

Bill No. 19 of 2021

THE TRIBUNALS REFORMS (RATIONALISATION AND
CONDITIONS OF SERVICE) BILL, 2021

A

BILL

further to amend the Cinematograph Act, 1952, the Customs Act, 1962, the Airports Authority of India Act, 1994, the Trade Marks Act, 1999 and the Protection of Plant Varieties and Farmers' Rights Act, 2001 and certain other Acts.

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

CHAPTER I

PRELIMINARY

5 **1.** (1) This Act may be called the Tribunals Reforms (Rationalisation and Conditions of Service) Act, 2021. Short title and commencement.

(2) Save as otherwise provided in this Act, it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

10 Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "notified date" means the date appointed by the Central Government under sub-section (2) of section 1;

(b) "Schedule" means the Schedule appended to this Act.

CHAPTER II

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AMENDMENTS TO THE CINEMATOGRAH ACT, 1952

Amendment
of Act 37 of
1952.

3. In the Cinematograph Act, 1952,—

(a) in section 2, clause (h) shall be omitted;

(b) in section 5C,—

(i) for the word "Tribunal", at both the places where it occurs, the words "High Court" shall be substituted; 10

(ii) sub-section (2) shall be omitted;

(c) sections 5D and 5DD shall be omitted;

(d) in section 6, the words "or, as the case may be, decided by the Tribunal (but not including any proceeding in respect of any matter which is pending before the Tribunal)" shall be omitted; 15

(e) in sections 7A and 7C, for the word "Tribunal", wherever it occurs, the words "High Court" shall be substituted;

(f) in sections 7D, 7E and 7F, the words "the Tribunal," wherever they occur, shall be omitted; 20

(g) in section 8, in sub-section (2), clauses (h), (i), (j) and (k) shall be omitted.

CHAPTER III

AMENDMENTS TO THE COPYRIGHT ACT, 1957

Amendment
of Act 14 of
1957.

4. In the Copyright Act, 1957,—

(a) in section 2,— 25

(i) clause (aa) shall be omitted;

(ii) clause (fa) shall be re-lettered as clause (faa) and before the clause (faa) as so re-lettered, the following clause shall be inserted namely:

'(fa) "Commercial Court", for the purposes of any State, means a Commercial Court constituted under section 3, or the Commercial Division of a High Court constituted under section 4 of the Commercial Courts Act, 2015'; 30

4 of 2016.

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

'(u) "prescribed" means,—

(A) in relation to proceedings before a High Court, prescribed by rules made by the High Court; and 35

(B) in other cases, prescribed by rules made under this Act';

(b) in section 6,—

(i) for the words "Appellate Board", wherever they occur, the words "Commercial Court" shall be substituted; 40

(ii) the words "constituted under section 11 whose decision thereon shall be final" shall be omitted;

(c) in Chapter II, in the Chapter heading, the words "AND APPELLATE BOARD" shall be omitted;

(d) sections 11 and 12 shall be omitted; 45

(e) in sections 19A, 23, 31, 31A, 31B, 31C, 31D, 32, 32A and 33A, for the words "Appellate Board", wherever they occur, the words "Commercial Court" shall be substituted;

5 (f) in section 50, for the words "Appellate Board", wherever they occur, the words "High Court" shall be substituted;

(g) in section 53A,—

(i) for the words "Appellate Board", wherever they occur, the words "Commercial Court" shall be substituted;

10 (ii) in sub-section (2), the words "and the decision of the Appellate Board in this behalf shall be final" shall be omitted;

(h) in section 54, for the words "Appellate Board", the words "Commercial Court" shall be substituted;

(i) for section 72, the following section shall be substituted,—

15 "72. (1) Any person aggrieved by any final decision or order of the Registrar of Copyrights may, within three months from the date of the order or decision, appeal to the High Court. Appeals against orders of Registrar of Copyrights.

(2) Every such appeal shall be heard by a single Judge of the High Court:

Provided that any such Judge may, if he so thinks fit, refer the appeal at any stage of the proceeding to a Bench of the High Court.

20 (3) Where an appeal is heard by a single Judge, a further appeal shall lie to a Bench of the High Court within three months from the date of decision or order of the single Judge.

25 (4) In calculating the period of three months provided for an appeal under this section, the time taken in granting a certified copy of the order or record of the decision appealed against shall be excluded.";

(j) in sections 74 and 75, the words "and the Appellate Board", wherever they occur, shall be omitted;

(k) in section 77, the words "and every member of the Appellate Board" shall be omitted;

30 (l) in section 78, in sub-section (2),—

(i) clauses (cA) and (cB) shall be omitted;

(ii) in clause (f), the words "and the Appellate Board" shall be omitted.

CHAPTER IV

AMENDMENTS TO THE CUSTOMS ACT, 1962

35 **5.** In the Customs Act, 1962,—

(a) in section 28E, clauses (ba), (f) and (g) shall be omitted;

(b) in section 28EA, the proviso shall be omitted;

(c) in section 28F, sub-section (1) shall be omitted;

(d) in section 28KA,—

40 (i) in sub-section (1), for the words "Appellate Authority", at both the places where they occur, the words "High Court" shall be substituted;

(ii) sub-section (2) shall be omitted;

Amendment of Act 52 of 1962.

(e) in section 28L, the words "or Appellate Authority", wherever they occur, shall be omitted;

(f) in section 28M,—

(i) in the marginal heading, the words "and Appellate Authority" shall be omitted;

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(ii) sub-section (2) shall be omitted.

CHAPTER V

AMENDMENTS TO THE PATENTS ACT, 1970

Amendment
of Act 39 of
1970.

6. In the Patents Act, 1970,—

(a) in section 2, in sub-section (1),—

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(i) clause (a) shall be omitted;

(ii) in clause (u), sub-clause (B) shall be omitted;

(b) in section 52, the words "Appellate Board or", wherever they occur, shall be omitted;

(c) in section 58,—

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(i) the words "the Appellate Board or", wherever they occur, shall be omitted;

(ii) the words "as the case may be" shall be omitted;

(d) in section 59, the words "the Appellate Board or" shall be omitted;

(e) in section 64, the words "by the Appellate Board or" shall be omitted;

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(f) in section 71, for the words "Appellate Board" and "Board", wherever they occur, the words "High Court" shall be substituted;

(g) in section 76, the words "or Appellate Board" shall be omitted;

(h) in section 113,—

(i) in sub-section (1),—

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(A) the words "the Appellate Board or", wherever they occur, shall be omitted;

(B) the words "as the case may be" shall be omitted;

(ii) in sub-section (3), the words "or the Appellate Board" shall be omitted;

(i) in Chapter XIX, for the Chapter heading, the Chapter heading "APPEALS" shall be substituted;

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(j) sections 116 and 117 shall be omitted;

(k) in section 117A, for the words "Appellate Board", wherever they occur, the words "High Court" shall be substituted;

(l) sections 117B, 117C and 117D shall be omitted;

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(m) in section 117E, for the words "Appellate Board", wherever they occur, the words "High Court" shall be substituted;

(n) sections 117F, 117G and 117H shall be omitted;

(o) in section 151,—

(A) in sub-section (1), the words "or the Appellate Board", at both the places where they occur, shall be omitted;

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(B) in sub-section (3), for the words "the Appellate Board or the courts, as the case may be", the words "the courts" shall be substituted;

(p) in section 159, in sub-section (2), clauses (xiia), (xiib) and (xiic) shall be omitted.

