least 20% of the workers as members.
- **Standing orders:** All industrial establishments with at least 300 workers must prepare standing orders on certain matters. These include: (i) classification of workers, (ii) manner of informing workers about hours of work, holidays, paydays, and wage rates, (iii) termination of employment, and (iv) grievance redressal mechanisms.
- **Lay-off and retrenchment:** Mines, factories, and plantations with 50 to 300 workers must (i) pay 50% of basic wages and dearness allowance to a worker who has been laid off, and (ii) give one month's notice or equivalent pay to a retrenched worker with 15 days' compensation for every year of service.
- Non-seasonal industrial establishments with at least 300 workers must take prior permission of the central or state government before lay-off or retrenchment and: (i) pay 50% of basic wages and dearness allowance to a worker who has been laid off, and (ii) either give three months' notice or equivalent pay, along with 15 days' compensation for every year of service.
- **Exemptions from the Code:** The 2020 Bill provides that the central or state government may exempt any new establishment or a class of new establishment from all or any provisions of the Code in public interest.

For a summary of the Bill, see here. For PRS analysis of the three labour Codes, see here.

Code on Social Security, 2020 passed by Parliament

Roshni Sinha (roshni@prsindia.org)

The Code on Social Security, 2020 was passed by Parliament.[58] It replaces nine laws related to social security, including the Employees' Provident Fund Act, 1952 and the Maternity Benefit Act, 1961. Key features include:

- **Social security schemes**: Under the Code, the central government may notify various social security schemes for the benefit of workers. These include: (i) an Employees' Provident Fund (EPF) Scheme, an Employees' Pension Scheme (EPS), and an Employees' Deposit Linked Insurance (EDLI) Scheme, and (ii) maternity benefit.
- In addition, the central or state government may notify specific schemes for gig workers, platform workers, and unorganised workers to provide various benefits, such as life and disability cover. Gig workers refer to workers outside of the traditional employer-employee relationship (e.g., freelancers). Platform workers are workers who access other organisations or individuals using online platforms and earn money by providing them with specific services. Unorganised workers include home-based and self-employed workers.
- **Coverage and registration**: The Code specifies different applicability thresholds for the schemes, which may be amended by the government. For example, the EPF Scheme will apply to establishments with 20 or more employees. All eligible establishments are required to register under the Code, unless they are already registered under any other labour law.
- **Contributions**: The EPF, EPS, EDLI, and ESI Schemes will be financed through a combination of contributions from the employer and employee. For example, in the case of the EPF Scheme, the employer and employee will each make matching contributions of 10% of wages, or such other rate as notified by the government.
- **Social security organisations**: The Code provides for the establishment of several bodies to administer the social security schemes. These include: (i) a Central Board of Trustees to administer the EPF, EPS and EDLI Schemes, (ii) an Employees State Insurance Corporation to administer the ESI Scheme, and (iii) National and State Social Security Boards, headed by the central and state Ministers for Labour and Employment,

respectively, to administer schemes for unorganised workers.

For a summary of the Bill, see here. For PRS analysis of the three labour Codes, see here.

Agriculture

Farmers' Produce Trade and Commerce Bill, 2020 passed by Parliament

Suyash Tiwari (suyash@prsindia.org)

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020 was passed by Parliament.[59] The Bill replaces the Ordinance promulgated in June 2020.[60] It seeks to allow trade of farmers' produce outside the physical premises of the markets notified under the various state Agricultural Produce Marketing Committee (APMC) laws. It will prevail over the APMC Acts in the area outside such markets.

To trade in scheduled farmers' produce, an entity must be either: a farmer, a farmer producer organisation, an agricultural cooperative society, or a trader with a PAN card. The Bill prohibits state governments and APMCs from levying any market fee, cess, or other charge on such trade.

For a summary of the Bill, see here. For PRS analysis of the three agriculture Bills, see here.

Bill providing a framework for engaging in contract farming passed by Parliament

Aditya Kumar (aditya@prsindia.org)

The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020 was passed by Parliament.[61] It replaces the Ordinance promulgated in June 2020. The Bill provides a framework for farmers to engage in contract farming, i.e. farming as per an agreement with the buyer before sowing, under which farmer sells produce to the buyer at a pre-determined price.

- **Period:** The minimum period of an agreement will be one crop season, or one production cycle of livestock. The maximum period will be five years. For production cycle beyond five years, the maximum period will be mutually decided by the farmer and the sponsor.
- **Pricing:** The price to be paid for purchase of produce may be mentioned in the agreement. In case the price is subject to variation, the agreement must include: (i) a minimum guaranteed price, and (ii) a clear price reference for any additional amount over and above the guaranteed price, including bonus or premium.
- **Exemptions from existing laws**: Farming produce under a farming agreement will be exempted from all state APMC Acts and from any stock limit obligations applicable under the Essential Commodities Act, 1955.

For more details on the Bill, see here. For PRS analysis of the three agriculture Bills, see here.

The Essential Commodities (Amendment) Bill, 2020 passed by Parliament

Saket Surya (saket@prsindia.org)

The Essential Commodities (Amendment) Bill, 2020 was passed by Parliament.[62] The Bill replaces the Ordinance promulgated on June 5, 2020 to amend the Essential Commodities Act, 1955.[63] The Act empowers the central government to control the production, supply, distribution, storage, and trade of essential commodities.

The Bill provides that the central government can regulate the supply of certain food items (as may be notified), including cereals, pulses, potato, onions, edible oilseeds, and oils, only under extraordinary circumstances such as war, famine, extraordinary price rise, and natural calamity of grave nature.

A stock limit may be imposed on agricultural produce only if there is: (i) a 100% increase in the retail price in case of horticultural produce, or (ii) a 50% increase in the retail price in case of non-perishable agricultural food items. Such stock limit will not apply to a processor or value chain participant if the stock held by such person is less than: (i) the overall ceiling of installed processing capacity, or (ii) demand for export in case of an exporter.

For more details on the Bill, see here. For PRS analysis of the three agriculture Bills, see here.

First advance estimates of production of crops released for Kharif season 2020-21

Suyash Tiwari (suyash@prsindia.org)

The Ministry of Agriculture and Farmers' Welfare released the first advance estimates of production of foodgrains and commercial crops for the Kharif season 2020-21.[64] Table 3 gives a comparison of the first advance estimates for Kharif 2020-21 with the estimates for Kharif 2019-20. Following are some of the highlights:

- Foodgrain production in Kharif 2020-21 is estimated to increase by 0.8% as compared to Kharif 2019-20, largely due to a 20.6% increase in the production of pulses.