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CHAPTER VI

AMENDMENTS TO THE AIRPORT AUTHORITY OF INDIA ACT, 1994

7. In the Airports Authority of India Act, 1994,—

Amendment
of Act 55 of
1994.

(a) in section 28A, clause (e) shall be omitted;

(b) in section 28E, for the word "Tribunal", at both the places where it occurs, the words "Central Government" shall be substituted;

(c) sections 28-I, 28J and 28JA shall be omitted;

(d) in section 28K,—

(i) in sub-section (1),—

(A) for the words "Tribunal in such form as may be prescribed", the words "High Court" shall be substituted;

(B) in the proviso, for the word "Tribunal" the words "High Court" shall be substituted;

(ii) sub-sections (2), (3), (4) and (5) shall be omitted;

(e) section 28L shall be omitted;

(f) in section 28M, the words "or the Tribunal" shall be omitted;

(g) in section 28N, in sub-section (2), for the word "Tribunal", the words "High Court" shall be substituted;

(h) in section 33, the words "or the Chairperson of the Tribunal" shall be omitted;

(i) in section 41, in sub-section (2), clauses (gvi), (gvii), (gviii) and (gix) shall be omitted.

CHAPTER VII

AMENDMENTS TO THE TRADE MARKS ACT, 1999

8. In the Trade Marks Act, 1999,—

(a) in section 2, in sub-section (1),—

Amendment
of Act 47 of
1999.

(i) clauses (a), (d), (f), (k), (n), (ze) and (zf) shall be omitted;

(ii) for clause (s), the following clause shall be substituted, namely:—

‘(s) “prescribed” means,—

(i) in relation to proceedings before a High Court, prescribed by rules made by the High Court; and

(ii) in other cases, prescribed by rules made under this Act;’;

(b) in section 10, for the word “tribunal”, the words "Registrar or the High Court, as the case may be," shall be substituted;

(c) in section 26, for the word “tribunal”, the words "Registrar or the High Court, as the case may be," shall be substituted;

(d) in section 46, in sub-section (3), for the word “tribunal”, the words "Registrar or the High Court, as the case may be," shall be substituted;

(e) in section 47,—

(i) for the words “Appellate Board”, at both the places where it occurs, the words “High Court” shall be substituted;

(ii) for the word “tribunal”, wherever it occurs, the words “Registrar or the High Court, as the case may be,” shall be substituted; 5

(f) in section 55, in sub-section (1), for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(g) in section 57,—

(i) for the words “Appellate Board”, wherever it occurs, the words “High Court” shall be substituted; 10

(ii) for the word “tribunal”, wherever it occurs, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(h) in section 71, in sub-section (3), for the word “tribunal”, the words “Registrar or the High Court, as the case may be,” shall be substituted;

(i) in Chapter XI, for the Chapter heading, the Chapter heading “APPEALS” shall be substituted; 15

(j) sections 83, 84, 85, 86, 87, 88, 89, 89A and 90 shall be omitted;

(k) in section 91, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(l) sections 92 and 93 shall be omitted; 20

(m) for section 94, the following section shall be substituted, namely:—

“94. On ceasing to hold the office, the erstwhile Chairperson, Vice-Chairperson or other Members, shall not appear before the Registrar.”;

(n) sections 95 and 96 shall be omitted;

(o) in section 97, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted; 25

(p) in section 98, for the words “Appellate Board” and “Board”, wherever they occur, the words “High Court” shall be substituted;

(q) sections 99 and 100 shall be omitted;

(r) in section 113, 30

(i) for the words “Appellate Board”, at both the places where they occur, the words “High Court” shall be substituted;

(ii) for the word “tribunal” the words “Registrar or the High Court, as the case may be,” shall be substituted;

(s) in section 123, the words “and every Member of the Appellate Board” shall be omitted; 35

(t) in sections 124 and 125, for the words “Appellate Board”, wherever they occur, the words “High Court” shall be substituted;

(u) in section 130, the words “the Appellate Board or” shall be omitted;

(v) in section 141, for the words “Appellate Board”, at both the places where they occur, the words “High Court” shall be substituted; 40

(w) in section 144, for the word “tribunal”, the words “Registrar or the High Court, as the case may be” shall be substituted;

(x) in section 157, in sub-section (2),—

(i) clauses (xxxi) and (xxxii) shall be omitted; 45

(ii) in clause (xxxiii), for the words “Appellate Board”, the words “High Court” shall be substituted.

Bar to appear
before
Registrar.

CHAPTER VIII

AMENDMENTS TO THE GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) ACT, 1999

9. In the Geographical Indications of Goods (Registration and Protection) Act, 1999,— Amendment
of Act 48 of
1999.

- 5 (a) in section 2, in sub-section (1), clauses (a) and (p) shall be omitted;
- (b) in section 19, for the word "tribunal", the words "Registrar or the High Court, as the case may be," shall be substituted;
- (c) in section 23, for the words "and before the Appellate Board before which", the words "before whom" shall be substituted;
- 10 (d) in section 27,—
- (i) for the words "Appellate Board", wherever they occur, the words "High Court" shall be substituted;
- (ii) for the word "tribunal", wherever it occurs, the words "Registrar or the High Court, as the case may be," shall be substituted;
- 15 (e) in Chapter VII, for the Chapter heading, the Chapter heading "APPEALS" shall be substituted;
- (f) in section 31,—
- (i) for the words "Appellate Board", wherever they occur, the words "High Court" shall be substituted;
- 20 (ii) sub-section (3) shall be omitted;
- (g) sections 32 and 33 shall be omitted;
- (h) in sections 34 and 35, for the words "Appellate Board", wherever they occur, the words "High Court" shall be substituted;
- (i) section 36 shall be omitted;
- 25 (j) in section 48,—
- (i) for the words "Appellate Board", at both the places where they occur, the words "High Court" shall be substituted;
- (ii) for the word "tribunal", the words "Registrar or the High Court, as the case may be," shall be substituted;
- 30 (k) in sections 57 and 58, for the words "Appellate Board", wherever they occur, the words "High Court" shall be substituted;
- (l) in section 63, the words "the Appellate Board or" shall be omitted;
- (m) in section 72, for the words "Appellate Board", wherever they occur, the words "High Court" shall be substituted;
- 35 (n) in section 75, for the word "tribunal", the words "Registrar or the High Court, as the case may be," shall be substituted;
- (o) in section 87, in sub-section (2), clause (n) shall be omitted.

CHAPTER IX

AMENDMENTS TO THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT, 2001

- 40 10. In the Protection of Plant Varieties and Farmers' Rights Act, 2001,— Amendment
of Act 53 of
2001.
- (a) in section 2,—
- (i) clauses (d), (n) and (o) shall be omitted;
- (ii) for clause (q), the following clause shall be substituted, namely:—
- '(q) "prescribed" means,—
- 45 (A) in relation to proceedings before a High Court, prescribed by rules made by the High Court; and

- (B) in other cases, prescribed by rules made under this Act;';
- (iii) clauses (y) and (z) shall be omitted;
- (b) in section 44, the words "or the Tribunal" shall be omitted;
- (c) in Chapter VIII, for the Chapter heading, the Chapter heading "APPEALS" shall be substituted; 5
- (d) sections 54 and 55 shall be omitted;
- (e) in section 56,—
 - (i) for the word "Tribunal", wherever it occurs, the words "High Court" shall be substituted;
 - (ii) sub-section (3) shall be omitted; 10
- (f) in section 57,—
 - (i) for the word "Tribunal", wherever it occurs, the words "High Court" shall be substituted;
 - (ii) sub-section (5) shall be omitted;
- (g) sections 58 and 59 shall be omitted; 15
- (h) in section 89, the words "or the Tribunal" shall be omitted.

CHAPTER X

AMENDMENTS TO THE CONTROL OF NATIONAL HIGHWAYS (LAND AND TRAFFIC) ACT, 2002

Amendment
of Act 13 of
2003.

- 11.** In the Control of National Highways (Land and Traffic) Act, 2002,—
 - (a) in section 2,— 20
 - (i) clause (a) shall be omitted;
 - (ii) after clause (d), the following clause shall be inserted, namely:—
 - '(da) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction;'; 25
 - (iii) clause (l) shall be omitted;
 - (b) in Chapter II, in the Chapter heading, the words "AND TRIBUNALS, ETC." shall be omitted;
 - (c) section 5 shall be omitted;
 - (d) for section 14, the following section shall be substituted, namely:— 30
 - "14. An appeal from any order passed, or any action taken, excluding issuance or serving of notice under sections 26, 27, 28, 36, 37 and 38 by the Highway Administration or an officer authorised on its behalf, as the case may be, shall lie to the Court.";
 - (e) sections 15 and 16 shall be omitted; 35
 - (f) in section 17, for the word "Tribunal", at both the places where it occurs, the word "Court" shall be substituted;
 - (g) section 18 shall be omitted;
 - (h) in section 19, for the word "Tribunal", at both the places where it occurs, the word "Court" shall be substituted; 40
 - (i) section 40 shall be omitted;
 - (j) in section 41,—

Appeals.

(i) the words "or every order passed or decision made on appeal under this Act by the Tribunal" shall be omitted;

(ii) the words "or Tribunal" shall be omitted;

(k) in section 50, in sub-section (2), clause (f) shall be omitted.

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CHAPTER XI

AMENDMENTS TO THE FINANCE ACT, 2017

12. In the Finance Act, 2017 (hereinafter referred to as the Finance Act),—

Amendment
of Act 7 of
2017.

(i) for section 184, the following section shall be substituted, namely:—

10 '184. (1) The Central Government may, by notification, make rules to provide for the qualifications, appointment, salaries and allowances, resignation, removal and the other conditions of service of the Chairperson and Members of the Tribunal as specified in the Eighth Schedule:

Qualifications,
appointment,
etc., of
Chairperson
and Members
of Tribunal.

Provided that a person who has not completed the age of fifty years shall not be eligible for appointment as a Chairperson or Member:

15 Provided further that the allowances and benefits so payable shall be to the extent as are admissible to a Central Government officer holding the post carrying the same pay:

20 Provided also that where the Chairperson or Member takes a house on rent, he may be reimbursed a house rent subject to such limits and conditions as may be provided by rules.

(2) The Chairperson and Members of a Tribunal shall be appointed by the Central Government on the recommendation of a Search-cum-Selection Committee (hereinafter referred to as the Committee) constituted under sub-section (3), in such manner as the Central Government may, by rules, provide.

25 (3) The Search-cum-Selection Committee shall consist of—

(a) the Chief Justice of India or a Judge of Supreme Court nominated by him—Chairperson of the Committee;

(b) two Secretaries nominated by the Government of India—Members;

(c) one Member, who—

30 (i) in case of appointment of a Chairperson of a Tribunal, shall be the outgoing Chairperson of the Tribunal; or

(ii) in case of appointment of a Member of a Tribunal, shall be the sitting Chairperson of the Tribunal; or

35 (iii) in case of the Chairperson of the Tribunal seeking re-appointment, shall be a retired Judge of the Supreme Court or a retired Chief Justice of a High Court nominated by the Chief Justice of India:

Provided that, in the following cases, such Member shall always be a retired Judge of the Supreme Court or a retired Chief Justice of a High Court nominated by the Chief Justice of India, namely:—

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51 of 1947.

(i) Industrial Tribunal constituted by the Central Government under the Industrial Disputes Act, 1947;

(ii) Tribunals and Appellate Tribunals constituted under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993;

(iii) Tribunals where the Chairperson or the outgoing Chairperson, as the case may be, of the Tribunal is not a retired Judge of the Supreme Court or a retired Chief Justice or Judge of a High Court; and

(iv) such other Tribunals as may be notified by the Central Government in consultation with the Chairperson of the Search-cum-Selection Committee of that Tribunal; and

(d) the Secretary to the Government of India in the Ministry or Department under which the Tribunal is constituted or established—Member-Secretary.

(4) The Chairperson of the Committee shall have the casting vote. 10

(5) The Member-Secretary of the Committee shall not have any vote.

(6) The Committee shall determine its procedure for making its recommendations.

(7) The Central Government shall take a decision on the recommendations of the Committee preferably within three months from the date on which the Committee makes its recommendations to the Government. 15

(8) No appointment shall be invalid merely by reason of any vacancy or absence in the Committee.