- The production of groundnut is estimated to see a 14% increase, while that of soyabean is estimated to increase at a rate of 21.1%.
- The production of cotton is estimated to increase by 4.6% in 2020-21, and sugarcane production is estimated to increase by 12.4% to nearly 400 million tonnes.

Table 3: First advance estimates (AE) of production in Kharif 2020-21 (million tonnes)

Crop	4th AE Kharif 2019-20	1st AE Kharif 2020-21	Change over 2019-20
Foodgrains (A+B)	143.4	144.5	0.8%
A. Cereals	135.7	135.2	-0.3%
Rice	102.0	102.4	0.4%
Coarse Cereals	33.7	32.8	-2.5%
B. Pulses	7.7	9.3	20.6%
Tur	3.8	4.0	5.5%
Urad	1.3	2.2	65.4%
Moong	1.8	2.1	16.8%
Oilseeds	22.3	25.7	15.3%
Soyabean	11.2	13.6	21.1%
Groundnut	8.4	9.5	14.0%
Cotton*	35.5	37.1	4.6%
Sugarcane	355.7	399.8	12.4%

*million bales of 170 kg each.
Sources: Directorate of Economics and Statistics, Ministry of Agriculture and Farmers' Welfare; PRS.

Cabinet approves the Minimum Support Prices for Rabi crops for 2020-21

Suyash Tiwari (suyash@prsindia.org)

The Union Cabinet approved the Minimum Support Prices (MSPs) for Rabi crops, that will be sown in 2020-21.[65] Table 4 shows the change in MSPs for the Rabi crops sown in 2020-21 as compared to 2019-20. The MSP for wheat has increased by 2.6% to Rs 1,975 per quintal. In comparison, most of the other Rabi crops see a higher increase in their MSP, as the government is aiming to encourage crop diversification.

Table 4: Change in the MSPs for Rabi crops (figures in Rs per quintal)

Crop	2019-20	2020-21	Change
Wheat	1,925	1,975	2.6%
Barley	1,525	1,600	4.9%
Gram	4,875	5,100	4.6%
Lentil	4,800	5,100	6.2%
Rapeseed and Mustard	4,425	4,650	5.1%
Safflower	5,215	5,327	2.2%

Sources: Press Information Bureau; PRS.

Health and Family Welfare

The Assisted Reproductive Technology (Regulation) Bill, 2020 introduced

Saket Surya (saket@prsindia.org)

The Assisted Reproductive Technology (Regulation) Bill, 2020 was introduced in Lok Sabha.[66] It seeks to provide for the regulation of Assisted Reproductive Technology services. Key features of the Bill include:

- **Assisted Reproductive Technology (ART)**: The Bill defines ART to include all techniques that seek to obtain a pregnancy by handling the sperm or the oocyte (immature egg cell) outside the human body and transferring the gamete or the embryo into the reproductive system of a woman. Examples of ART services include gamete (sperm or oocyte) donation, in-vitro-fertilisation (fertilising an egg in the lab), and gestational surrogacy (the child is not biologically related to surrogate mother).
- **Regulation of ART clinics and banks:** The Bill provides that every ART clinic and bank must be registered under the National Registry of Banks and Clinics of India. The National Registry will be established under the Bill and will act as a central database with details of all ART clinics and banks in the country. State governments will appoint registration authorities for facilitating the registration process.
- **Conditions for ART services:** ART procedures can only be carried out with the written informed consent of both the party seeking ART services as well as the donor. The party seeking ART services will be required to provide insurance coverage in the favour of the oocyte donor (for any loss, damage, or death of the donor). A clinic is prohibited from offering to provide a child of pre-determined sex. The Bill also requires checking for genetic diseases before the embryo implantation.

For a PRS summary of the Bill, see here.

The National Commission for Indian System of Medicine Bill, 2019 passed

Shruti Gupta (shruti@prsindia.org)

The National Commission for Indian System of Medicine Bill, 2019 was passed by Parliament.[67] The Bill seeks to repeal the Indian Medicine Central Council Act, 1970. Indian System of Medicine includes Ayurveda, Unani, Siddha and Sowa-Rigpa systems of medicines. The Bill creates a framework for regulation of education and practice of these systems of medicine.

Key features of the Bill include:

- **National Commission for Indian System of Medicine (NCISM):** Functions of the NCISM include: (i) framing policies for regulating institutions and professionals of Indian System of Medicine, (ii) assessing the requirements of healthcare related human resources and infrastructure, and (iii) ensuring compliance by the State Medical Councils for Indian System of Medicine. State Medical Councils will be established by the state governments within three years of the passage of the Bill.
- **Advisory Council for Indian System of Medicine:** The central government will constitute an Advisory Council which will be the primary platform through which the states/union territories can put forth their views and concerns before the NCISM. It will also advise the NCISM on measures to maintain the minimum standards of medical education.
- **Entrance examinations:** There will be a uniform National Eligibility-cum-Entrance Test for admission to under-graduate education in all medical institutions regulated by the Bill. There will also be a similar uniform post-graduate National Entrance Test. The Bill proposes a common final year National Exit Test for the students graduating from medical institutions to obtain the license for practice. The Bill also proposes a National Teachers' Eligibility Test for postgraduates who wish to take up teaching that particular discipline as a profession.

For a PRS Bill Summary, see here.

The Indian Medicine Central Council (Amendment) Bill, 2020 passed

Shruti Gupta (shruti@prsindia.org)

The Indian Medicine Central Council (Amendment) Bill, 2020 was passed by Parliament.[68] It amends the Indian Medicine Central Council Act, 1970 and replaces the Indian Medicine Central Council (Amendment) Ordinance, 2020.[69,70] It provides that the Central Council will stand superseded from April 24, 2020 (date of promulgation of the Ordinance) for a maximum period of one year. In the interim period, the central government will constitute a Board of Governors, which will exercise the powers of the Central Council.

For a PRS Bill Summary, see here.