(9) The Chairperson and Member of a Tribunal shall be eligible for re-appointment in accordance with the provisions of this section:

Provided that in making such re-appointment, preference shall be given to the service rendered by such person. 20

(10) The Central Government shall, on the recommendation of the Committee, remove from office, in such manner as may be provided by rules, any Member, who—

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence which involves moral turpitude; or 25

(c) has become physically or mentally incapable of acting as such a Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest: 30

Provided that where a Member is proposed to be removed on any ground specified in clauses (b) to (e), he shall be informed of the charges against him and given an opportunity of being heard in respect of those charges.

Explanation.—For the purposes of this section, the expression— 35

(i) "Tribunal" means a Tribunal, Appellate Tribunal or Authority as specified in column (2) of the Eighth Schedule;

(ii) "Chairperson" includes Chairperson, Chairman, President and Presiding Officer of a Tribunal;

(iii) "Member" includes Vice-Chairman, Vice-Chairperson, Vice-President, Account Member, Administrative Member, Judicial Member, Expert Member, Law Member, Revenue Member and Technical Member, as the case may be, of a Tribunal.; 40

(ii) in section 184 as so substituted, after sub-section (10) and before the Explanation, the following sub-section shall be inserted and shall be deemed to have been inserted which effect from the 26th May, 2017, namely:— 45

"(11) Notwithstanding anything contained in any judgment, order, or decree of any court or any law for the time being in force,—

(i) the Chairperson of a Tribunal shall hold office for a term of four years or till he attains the age of seventy years, whichever is earlier;

5 (ii) the Member of a Tribunal shall hold office for a term of four years or till he attains the age of sixty-seven years, whichever is earlier:

10 Provided that where a Chairperson or Member is appointed between the 26th day of May, 2017 and the notified date and the term of his office or the age of retirement specified in the order of appointment issued by the Central Government is greater than that which is specified in this section, then, notwithstanding anything contained in this section, the term of office or age of retirement or both, as the case may be, of the Chairperson or Member shall be as specified in the order of appointment subject to a maximum term of office of five years".

15 **13.** Section 186 of the Finance Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:— Amendment of section 186.

20 "(2) Subject to the provisions of sections 184 and 185, neither the salary and allowances nor the other terms and conditions of service of Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or, as the case may be, other Authority may be varied to his disadvantage after his appointment."

14. In the Finance Act, in the Eighth Schedule,—

Amendment of Eighth Schedule.

(i) items 10, 12, 14 and 15 shall be omitted;

25 (ii) for item 16, the following item shall be substituted, namely:—

(1)	(2)	(3)
"16.	National Consumer Disputes Redressal Commission	The Consumer Protection Act, 2019 (35 of 2019)"

30 **15.** (1) Notwithstanding anything contained in any law for the time being in force, any person appointed as the Chairperson or Chairman or President or Presiding Officer or Vice-Chairperson or Vice-Chairman or Vice-President or Member of the Tribunal, Appellate Tribunal, or as the case may be, other Authority specified in the Schedule and holding office as such immediately before the notified date, shall on and from the notified date, cease to hold such office, and he shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of term of his office or of any contract of service. Transitional provisions.

40 (2) The officers and other employees of the Tribunals, Appellate Tribunals and other Authorities specified in the Schedule appointed on deputation, before the notified date, shall, on and from the notified date, stand reverted to their parent cadre, Ministry or Department.

43 of 1961. (3) Any appeal, application or proceeding pending before the Tribunal, Appellate Tribunal or other Authority specified in the Schedule, other than those pending before the Authority for Advance Rulings under the Income-tax Act, 1961, before the notified date, shall stand transferred to the Court before which it would have been filed had this Act been in force on the date of filing of such appeal or application or initiation of the proceeding, and the Court may proceed to deal with such cases from the stage at which it stood before such transfer, or from any earlier stage, or *de novo*, as the Court may deem fit.

(4) The balance of all monies received by, or advanced to, the Tribunal, Appellate Tribunal or other Authority specified in the Schedule and not spent by it before the notified date, shall, on and from the notified date, stand transferred to the Central Government.

(5) All property of whatever kind owned by, or vested in, the Tribunal, Appellate Tribunal or other Authority specified in the Schedule before the notified date, shall stand transferred to, on and from the notified date, and shall vest in the Central Government. 5

Power to
remove
difficulties.

16. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: 10

Provided that no such order shall be made after the expiry of a period of three years from the notified date.

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

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THE SCHEDULE
(See section 15)

1. Appellate Tribunal under the Cinematograph Act, 1952 (37 of 1952).
2. Authority for Advance Rulings under the Income-tax Act, 1961 (43 of 1961).
3. Airport Appellate Tribunal under the Airports Authority of India Act, 1994 (55 of 1994).
4. Intellectual Property Appellate Board under the Trade Marks Act, 1999 (47 of 1999).
5. Plant Varieties Protection Appellate Tribunal under the Protection of Plant Varieties and Farmers' Rights Act, 2001 (53 of 2001).

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STATEMENT OF OBJECTS AND REASONS

With a view to streamline tribunals, the Tribunals Reforms (Rationalisation and Conditions of Service) Bill, 2021 is proposed to be enacted to abolish certain tribunals and authorities and to provide a mechanism for filing appeal directly to the commercial court or the High Court, as the case may be.

2. The Government of India began the process of rationalisation of tribunals in 2015. By the Finance Act, 2017, seven tribunals were abolished or merged based on functional similarity and their total number was reduced from 26 to 19. The rationale followed in the first phase was to close down tribunals which were not necessary and merge tribunals with similar functions.

3. In the second phase, analysis of data of the last three years has shown that tribunals in several sectors have not necessarily led to faster justice delivery and they are also at a considerable expense to the exchequer. The Hon'ble Supreme Court has deprecated the practice of tribunalisation of justice and filing of appeals directly from tribunals to the Supreme Court in many of its judgements, including *S.P Sampath Kumar versus Union of India* (1987) 1 SCC 124, *L. Chandra Kumar versus Union of India* (1997) 3 SCC 261, *Roger Mathew versus South Indian Bank Limited* (2020) 6 SCC 1 and *Madras Bar Association versus Union of India* and another (2020) SCC Online SC 962. Therefore, further streamlining of tribunals is considered necessary as it would save considerable expense to the exchequer and at the same time, lead to speedy delivery of justice. Accordingly, it is proposed to abolish some more tribunals and transfer the jurisdiction exercised by them to the High Court.