The National Commission for Homoeopathy Bill, 2019 passed

Shruti Gupta (shruti@prsindia.org)

The National Commission for Homoeopathy Bill, 2019 was passed by Parliament. The Bill seeks to repeal the Homoeopathy Central Council Act, 1973.[71] The Bill creates a framework for regulating education and practice of Homoeopathy. Its key features include:

- **National Commission for Homoeopathy (NCH)**: Functions of the NCH include: (i) framing policies for regulating medical institutions and homoeopathic medical professionals, (ii) assessing the requirements of healthcare related human resources and infrastructure, and (iii) ensuring compliance by the State Medical Councils of Homoeopathy of the regulations made under the Bill.
- **Advisory Council for Homoeopathy**: An Advisory Council for Homoeopathy will be appointed to function as the primary platform through which the states/union territories can put forth their views and concerns advise the NCH on measures to determine and maintain minimum standards of medical education.
- **Entrance examinations:** There will be a uniform National Eligibility-cum-Entrance Test for admission in all medical institutions regulated by the Bill. A similar Post-Graduate National Entrance Test for admission into post-graduate courses at medical institutions will be instituted. A common final year National Exit Test for the students graduating to obtain the license for practice and a National Teachers' Eligibility Test for postgraduates who wish to take up teaching homoeopathy as a profession will also be set up.

For a PRS Bill Summary, see here.

The Homoeopathy Central Council (Amendment) Bill, 2020 passed

Shruti Gupta (shruti@prsindia.org)

The Homoeopathy Central Council (Amendment) Bill, 2020 was passed by Parliament.[72] The Bill amends the Homoeopathy Central Council Act, 1973 and replaces the Homoeopathy Central Council (Amendment) Ordinance, 2020.[73, 74] The Act sets up the Central Council of Homoeopathy which regulates homoeopathic education and practice.

The Bill amends the Act to increase the time period for the supersession of the Homoeopathy Central Council from two years to three years.

The provision for supersession was inserted through an amendment in 2018, in which the Council was superseded for one year.[75] This was further increased from one year to two years through an amendment in 2019.[76]

For a PRS Bill Summary, see here.

The Institute of Teaching and Research in Ayurveda Bill, 2020 passed by Parliament

Shruti Gupta (shruti@prsindia.org)

The Institute of Teaching and Research in Ayurveda Bill, 2020 passed by Parliament.[77] Key features include:

- **Merger:** The Bill seeks to merge three Ayurveda institutes into one institution by the name of Institute of Teaching and Research in Ayurveda. The proposed Institute will be situated in the campus of Gujarat Ayurved University, Jamnagar. The Bill declares the Institute to be an institution of National Importance.
- **Functions of Institute:** The functions of the Institute will include: (i) providing for undergraduate and postgraduate teaching in Ayurveda (including pharmacy), (ii) prescribing courses and curricula for both undergraduate and postgraduate studies in Ayurveda, (iii) providing facilities for research in the various branches of Ayurveda, and (iv) holding examinations and grant degrees, diplomas and other distinctions and titles in education in Ayurveda and pharmacy.

For a PRS Bill Summary, see here.

The National Commission for Allied and Healthcare Professions Bill, 2020 introduced in Parliament

Shruti Gupta (shruti@prsindia.org)

The National Commission for Allied and Healthcare Professions Bill, 2020 was introduced in Rajya Sabha.[78] The Bill seeks to regulate and standardise the education and practice of allied and healthcare professionals. Key features of the Bill include:

- **Definitions:** The Bill defines 'allied health professional' as an associate, technician, or technologist trained to support the diagnosis and treatment of any illness, disease, injury, or impairment. Such a professional should have obtained a diploma or degree under this Bill. The duration of the degree or diploma should be at least 2,000 hours (over a period of two to four years).
- **Allied and healthcare professions:** The Bill specifies certain categories of allied and healthcare professions as recognised categories in the Schedule to the Bill. These include life science professionals, trauma and burn care professionals, surgical and anaesthesia related technology professionals, physiotherapists, and nutrition science professionals.
- **National Commission for Allied and Healthcare Professions:** The Bill sets up the National Commission for Allied and Healthcare Professions responsible for framing policies and standards, creating and maintaining an online central register of all registered professionals, providing basic standards of education and training, and providing for a uniform entrance and exit examination, among others.
- **State Councils:** State governments must constitute State Allied and Healthcare Councils within six months from the passage of this bill. It will be responsible for enforcing professional conduct, maintaining State Registers, inspecting institutions, and ensuring uniform entry and exit examinations.
- **Offences and penalties:** No persons other than those enrolled in a State Register or the National Register is allowed to practice as a qualified allied and healthcare practitioner. Any person who contravenes this provision will be punished with a fine of Rs 50,000.

For a PRS Bill Summary, see here.

Rules on food safety and standards for children in school notified

Shruti Gupta (shruti@prsindia.org)

The Ministry of Health and Family Welfare notified the Food Safety and Standards (Safe food and balanced diets for children in school) Regulations, 2020.[79] The regulations provide for standards of safety of food served in schools.

As per the regulations, any school authority catering or serving meals itself must be registered as a Food Business Operator (FBO) with the Food Safety and Standards Authority of India or state food authorities. If it is in contract with any other FBO, it must also ensure that the other FBO is duly registered and licensed. School authorities must ensure that food products high in saturated fat, trans-fat, or added sugar or sodium are not sold on campus. They must advertise this restriction through a board at the entrance gate of the school.

Establishment of new AIIMS in Bihar approved by Cabinet

Shruti Gupta (shruti@prsindia.org)

The Cabinet approved the establishment of a new All India Institute of Medical Sciences (AIIMS) at Darbhanga, Bihar.[80] The total cost of establishment is estimated to be Rs 1,264 crore. Construction is estimated to be finished within 48 months from date of approval.