4. The tribunals that are proposed to be abolished in this phase are of the kind which handle cases in which public at large is not a litigant or those which neither take away any significant workload from High Courts which otherwise would have adjudicated such cases nor provide speedy disposal. Many cases do not achieve finality at the level of tribunals and are litigated further till High Courts and Supreme Court, especially those with significant implications. Therefore, these tribunals only add to another additional layer of litigation. Having separate tribunal requires administrative action in terms of filling up of posts and such other matters, and any delay in such action further delays disposal of cases. Reducing the number of tribunals shall not only be beneficial for the public at large, reduce the burden on public exchequer, but also address the issue of shortage of supporting staff of tribunals and infrastructure.

5. The Tribunals Reforms (Rationalisation and Conditions of Service) Bill, 2021, *inter-alia*, seeks to give effect to aforesaid proposal and provide for the following, namely:—

(i) abolition of tribunals or authorities under various Acts by amending the Cinematograph Act, 1952, the Copyrights Act, 1957, the Customs Act, 1962, the Patents Act, 1970, the Airport Authority of India Act, 1994, the Trade Marks Act, 1999, the Geographical Indications of Goods (Registration and Protection) Act, 1999, the Protection of Plant Varieties and Farmers' Rights Act, 2001, the Control of National Highways (Land and Traffic) Act, 2002 and the Finance Act, 2017;

(ii) transfer of all cases pending before such tribunals or authorities to the Commercial Court or the High Court, as the case may be, on the appointed date;

(iii) the Chairman and Members of such tribunals shall cease to hold office and they shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of term of their office or of any contract of service.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 11th February, 2021.

NIRMALA SITHARAMAN.

ANNEXURE

EXTRACTS FROM THE CINEMATOGRAF ACT, 1952

(37 OF 1952)

* * * * *

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

* * * * *

(h) Tribunal means the Appellate Tribunal constituted under section 5D.

* * * * *

5C. (1) Any person applying for a certificate in respect of a film who is aggrieved by any order of the Board— Appeals.

- (a) refusing to grant a certificate; or
- (b) granting only an "A" certificate; or
- (c) granting only a "S" certificate; or
- (d) granting only a "UA" certificate; or
- (e) directing the applicant to carry out any excisions or modifications,

may, within thirty days from the date of such order, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the aforesaid period of thirty days, allow such appeal to be admitted within a further period of thirty days.

(2) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fees, not exceeding rupees one thousand, as may be prescribed.

* * * * *

5D. (1) For the purpose of hearing appeals against any order of the Board under section 5C, the Central Government shall, by notification in the Official Gazette, constitute an Appellate Tribunal. Constitution of Appellate Tribunal.

(2) The head office of the Tribunal shall be at New Delhi or at such other place as the Central Government may, by notification in the Official Gazette, specify.

(3) Such Tribunal shall consist of a Chairman and not more than four other members appointed by the Central Government.

(4) A person shall not be qualified for appointment as the Chairman of the Tribunal unless he is a retired Judge of a High Court, or is a person who is qualified to be a Judge of a High Court.

(5) The Central Government may appoint such persons who, in its opinion, are qualified to judge the effect of films on the public, to be members of the Tribunal.

(6) The Chairman of the Tribunal shall receive such salary and allowances as may be determined by the Central Government and the members shall receive such allowances or fees as may be prescribed.

(7) Subject to such rules as may be made in this behalf, the Central Government may appoint a Secretary and such other employees as it may think necessary for the efficient performance of the functions of the Tribunal under this Act.

(8) The Secretary to, and other employees of, the Tribunal shall exercise such powers and perform such duties as may be prescribed after consultation with the Chairman of the Tribunal.

(9) The other terms and conditions of service of the Chairman and members of, and the Secretary to, and other employees of, the Tribunal shall be such as may be prescribed.

(10) Subject to the provisions of this Act, the Tribunal may regulate its own procedure.

(11) The Tribunal may, after making such inquiry into the matter as it considers necessary, and after giving the appellant and the Board an opportunity of being heard in the matter, make such order in relation to a film as it thinks fit and the Board shall dispose of the matter in conformity with such order.

Qualifications, terms and conditions of service of Chairman and Member.

5DD. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairman and other members of the Appellate Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act:

7 of 2017.

Provided that the Chairman and member appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of the Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.

7 of 2017.

Revisional powers of the Central Government.

6. (1) Notwithstanding anything contained in this Part, the Central Government may, of its own motion, at any stage, call for the record of any proceeding in relation to any film which is pending before, or has been decided by, the Board, or, as the case may be, decided by the Tribunal (but not including any proceeding in respect of any matter which is pending before the Tribunal) and after such inquiry, into the matter as it considers necessary, make such order in relation thereto as it thinks fit, and the Board shall dispose of the matter in conformity with such order:

Provided that no such order shall be made prejudicially affecting any person applying for a certificate or to whom a certificate has been granted, as the case may be, except after giving him an opportunity for representing his views in the matter:

Provided further that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against public interest to disclose.

(2) Without prejudice to the powers conferred on it under sub-section (1), the Central Government may, by notification in the Official Gazette, direct that—

(a) a film which has been granted a certificate shall be deemed to be an uncertified film in the whole or any part of India; or

(b) a film which has been granted a "U" certificate or a "UA" certificate or a "S" certificate shall be deemed to be a film in respect of which an "A" certificate has been granted; or

(c) the exhibition of any film be suspended for such period as may be specified in the direction:

Provided that no direction issued under clause (c) shall remain in force for more than two months from the date of the notification.

(3) No action shall be taken under clause (a) or clause (b) of sub-section (2) except after giving an opportunity to the person concerned for representing his views in the matter.

(4) During the period in which a film remains suspended under clause (c) of sub-section (2), the film shall be deemed to be an uncertified film.

* * * * *

7A. (1) Where a film in respect of which no certificate has been granted under this Act is exhibited, or a film certified as suitable for public exhibition restricted to adults is exhibited to any person who is not an adult or a film is exhibited in contravention of any of the other provisions contained in this Act or of any order made by the Central Government, the Tribunal or the Board in the exercise of any of the powers conferred on it, any police officer may, enter any place in which he has reason to believe that the film has been or is being or is likely to be exhibited, search it and seize the film.

Power of seizure.

2 of 1974. (2) All searches under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to searches.

* * * * *

7C. For the purpose of exercising any of the powers conferred on it by this Act, the Central Government, the Tribunal or the Board may require any film to be exhibited before it or before any person or authority specified by it in this behalf.

Power to direct exhibition of films for examination.

7D. No act or proceeding of the Tribunal, the Board or of any advisory panel shall be deemed to be invalid by reason only of a vacancy in, or any defect in, the constitution of the Tribunal, the Board or panel, as the case may be.

Vacancies, etc., not to invalidate proceeding.

45 of 1860. **7E.** All members of the Tribunal, the Board and of any advisory panel shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members of the Board and advisory panels to be public servants.

7F. No suit or other legal proceeding shall lie against the Central Government, the Tribunal, the Board, advisory panel or any officer or member of the Central Government, the Tribunal, the Board or advisory panel, as the case may be, in respect of anything which is in good faith done or intended to be done under this Act.

Bar of legal proceedings.

* * * * *

8. (1) (2) In particular, and without prejudice to the generality of the foregoing power, rules made under this section may provide for—

Power to make rules.

* * * * *

(h) the allowances or fees payable to the members of the Tribunal;

(i) the powers and duties of the Secretary to, and other employees of, the Tribunal;

(j) the other terms and conditions of service of the Chairman and members of, and the Secretary to, and other employees of, the Tribunal;

(k) the fees payable by the appellant to the Tribunal in respect of an appeal;

* * * * *

EXTRACTS FROM THE COPY RIGHT ACT, 1957

(14 OF 1957)

* * * * *

Interpretation.

2. In this Act, unless the context otherwise requires,—

* * * * *

(aa) "Appellate Board" means the Appellate Board referred to in section 11;

* * * * *

(u) "prescribed" means prescribed by rules made under this Act.

Certain
disputes to be
decided by
Appellate
Board.**6.** If any question arises—

(a) whether a work has been published or as to the date on which a work was published for the purposes of Chapter V, or

(b) whether the term of copyright for any work is shorter in any other country than that provided in respect of that work under this Act, it shall be referred to the Appellate Board constituted under section 11 whose decision thereon shall be final:

Provided that if in the opinion of the Appellate Board, the issue of copies or communication to the public referred to in section 3 was of an insignificant nature, it shall not be deemed to be publication for the purposes of that section.

* * * * *

CHAPTER II

COPYRIGHT OFFICE AND A BOARD

* * * * *

Appellate
Board.

11. (1) The Appellate Board established under section 83 of the Trade Marks Act, 1999 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Appellate Board for the purposes of this Act and the said Appellate Board shall exercise the jurisdiction, powers and authority conferred on it by or under this Act. 47 of 1999. 7 of 2017.

Powers and
procedure of
Appellate
Board.

12. (1) The Appellate Board shall, subject to any rules that may be made under this Act, have power to regulate its own procedure, including the fixing of places and times of its sittings:

Provided that the Appellate Board shall ordinarily hear any proceeding instituted before it under this Act within the zone in which, at the time of the institution of the proceeding, the person instituting the proceeding actually and voluntarily resides or carries on business or personally works for gain.

Explanation.—In this sub-section "zone" means a zone specified in section 15 of the States Reorganisation Act, 1956. 37 of 1956.

(2) The Appellate Board may exercise and discharge its powers and functions through Benches constituted by the Chairman of the Appellate Board from amongst its members:

Provided that, if the Chairman is of opinion that any matter of importance is required to be heard by a larger bench, he may refer the matter to a special bench consisting of five members.

* * * * *

(5) No member of the Appellate Board shall take part in any proceedings before the Board in respect of any matter in which he has a personal interest.

(6) No act done or proceeding taken by the Appellate Board under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

2 of 1974. (7) The Appellate Board shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 and all proceedings before the Board shall be deemed to be judicial proceedings within the meaning of sections 193 and 45 of 1860. 228 of the Indian Penal Code.

* * * * *

19A. (1) If an assignee fails to make sufficient exercise of the rights assigned to him, and such failure is not attributable to any act or omission of the assignor, then, the Appellate Board may, on receipt of a complaint from the assignor and after holding such inquiry as it may deem necessary, revoke such assignment.

Disputes with respect to assignment of copyright.

(2) If any dispute arises with respect to the assignment of any copyright, the Appellate Board may, on receipt of a complaint from the aggrieved party and after holding such inquiry as it considers necessary, pass such order as it may deem fit including an order for the recovery of any royalty payable:

Provided that the Appellate Board shall not pass any order under this sub-section to revoke the assignment unless it is satisfied that the terms of assignment are harsh to the assignor in case the assignor is also the author:

Provided further that, pending the disposal of an application for revocation of assignment under this sub-section, the Appellate Board may pass such order, as it deems fit regarding implementation of the terms and conditions of assignment including any consideration to be paid for the enjoyment of the rights assigned:

Provided also that, no order of revocation of assignment under this sub-section, shall be made within a period of five years from the date of such assignment.

(3) Every complaint received under sub-section (2) shall be dealt with by the Appellate Board as far as possible and efforts shall be made to pass the final order in the matter within a period of six months from the date of receipt of the complaint and any delay in compliance of the same, the Appellate Board shall record the reasons thereof.

* * * * *

23. (1) In the case of literary, dramatic, musical or artistic work (other than a photograph), which is published anonymously or pseudonymously, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the work is first published:

Term of copyright in anonymous and pseudonymous works.

Provided that where the identity of the author is disclosed before the expiry of the said period, copyright shall subsist until sixty years from the beginning of the calendar year next following the year in which the author dies.

(2) In sub-section (1), references to the author shall, in the case of an anonymous work of joint authorship, be construed,—

(a) where the identity of one of the authors is disclosed, as references to that author;

(b) where the identity of more authors than one is disclosed, as references to the author who dies last from amongst such authors.

(3) In sub-section (1), references to the author shall, in the case of a pseudonyms work of joint authorship, be construed,—

(a) where the names of one or more (but not all) of the authors are pseudonyms and his or their identity is not disclosed, as references to the author whose name is not a pseudonym, or, if the names of two or more of the authors are not pseudonyms, as references to such of those authors who dies last;

(b) where the names of one or more (but not all) of the authors are pseudonyms and the identity of one or more of them is disclosed, as references to the author who dies last from amongst the authors whose names are not pseudonyms and the authors whose names are pseudonyms and are disclosed; and

(c) where the names of all the authors are pseudonyms and the identity of one of them is disclosed, as references to the author whose identity is disclosed or if the identity of two or more of such authors is disclosed, as references to such of those authors who dies last.

Explanation.—For the purposes of this section, the identity of an author shall be deemed to have been disclosed, if either the identity of the author is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Appellate Board by that author.

* * * * *

Compulsory
licence in
works
withheld from
public.