The new AIIMS will have the following facilities: (i) 100 MBBS and 60 Nursing seats, (ii) 15-20 super specialty departments, (iii) 750 hospital beds, and (iv) check-up facility to cater to 2,000 OPD patients (where patient is not admitted) and 1,000 IPD patients (where patient is admitted) per day.[80]

Home Affairs

The Foreign Contribution (Regulation) Amendment Bill passed by Parliament

Anurag Vaishnav (anurag@prsindia.org)

The Foreign Contribution (Regulation) Amendment Bill, 2020 was passed by Parliament.[81] The Bill amends the Foreign Contribution (Regulation) Act, 2010. The Act regulates the acceptance and utilisation of foreign contribution by individuals, associations, and companies. Foreign contribution is the donation or transfer of any currency, security or article (of beyond a specified value) by a foreign source. Key provisions of the Bill include:

- **Transfer of foreign contribution:** Under the Act, foreign contribution cannot be transferred to any other person unless such person is also registered to accept foreign contribution (or has obtained prior permission under the Act to obtain foreign contribution). The Bill amends this to prohibit the transfer of foreign contribution to any other person.
- **Aadhaar for registration:** The Act states that a person may accept foreign contribution if they have obtained a certificate of registration or prior permission from the government. The Bill requires that the application for registration or permission must contain the Aadhaar number of all directors or key functionaries. A foreigner, must provide a copy of the passport or the Overseas Citizen of India card.
- **FCRA account:** Under the Act, a registered person must accept foreign contribution only in a single branch of a scheduled bank specified by them. The Bill amends this to state that foreign contribution must be received only in a specified branch of the State Bank of India in New Delhi.
- **Reduction in use of foreign contribution for administrative purposes:** Under the Act, not more than 50% of the foreign contribution may be used for meeting administrative expenses. The Bill reduces this to 20%.

For a PRS summary of the Bill, see here.

National Forensic Sciences University Bill, 2020 passed by Parliament

Roshni Sinha (roshni@prsindia.org)

The National Forensic Sciences University Bill, 2020 was passed by Parliament.[82] Key features of the Bill include:

- **Establishment of the University**: The Bill establishes the Gujarat Forensic Sciences University, Gandhinagar (established under the Gujarat Forensic Sciences University Act, 2008) and the Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Sciences, New Delhi, as a University called the National Forensic Sciences University at Gujarat. The Bill declares the University to be an institution of national importance. The Bill also repeals the 2008 Act. The campuses of the University will include the campuses of the two universities and any other campuses as may be notified.
- **Functions**: The functions of the University include: (i) providing training and research and forensic science, applied behavioural science, law, and criminology, (ii) establishing and maintaining colleges, schools, and research laboratories, and (iii) prescribing courses, holding exams, and granting degrees and other distinctions.

For a PRS summary of the Bill, see here.

Rashtriya Raksha University Bill, 2020 passed by Parliament

Roshni Sinha (roshni@prsindia.org)

The Rashtriya Raksha University Bill, 2020 was passed by Parliament.[83] Key features include:

- **Establishment of the University**: The Bill establishes the Raksha Shakti University, Gujarat (established under the Raksha Shakti University Act, 2009) as a University called the Rashtriya Raksha University in Gujarat. The Bill declares the University to be an institution of national importance. The Bill also repeals the 2009 Act.
- **Functions**: The functions of the University include: (i) providing instructions and research in police sciences, including coastal policing and cyber security, (ii) establishing and maintaining colleges, and (iii) prescribing courses, holding exams, and granting degrees and other distinctions.

For a PRS summary of the Bill, see here.

Jammu and Kashmir Official Languages Bill, 2020 passed by Parliament

Roshni Sinha (roshni@prsindia.org)

The Jammu and Kashmir Official Languages Bill, 2020 was passed by Parliament.[84] It seeks to declare certain languages as official languages of the Union Territory of Jammu and Kashmir.

- **Official languages**: The Bill declares Kashmiri, Dogri, Urdu, Hindi and English as the official languages to be used for the official purposes of the union territory, from such date as the Administrator of the union territory may notify. The Bill adds that the business in the Legislative Assembly of the union territory will be transacted in these official languages.
- **Use of English**: The Bill clarifies that English may continue to be used in the union territory for those administrative and legislative purposes for which it was being used before the commencement

For a PRS summary of the Bill, see here.

Corporate Affairs

Roshni Sinha (roshni@prsindia.org)

Companies (Amendment) Bill, 2020 passed by Parliament

The Companies (Amendment) Bill, 2020 was passed by Parliament.[85] The Bill amends the Companies Act, 2013. Key features include:

- **Changes to offences**: The Bill makes three key changes. First, it moves 23 compoundable offences to in-house adjudication where penalties will be levied instead of imposing fines/imprisonment (e.g., for non-maintenance of registers). Second, 11 offences are being amended to restrict punishment to fines only and to remove imprisonment (e.g., for non-compliance with provisions related to foreign companies). Third, seven offences are being omitted (e.g., for non-compliance with certain orders of the National Company Law Tribunal).
- **Corporate Social Responsibility (CSR)**: Under the Act, companies with net worth, turnover or profits above a specified amount are required to constitute CSR Committees and spend 2% of their average net profits in the last three financial years, towards its CSR policy. The Bill exempts companies with a CSR liability of up to Rs 50 lakh a year from setting up CSR Committees. Further, companies which spend any amount in excess of their CSR obligation in a financial year can set off the excess amount towards their CSR obligations in subsequent financial years.
- **Direct listing in foreign jurisdictions**: The Bill empowers the central government to allow certain classes of public companies to list classes of securities (as may be prescribed) in foreign jurisdictions.

For a PRS summary of the Bill, see here.

Education

Anurag Vaishnav (anurag@prsindia.org)

The Indian Institutes of Information Technology Laws (Amendment) Bill, 2020 passed by Parliament

The Indian Institutes of Information Technology Laws (Amendment) Bill, 2020 was passed by Parliament.[86] The Bill amends Indian Institutes of Information Technology Act, 2014 and the Indian Institutes of Information Technology (Public-Private Partnership) Act, 2017. The 2017 Act declares certain Indian Institutes of Information Technology established under public-private partnership mode as institutions of national importance. Under the Act, 15 institutes are currently incorporated as institutions of national importance.

The Bill seeks to declare five Indian Institutes of Information Technology (IIITs) set up under the public-private partnership mode in Surat, Bhopal, Bhagalpur, Agartala, and Raichur as institutions of national importance. Currently, these institutes are registered as Societies under the Societies Registration Act, 1860 and do not have the power to grant degrees or diplomas. On being declared as institutions of national importance, the five institutes will be granted the power to grant degrees.

For a PRS Summary on the Bill, please see here.

UGC notifies regulations for open and distance learning, online programmes

The University Grants Commission (UGC) notified the University Grants Commission (Open and Distance Learning Programmes and Online Programmes) Regulations, 2020.[87] The regulations lay down the minimum standards for grant of degrees or diploma through open and distance learning mode and online mode. Institutions may offer only those open and distance learning or online programmes which are being offered under the conventional mode of classroom teaching. The regulations provide:

- **Open and distance learning (ODL) programmes:** Higher education institutes will have to meet the following criteria to be eligible for offering programmes in ODL mode: (i) minimum accreditation score of 3.01 (out of 4) by the National Assessment and Accreditation Council (NAAC), or (ii) rank in top 100 of the university rankings under the National Institute Ranking Framework (NIRF) at-least once in two preceding cycles at the time of application.
- **Online courses:** Institutes will have to meet the following criteria to be eligible for offering online programmes: (i) NAAC accreditation score of 3.26 and above (out of 4), or (ii) rank in top 100 in the university rankings of NIRF at-least twice in the three preceding cycles (at the time of application) can start online programmes without the approval of UGC. Institutes with: (i) NAAC accreditation score of 3.01 and above (out of 4), or (ii) rank in top 100 in the university rankings of NIRF at-least once in the two preceding cycles.
- **Programmes:** The eligible institutions may offer degree or diploma courses in domains other than the specified prohibited programmes. Prohibited programmes include programmes in domains of engineering, medical, architecture, law, and agriculture, among others.
- **Quality standards:** All institutions offering ODL or online courses should establish a centre for internal quality assurance. This centre will be headed by a director (of rank Associate professor or above). The centre will be responsible for devising a mechanism to ensure quality of ODL and online courses. The total credits for ODL and online programmes should be same as that of the corresponding programme in conventional mode.

Applications from higher education institutions for offering ODL and online courses are invited by October 15, 2020.[88]

Civil Aviation

Aditya Kumar (aditya@prsindia.org)

The Aircraft (Amendment) Bill, 2020 passed by Parliament

The Aircraft (Amendment) Bill, 2020 was passed by Parliament.[89] It amends the Aircraft Act, 1934. The Act regulates the manufacture, possession, use, operation, sale, import and export of civil aircrafts, and licensing of aerodromes. Key provisions of the Bill include:

- **Authorities:** The Bill converts three existing bodies under the Ministry of Civil Aviation into statutory bodies under the Act. These are: (i) the Directorate General of Civil Aviation (DGCA), (ii) the Bureau of Civil Aviation Security (BCAS), and (iii) the Aircraft Accidents Investigation Bureau (AAIB). Each of these bodies will be headed by a Director General who will be appointed by the centre.
- The DGCA will carry out safety oversight and regulatory functions as specified in the Act or Rules notified under the Act (these may include civil air regulations, air safety and airworthiness standards). The BCAS will carry out regulatory oversight functions related to civil aviation security as specified under the Act (these may be for airport operators, airlines operators, and their security agencies). The AAIB will carry out investigations related to aircraft accidents and incidents.
- **Offences and penalties:** Under the Act, the penalty for various offences is imprisonment of up to two years, or a fine of up to Rs 10 lakh, or both. These offences include: (i) carrying arms, explosives, or other dangerous goods aboard an aircraft, (ii) constructing structures within the specified radius around an aerodrome reference point, and (iii) contravening any rules notified under the Act. The Bill raises the maximum limit

of fines for all these offences from ten lakh rupees to one crore rupees.

For a PRS summary of the Bill, see here.

Open sky policy for non-scheduled cargo flights updated

The Director General of Civil Aviation (DGCA) notified modifications in the open sky policy for non-scheduled cargo flights to and from India.[90] The policy is aimed at regulating operations of cargo flights. Key features of the policy include:

- Operations of foreign and non-scheduled cargo charter flights will be restricted to six airports. The airports are: (i) Bengaluru, (ii) Chennai, (iii) Delhi, (iv) Kolkata, (v) Hyderabad, and (vi) Mumbai. Earlier, non-scheduled flights could operate from any Indian airport where customs/immigrations facilities were available.[91]
- These changes will not apply to cargo flights: (i) operated for humanitarian and emergency needs through United Nations or other multilateral bodies where India is a member, and (ii) hired by Ministry/department/public sector undertakings of central or state governments. Cargo-flights hired by the central or state government may be allowed to operate on priority from any Indian airport where customs/immigrations facilities are available.[90]

Law and Justice

Roshni Sinha (roshni@prsindia.org)

Standing Committee submits report on virtual courts

The Standing Committee on Personnel, Public Grievances, Law and Justice (Chair: Mr. Bhupender Yadav) submitted its report on the functioning of virtual courts.[92] The Committee emphasised that there is a need to integrate virtual courts into the country's legal ecosystem. Key recommendations include:

- **Digital divide**: The Committee noted that a large number of advocates and litigants lack access to basic infrastructure and high-speed internet needed for virtual hearings. To address this, it recommended exploring the feasibility of involving private agencies to take videoconferencing equipment to the doorsteps of people who are not tech-savvy, to help them connect with virtual courts.
- **Connectivity divide**: To address the connectivity divide, the Committee recommended that the government ramp up efforts to ensure timely implementation of the National Broadband Mission.
- **Skill divide**: To address the skill divide, the Committee recommended that training and awareness programs be conducted on all court complexes across the country to help advocates acquire skills required for handling digital platforms. It also recommended that the Bar Council of India introduce computer courses as one of the subjects in law courses.
- **Subordinate courts**: The Committee noted that lower courts lack basic infrastructure and have experienced difficulties in adapting to virtual courts. Since transition to virtual Courts requires high initial investment, the Committee recommended exploring the feasibility of new financing approaches such as a public private participation model.
- **Continuation of virtual courts**: The Committee recommended continuing the current system of virtual hearings on an experimental basis with the consent of all parties for certain categories of cases of appeals and final hearings (where physical presence is not required).
- **Way forward**: The Committee recommended implementing a full-fledged virtual Court system on a pilot basis, in consultation with members of bar associations and bar councils. The Committee recommended transferring to virtual courts all matters in which personal presence may be dispensed with. In cases involving interpretation of law, facts, and examination of a large number of witnesses, hybrid model can be adopted to digitise manual processes (such as filing of plaint and issuance of summons) and the hearings can be held in physical courtrooms.

For a PRS summary of the report, see here.