31. (1) If at any time during the term of copyright in any work which has been published or performed in public, a complaint is made to the Appellate Board that the owner of copyright in the work—

(a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work, and by reason of such refusal the work is withheld from the public; or

(b) has refused to allow communication to the public by broadcast of such work or in the case a sound recording the work recorded in such sound recording, on terms which the complainant considers reasonable, the Appellate Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that the grounds for such refusal are not reasonable, direct the Registrar of Copyrights to grant to the complainant a licence to republish the work, perform the work in public or communicate the work to the public by broadcast, as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other terms and conditions as the Appellate Board may determine; and thereupon the Registrar of Copyrights shall grant the licence to such person or persons who, in the opinion of the Appellate Board, is or are qualified to do so in accordance with the directions of the Appellate Board, on payment of such fee as may be prescribed.

* * * * *

Compulsory
licence in
unpublished or
published
works.

31A. (1) Where, in the case of any unpublished work or any work published or communicated to the public and the work is withheld from the public in India, the author is dead or unknown or cannot be traced, or the owner of the copyright in such work cannot be found, any person may apply to the Appellate Board for a licence to publish or communicate to the public such work or a translation thereof in any language.

(2) Before making an application under sub-section (1), the applicant shall publish his proposal in one issue of a daily newspaper in the English language having circulation in the major part of the country and where the application is for the publication of a translation in any language, also in one issue of any daily newspaper in that language.

(3) Every such application shall be made in such form as may be prescribed and shall be accompanied with a copy of the advertisement issued under sub-section (2) and such fee as may be prescribed.

(4) Where an application is made to the Appellate Board under this section, it may after holding such inquiry as may be prescribed, direct the Registrar of Copyrights to grant to the applicant a licence to publish the work or a translation thereof in the language mentioned in the application subject to the payment of such royalty and subject to such

other terms and conditions as the Appellate Board may determine, and thereupon the Registrar of Copyrights shall grant the licence to the applicant in accordance with the direction of the Appellate Board.

(5) Where a licence is granted under this section, the Registrar of Copyrights may, by order, direct the applicant to deposit the amount of the royalty determined by the Appellate Board in the public account of India or in any other account specified by the Appellate Board so as to enable the owner of the copyright or, as the case may be, his heirs, executors or the legal representatives to claim such royalty at any time.

(6) Without prejudice to the foregoing provisions of this section, in the case of a work referred to in sub-section (1), if the original author is dead, the Central Government may, if it considers that the publication of the work is desirable in the national interest, require the heirs, executors or legal representatives of the author to publish such work within such period as may be specified by it.

(7) Where any work is not published within the period specified by the Central Government under sub-section (6), the Appellate Board may, on an application made by any person for permission to publish the work and after hearing the parties concerned, permit such publication on payment of such royalty as the Appellate Board may, in the circumstances of such case, determine in the prescribed manner.

31B. (1) Any person working for the benefit of persons with disability on a profit basis or for business may apply to the Appellate Board, in such form and manner and accompanied by such fee as may be prescribed, for a compulsory licence to published any work in which copyright subsists for the benefit of such persons, in a case to which clause (zb) of sub-section (1) of section 52 does not apply and the Appellate Board shall dispose of such application within a period of two months from the receipt of the application.

Compulsory
licence for
benefit of
disabled.

(2) The Appellate Board may, on receipt of an application under sub-section (1), inquire, or direct such inquiry as it considers necessary to establish the credentials of the applicant and satisfy itself that the application has been made in good faith.

(3) If the Appellate Board is satisfied, after giving to the owners of rights in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, that a compulsory licence needs to be issued to make the work available to the disabled, it may direct the Registrar of Copyright to grant to the applicant such a licence to publish the work.

(4) Every compulsory licence issued under this section shall specify the means and format of publication, the period during which the compulsory licence may be exercised and, in the case of issue of copies, the number of copies that may be issued including the rate or royalty:

Provided that where the Appellate Board issued such a compulsory licence it may, on a further application and after giving reasonable opportunity to the owners of rights, extend the period of such compulsory licence and allow the issue of more copies as it may deem fit.

31C. (1) Any person desirous of making a cover version, being a sound recording in respect of any literary, dramatic or musical work, where sound recordings of that work have been made by or with the licence or consent of the owner of the right in the work, may do so subject to the provisions of this section:

Statutory
licence for
cover versions.

Provided that such sound recordings shall be in the same medium as the last recording, unless the medium of the last recording is no longer in current commercial use.

(2) The person making the sound recordings shall give prior notice of his intention to make the sound recordings in the manner as may be prescribed, and provide in advance copies of all covers or labels with which the sound recordings are to be sold, and pay in advance, to the owner of rights in each work royalties in respect of all copies to be made by him, at the rate fixed by the Appellate Board in this behalf:

Provided that such sound recordings shall not be sold or issued in any form of packaging or with any cover or label which is likely to mislead or confuse the public as to their identity, and in particular shall not contain the name or depict in any way any performer of an earlier sound recording of the same work or any cinematograph film in which sound recording was incorporated and, further, shall state on the cover that it is a cover version made under this section.

(3) The person making such sound recordings shall not make any alteration in the literary or musical work which has not been made previously by or with the consent of the owner of rights, or which is not technically necessary for the purpose of making the sound recordings:

Provided that such sound recordings shall not be made until the expiration of five calendar years after the end of the year in which the first sound recordings of the work was made.

(4) One royalty in respect of such sound recordings shall be paid for a minimum of fifty thousand copies of each work during each calendar year in which copies of it are made:

Provided that the Appellate Board may, by general order, fix a lower minimum in respect of works in a particular language or dialect having regard to the potential circulation of such works.

(5) The person making such sound recordings shall maintain such registers and books of account in respect thereof, including full details of existing stock as may be prescribed and shall allow the owner of rights or his duly authorised agent or representative to inspect all records and books of account relating to such sound recording:

Provided that if on a complaint brought before the Appellate Board to the effect that the owner of rights has not been paid in full for any sound recordings purporting to be made in pursuance of this section, the Appellate Board is, *prima facie*, satisfied that the complaint is genuine, it may pass an order *ex parte* directing the person making the sound recording to cease from making further copies and, after holding such inquiry as it considers necessary, make such further order as it may deem fit, including an order for payment of royalty.

Explanation.—For the purposes of this section "cover version" means a sound recording made in accordance with this section.

Statutory
licence for
broadcasting
of literary and
musical works
and sound
recording.

31D. (1) Any broadcasting organisation desirous of communicating to the public by way of a broadcast or by way of performance of a literary or musical work and sound recording which has already been published may do so subject to the provisions of this section.

(2) The broadcasting organisation shall give prior notice, in such manner as may be prescribed, of its intention to broadcast the work stating the duration and territorial coverage of the broadcast, and shall pay to the owner of rights in each work royalties in the manner and at the rate fixed by the Appellate Board.