Social Justice and Empowerment

Shruti Gupta (shruti@prsindia.org)

The Transgender Persons (Protection of Rights) Rules, 2020 notified

The Transgender Persons (Protection of Rights) Rules, 2020 were notified.[93] The Rules were notified under the Transgender Persons (Protection of Rights) Act, 2019. The Act provides for the welfare and protection of transgender persons. Key features of the Rules include the following:

- **Issuance of certificate of identity**: Under the Act, a transgender person must make an application to the District Magistrate to receive a certificate of identity. To apply for a certificate of identity, the Rules require the submission of an application form and affidavit declaring the gender identity of the applicant. In the case of a minor, such application shall be made by the parent or guardian of the child. For a child in need of care and protection, the Child Welfare Committee under the Juvenile Justice Act, 2015 will submit the application.
- The certificate must be issued within 30 days. The District Magistrate will also issue a transgender identity card. The District Magistrate may issue certificates to applicants only if they have been residents of the area under his/her jurisdiction for a continuous period of 12 months on the date of application.
- **Issuance of revised certificate:** If a person undergoes sex reassignment surgery, a certificate by the Medical Superintendent or Chief Medical Officer of the institution in which the surgery took place, must be submitted. A revised certificate of identity indicating the gender of the person as male or female will be issued within 15 days.
- **Appeals**: If an application for certificate of identity is rejected, the applicant may appeal the decision (before a notified appellate authority) within 90 days.
- **Welfare measures**: The central and state government shall formulate welfare schemes on matters such as, medical insurance, scholarships for transgender students, and affordable housing. All educational institutions must have a committee that transgender persons can approach in case of harassment and discrimination. Further, all establishments must have an equal opportunity policy, and a complaint officer.

Commerce and Industry

Madhunika Iyer (madhunika@prsindia.org)

FDI policy in defence amended to permit FDI up to 74% under automatic route

The Ministry of Commerce and Industry notified changes to the Foreign Direct Investment (FDI) policy for the defence sector.[94] The policy is applicable to companies in the sector that are subject to licensing under the Industries (Development & Regulation) Act, 1951 and the Arms Act, 1959. The policy permits 100% FDI in defence, with limits beyond which government approval is required. Key changes in the policy are:

- **FDI in companies seeking new licenses**: The amendment increases the limit from 49% to 74% for FDI under the automatic route in companies seeking new industrial licenses. FDI beyond 74% is permitted with government approval.
- **FDI in companies with existing licenses**: Under the revised policy, a company with an existing license, receiving fresh FDI (within the 49% limit) will have to inform the Ministry of Defence if such investment results in a change in ownership pattern or transfer of stake. Proposals for FDI beyond 49% in companies with existing licenses will require government approval. Earlier, all FDI in companies with existing licenses resulting in a change in ownership or transfer of stake required government approval.

The Public Procurement (Preference to Make in India) Order, 2017 amended

The Ministry of Commerce and Industry amended the Public Procurement (Preference to Make in India) Order, 2017.[95] The amendment enhances preference for local suppliers in government procurement contracts. The 2017 Order classifies suppliers based on the amount of local content into: (i) Class-I local suppliers (50% or more), (ii) Class-II local suppliers (20%-50%), and (iii) non-local suppliers (less than 20%).[96] Local content is the amount of value added in India which is typically calculated as the difference between the total value of an item less the value of imported content (expressed as a percentage of total value). Key provisions of the amendment are:

- **Procurement preference to apply in multiple bidder contracts**: Preference in procurement for Class-I suppliers will also apply to tenders where the contract is awarded to multiple bidders. Preference will be given by (i) restricting participation from other suppliers where there is sufficient local capacity, and (ii) ensuring at least 50% of the contract is fulfilled by Class-I suppliers subject to such suppliers' price falling within the margin of preference. Margin of preference is the maximum extent to which the price quoted by a Class-I supplier may exceed the lowest bid received for a contract.

- **Joint venture for foreign participation**: For the procurement of items for which the Nodal Ministry has not notified that there is sufficient local capacity, foreign companies may participate in the tender. For contracts above a threshold to be notified, foreign companies may participate only through a joint venture with an Indian company.
- **Local content thresholds**: The amendment retains the local content threshold for Class-I and Class-II suppliers at 50% and 20% respectively. It clarifies that these are minimum limits and that Nodal Ministries may only prescribe higher thresholds for local content. Note that the power of the Ministry to grant exemptions from the minimum local content limit still applies.
- **Restrictions on foreign suppliers**: The Order permits a Nodal Ministry to restrict entities from certain countries from participating in a procurement contract if it finds that Indian suppliers of the same item are excluded from participating in government procurement of those countries. The restriction or exclusion of entities from such countries was left to the discretion of the Nodal Ministry. The amendment prohibits participation by entities from such countries in procurement contracts except for a limited list of items published by the Ministry.

Defence

Anurag Vaishnav (anurag@prsindia.org)

Defence Acquisition Procedure, 2020 released

The Ministry of Defence has released the Defence Acquisition Procedure (DAP), 2020.[97,98] The DAP governs the acquisition of weapons and equipment for India's defence forces. The Ministry had released the draft DAP for public comments in July 2020.[99] The DAP 2020 supersedes the Defence Procurement Procedure (DPP) 2016. It will come into effect from October 1, 2020 and be in force till September 30, 2025 or till reviewed. Its features include:

- **Mode of acquisition:** The DPP 2016 specified two modes of capital acquisition: (i) buy, and (ii) buy and make. The DAP has introduced 'leasing' as a new mode of acquisition. Leasing substitutes initial capital outlays with periodical rental payments. It is preferred in situations where: (i) procurement is not feasible due to time constraint, or (ii) the asset is required only for a specific time. Further, the DAP adds a separate mechanism for acquisition of systems designed by the Defence Research and Development Organisation, defence Public Sector Undertakings, and Ordnance Factory Boards.
- **Enhancement of Indigenous Content (IC):** The DPP-2016 specified five categories of capital acquisition for the above two modes.[100] These are (explained in notes below Table 5): (i) Buy (Indian-IDDM), (ii) Buy (Indian), (iii) Buy and Make (Indian), (iv) Buy and Make, and (v) Buy (Global). The DAP adds Buy (Global-Manufacture in India) as another category for acquisition. It drops the 'Buy and Make' category. Further, the DAP has enhanced the IC requirement in various categories of procurement. The IC requirements for the above categories are listed in Table 5.
- **Weapons and platforms banned for import:** In August 2020, the Ministry of Defence Ministry published a list of 101 weapons and platforms for which there will be an embargo (ban) on import from December 2020.[101] The DAP states that the service headquarters must ensure that no weapon/platform on the list is procured through import. This equipment may be procured under the Buy (Indian-IDDM) and Buy (Indian) categories.

Table 5: Indigenous content requirement for different categories of acquisition

Category	DPP-2016	DAP-2020
Buy (Indian-IDDM)	40% or more	50% or more
Buy (Indian)	40% or more	50% or more (for indigenous design)
Buy and Make (Indian)	50% or more of 'Make' part	50% or more of 'Make' part
Buy and Make	Not specified	Category not present
Buy (Global-Manufacture in India)	Category not present	50% or more
Buy (Global)	Not specified	30% or more (for Indian vendor)

Note: IC is the percent of cost of indigenous content (in design, development or manufacturing) of contract value. 'Make' part refers to manufacturing portion of the contract. Categories: (i) Buy (Indian-IDDM) refers to the procurement of products from an Indian vendor that have been indigenously designed, developed and manufactured; (ii) Buy (Indian) refers to the procurement of products from an Indian vendor; (iii) Buy and Make (Indian) refers to an initial procurement of equipment from an Indian vendor in a tie-up with a foreign vendor, followed by transfer of technology; (iv) Buy and Make refers to an initial procurement of equipment from a foreign vendor, followed by transfer of technology; (v) Buy (Global-Manufacture in India) refers to a purchase from a foreign vendor where the 50% IC value can be achieved in 'Make' through a subsidiary of the vendor; and (vi) Buy (Global) refers to outright purchase of equipment from foreign or Indian vendors.

Personnel

Roshni Sinha (roshni@prsindia.org)

Mission Karamyogi launched for civil services capacity building

The Union Cabinet approved the launch of a capacity-building scheme for members of the civil services called the National Programme for Civil Services Capacity Building.[102] The Programme will be delivered through a digital platform called iGOTKarmayogiPlatform.

The core guiding principles of the Programme include: (i) aligning work allocation of civil servants by matching their competencies to the requirements of the post, (ii) emphasising on 'on-site learning' to complement 'off-site' learning, and (iii) calibrating all Civil Service positions to a Framework of Roles, Activities and Competencies (FRACs) approach and to create and deliver learning content relevant to the identified FRACs in every government entity.

The Programme will be governed by: (i) the Prime Minister's Human Resource (HR) Council, (ii) a Capacity Building Commission, (iii) a special purpose vehicle for owning and operating the digital assets and platform for online training, and (iv) a coordination unit headed by the Cabinet Secretary. The functions of the Capacity Building Commission include: (i) assisting the PM HR Council in approving annual capacity building plans, (ii) supervising central training institutions dealing with civil services capacity building, and (iii) setting norms for common mid-career training programmes across all civil services.

Besides capacity building, service matters like confirmation after probation period, deployment, work assignment and notification of vacancies are also proposed to be integrated with the competency framework.

Electronics and Information Technology

Saket Surya (saket@prsindia.org)

118 mobile apps banned on the grounds of national security and public order

The Ministry of Electronics and Information Technology banned 118 apps on the grounds that these pose a threat to the sovereignty, integrity, defence and security of the state, and public order.[103] These apps include PUBG Mobile Lite, Alipay, and Baidu. Use of these apps has been disallowed in both mobile and non-mobile internet-enabled devices. In June 2020, the Ministry had banned 59 mobile apps including TikTok, Shareit, UC Browser, and Cam Scanner, on similar grounds.[104]

Communications

Saket Surya (saket@prsindia.org)

Recommendations on regulatory framework for OTT communication services released

The Telecom Regulatory Authority of India (TRAI) released its recommendations on the regulatory framework for over-the-top (OTT) communication services.[105] OTT communication services include voice calling, video calling, and messaging over the internet. These services bypass the need for accessing corresponding services provided over the telecom network. Examples of such service providers include Skype, Facebook Messenger, and WhatsApp. TRAI recommended that:

- There should be no regulatory intervention on OTT communication services at the moment. Deliberations across the world on regulation of OTT services are at the study level, and hence, it is not an opportune moment to recommend regulations.
- No regulatory intervention is required in respect of issues related to privacy and security of OTT services. OTT services already use encryption technology which prevents intermediaries from getting the communication in a clear text or an intelligible form.[105]

In 2015, TRAI had noted that OTT services are such that revenue realisation for Telecom Service Providers (TSPs) are solely from the increase of data usage of the internet-connected customers.[106] Carriage is separated from content in internet networks, enabling OTT content and application service providers to deal directly with end-users. OTT providers make use of the TSPs' infrastructure to reach their customers and offer products and services that not only make money for them, but also compete with the traditional services offered by TSPs.[105]

In 2018, TRAI had invited comments on following key issues related to the regulation of OTT communication services: (i) whether OTT providers should be regarded similar to TSPs, (ii) whether there is a non-level playing field between OTT providers and TSPs, and (iii) regulatory norms for OTT providers including norms for privacy and security.[105]

Recommendations on the industry body of cloud computing service providers released

TRAI released its recommendations on the industry body of cloud computing service providers (CSPs).[107] Cloud computing refers to the delivery of on-demand computing resources such as data storage, computing power, system software, and application software. Rather than owning such resources, users rent or subscribe to these resources from a CSP.

As per TRAI's earlier recommendations on the regulation of CSPs, all CSPs above a certain threshold must become a member of any registered industry body for cloud services and adhere to the code of conduct prescribed by such a body.[107] This will enable self-regulation by the industry. In September 2019, the Department of Telecommunications (DoT) had sent a reference to TRAI seeking recommendations on the framework for the industry body of CSPs. DoT had sought recommendations on matters such as terms and conditions of registration, eligibility, entry fee, and governance structure. Key recommendations of TRAI include:

- **Industry body**: The first industry body of CSPs may be set up by DoT as a not-for-profit body under the Societies Registration Act, 1860. All Infrastructure as a Service (IaaS) and Platform as a Service (PaaS) providers must become members of this industry body. For Software as a Service (SaaS) providers, registration may be voluntary. CSPs are categorised among IaaS, PaaS, and SaaS providers based on the nature of computing resources offered (hardware, system software, or application software). Telecom service providers may not be allowed to provide access to telecom infrastructure to a CSP who is not a member of the industry body.
- **Formation of industry body**: For setting up the industry body, DoT will invite enrolment of all CSPs operating in India. An ad-hoc body consisting of government officials and nominated industry experts will be formed. The ad-hoc body will formulate the initial framework for the industry body and rules for the election of office-bearers of the industry body. The enrolled CSPs will be considered for electoral purposes.
- **Eligibility criteria and entry fee:** TRAI noted that there is no need to define any eligibility criteria or entry fee to be paid to DoT or period of registration with DoT.

Power

Aditya Kumar (aditya@prsindia.org)

Draft Electricity (Rights of Consumers) Rules, 2020 released

The Ministry of Power released the Draft Electricity (Rights of Consumers) Rules, 2020.[108] These have been issued under the Electricity Act, 2003. Key features of the Draft Rules include:

- **Servicing of consumer requests:** Discoms must provide for a web-based information system with details on various procedures and tracking mechanism for all applications for various services. These procedures and services include grant of new/temporary connection or modification of existing connections. Grant of new connection or modification in existing connection must be completed within seven days for metro cities, 15 days in municipal areas, and 30 days in rural areas.
- **Metering:** A new connection must be provided with a meter, unless approved otherwise by the State Electricity Regulatory Commission (SERC). New meters will be pre-payment meters. All defective meters must be replaced by the distribution licensees within: (i) 24 hours in urban areas, (ii) 72 hours in rural areas, or (iii) any other period specified by SERCs.
- **Consumer as prosumer:** Prosumers refer to people who produce as well as consume electricity. Prosumers will have the status of a consumer. They will also be allowed to set up renewable energy generation units. The generation capacity by prosumers should not exceed the limits prescribed by the SERCs.
- **Compensation for not adhering to performance standards:** SERCs will specify certain standards of performance for the distribution licensees such as limit on interruptions in power supply, maximum time for resolution of complaints, and providing other consumer services. If licensees fail to adhere to these standards, they will have to compensate the consumer. The compensation amount will be specified by SERCs and will be adjusted in the electricity bills of consumers.

New and Renewable Energy

Aditya Kumar (aditya@prsindia.org)

Green Term Ahead Market launched

The Minister for New and Renewable Energy launched the Green Term Ahead Market (GTAM) on September 1, 2020.[109] Term ahead market refers to the market platform where electricity can be traded on a term basis for a duration of up to 11 days in advance. GTAM will facilitate competitive prices and ensure transparency in the short-term procurement of renewable energy. Some of the features of the Market are:

- GTAM contracts will be classified into solar renewable power obligations (RPO) and non-solar RPO. RPO is the mandatory requirement to generate or purchase a minimum specified quantity of energy requirements from renewable sources. The definition of contracts will include green intra-day, day ahead contingency, daily, and weekly contracts.
- Energy procured through GTAM contracts will be considered under the RPO target applicable to the buyer.
- Price discovery will be facilitated on price time priority basis. In price time priority basis, bids and offers are ranked based on their price for execution. In case of two bids or offers with same price, the bid or offer entered first into the trading platform will be ranked first.

Water Resources

Prachi Kaur (prachi@prsindia.org)

Guidelines to regulate and control groundwater extraction notified

The Ministry of Jal Shakti notified guidelines to regulate and control ground water extraction in the country.[110] These guidelines replace the 2018 guidelines which were struck down by the National Green Tribunal in 2019.[110] The National Green Tribunal noted that the 2018 guidelines were unsustainable and would result in fast depletion of groundwater and damage to water bodies, if implemented.[110] Key features of the new guidelines include:

- **No Objection Certificate (NOC)**: All industries, infrastructure projects, and mining projects abstracting ground water, will be required to seek a NOC from the Central Ground Water Authority or the concerned state Ground Water Authority.
- **Exemption**: Certain categories of consumers will be exempted from seeking a NOC for ground water extraction. These include: (i) individual domestic consumers in rural and urban areas for drinking water and domestic uses, (ii) Armed Forces Establishments and Central Armed Police Forces establishments in rural and urban areas, (iii) agricultural activities, and (iv) micro and small enterprises drawing ground water less than 10 cubic meter/day.
- **Agricultural usage**: States may review their policy on free or subsidised electricity to farmers, bring a water pricing policy, and work towards crop rotation, diversification, and other such initiatives to reduce overdependence of farmers on groundwater.
- **Ground water abstraction charges:** The guidelines provide different rates of ground water abstraction charges for different types users. All residential apartments, group housing societies, industries, mining, and infrastructure projects will have to pay ground water abstraction charges based on the quantity of ground water extraction and the category of assessment unit.
- **Penalties**: The guidelines prescribe a minimum environmental compensation of one lakh rupees on industrial, mining and infrastructure users for extracting ground water without a NOC. This can be further increased depending on the quantity of water extracted and the duration of the breach.

Road Transport

Shruti Gupta (shruti@prsindia.org)

Central Motor Vehicles Rules amended to facilitate enforcement and maintenance of documents electronically

The Ministry of Road Transport and Highways notified the Central Motor Vehicles (Eleventh Amendment) Rules, 2020.[111] The Central Motor Vehicle Rules, 1989 regulate the grant of licenses and permits, standards for motor vehicles, and prescribe penalties for violation of these provisions. Key features include:

- **E-challan**: Challans may now be issued electronically by an authorised officer (or by auto generation) to any individual found to be violating the Act.

- **Electronic certificates:** The 1989 Rules stated that only a validated physical copy of required certificates would be considered in case of an inspection. The amended Rules allow drivers and conductors to use validated electronic certificates and forms for inspections and regulatory compliance. Further, in case of a seizure of documents, certificates may be submitted electronically through a specified portal.
- **Use of handheld device:** The 1989 Rules provided that use of a mobile phone while driving constitutes nuisance and danger to the public. These were grounds for disqualification of the driver by a licensing authority. The amended Rules permit the use of mobile phones for route navigation.

The rules will come into force with effect from October 1, 2020.

Mandatory use of FASTag

The Ministry of Road Transport and Highways has provided a draft notification which proposes that FASTag be made mandatory for vehicles sold before 2017.[112] It also proposes that having a valid FASTag be made mandatory to get a third-party insurance through amendments to the Central Motor Vehicles Rules, 1989. The draft notification will come to force on October 1, 2020, i.e. 30 days after its publication.

FASTag is an electronic toll collection system operated by the National Highway Authority of India. It was made mandatory for registration of new four-wheeler vehicles in 2017.[113]

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