(3) The rates of royalties for radio broadcasting shall be different from television broadcasting and the Appellate Board shall fix separate rates for radio broadcasting and television broadcasting.

(4) In fixing the manner and the rate of royalty under sub-section (2), the Appellate Board may require the broadcasting organisation to pay an advance to the owners of rights.

(5) The names of the authors of the principal performers of the work shall, except in case of the broadcasting organisation communicating such work by way of performance, be announced with the broadcast.

(6) No fresh alteration to any literary or musical work, which is not technically necessary for the purpose of broadcasting, other than shortening the work for convenience of broadcast, shall be made without the consent of the owners of rights.

(7) The broadcasting organisation shall—

(a) maintain such records and books of account, and render to the owners of rights such reports and accounts; and

(b) allow the owner of rights or his duly authorised agent or representative to inspect all records and books of account relating to such broadcast, in such manner as may be prescribed.

(8) Nothing in this section shall affect the operation of any licence issued or any agreement entered into before the commencement of the Copyright (Amendment) Act, 2012.

27 of 2012.

* * * * *

32. (1) Any person may apply to the Appellate Board for a licence to produce and publish a translation of a literary or dramatic work in any language after a period of seven years from the first publication of the work.

Licence to produce and published translations.

(1A) Notwithstanding anything contained in sub-section (1), any person may apply to the Appellate Board for a licence to produce and publish a translation, in printed or analogous forms of reproduction, of a literary or dramatic work, other than an Indian work, in any language in general use in India after a period of three years from the first publication of such work, if such translation is required for the purposes of teaching, scholarship or research:

Provided that where such translation is in a language not in general use in any developed country, such application may be made after a period of one year from such publication.

(2) Every application under this section shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.

(3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.

(4) Where an application is made to the Appellate Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the language mentioned in the application—

(i) subject to the condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public, calculated at such rate as the Appellate Board may, in the circumstances of each case, determine in the prescribed manner; and

(ii) where such licence is granted on an application under sub-section (1A), subject also to the condition that the licence shall not extend to the export of copies of the translation of the work outside India and every copy of such translation shall contain a notice in the language of such translation that the copy is available for distribution only in India:

Provided that nothing in clause (ii) shall apply to the export by Government or any authority under the Government of copies of such translation in a language other than English, French or Spanish or to any country if—

(1) such copies are sent to citizens of India residing outside India or to any association of such citizens outside India; or

(2) such copies are meant to be used for purposes of teaching, scholarship or research and not for any commercial purpose; and

(3) in either case, the permission for such export has been given by the Government of that country:

Provided further that no licence under this section shall be granted, unless—

(a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the

work or any person authorised by him, within seven years or three years or one year, as the case may be, of the first publication of the work, or if a translation has been so published, it has been out of print;

(b) the applicant has proved to the satisfaction of the Appellate Board that he had requested and had been denied authorisation by the owner of the copyright to produce and publish such translation, or that he was, after due diligence on his part, unable to find the owner of the copyright;

(c) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation by registered air mail post to the publisher whose name appears from the work, and in the case of an application for a licence under sub-section (1), not less than two months before such application;

(cc) a period of six months in the case of an application under sub-section (1A) (not being an application under the proviso thereto), or nine months in the case of an application under the proviso to that sub-section, has elapsed from the date of making the request under clause (b) of this proviso or where a copy of the request has been sent under clause (c) of this proviso, from the date of sending of such copy, and the translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorised by him within the said period of six months or nine months, as the case may be;

(ccc) in the case of any application made under sub-section (1A)—

(i) the name of the author and the title of the particular edition of the work proposed to be translated are printed on all the copies of the translation;

(ii) if the work is composed mainly of illustrations, the provisions of section 32A are also complied with;

(d) the Appellate Board is satisfied that the applicant is competent to produce and publish a correct translation of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section;

(e) the author has not withdrawn from circulation copies of the work; and

(f) an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work.

(4) Any broadcasting authority may apply to the Appellate Board for a licence to produce and publish the translation of—

(a) a work referred to in sub-section (1A) and published in printed or analogous forms of reproduction; or

(b) any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities,

for broadcasting such translation for the purposes of teaching or for the dissemination of the results of specialised, technical or scientific research to the experts in any particular field.

(5) The provisions of sub-sections (2) to (4) in so far as they are relatable to an application under sub-section (1A), shall, with the necessary modifications,

apply to the grant of a licence under sub-section (5) and such licence shall not also be granted unless—

- (a) the translation is made from a work lawfully acquired;
- (b) the broadcast is made through the medium of sound and visual recordings;
- (c) such recording has been lawfully and exclusively made for the purpose of broadcasting in India by the applicant or by other broadcasting agency; and
- (d) the translation and the broadcasting of such translation are not used for any commercial purposes.

Explanation.—For the purposes of this section,—

(a) "developed country" means a country which is not a developing country;

(b) "developing country" means a country which is for the time being regarded as such in conformity with the practice of the General Assembly of the United Nations;

(c) "purposes of research" does not include purposes of industrial research, or purposes of research by bodies corporate (not being bodies corporate owned or controlled by Government) or other association or body of persons for commercial purposes;

(d) "purposes of teaching, research or scholarship" includes—

(i) purposes of instructional activity at all levels in educational institutions, including Schools, Colleges, Universities and tutorial institutions; and

(ii) purposes of all other types of organised educational activity.

32A. (1) Where, after the expiration of the relevant period from the date of the first publication of an edition of a literary, scientific or artistic work,—

(a) the copies of such edition are not made available in India; or

(b) such copies have not been put on sale in India for a period of six months,

to the public, or in connection with systematic instructional activities at a price reasonably related to that normally charged in India for comparable works by the owner of the right of reproduction or by any person authorised by him in this behalf, any person may apply to the Appellate Board for a licence to reproduce and publish such work in printed or analogous forms of reproduction at the price at which such edition is sold or at a lower price for the purposes of systematic instructional activities.

(2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the work to be reproduced.

(3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.

(4) Where an application is made to the Appellate Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence, not being

Licence to reproduce and publish works for certain purposes.

an exclusive licence, to produce and publish a reproduction of the work mentioned in the application subject to the conditions that,—

(i) the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the reproduction of the work sold to the public, calculated at such rate as the Appellate Board may, in the circumstances of each case, determine in the prescribed manner;

(ii) a licence granted under this section shall not extend to the export of copies of the reproduction of the work outside India and every copy of such reproduction shall contain a notice that the copy is available for distribution only in India:

Provided that no such licence shall be granted unless—

(a) the applicant has proved to the satisfaction of the Appellate Board that he had requested and had been denied authorisation by the owner of the copyright in the work to reproduce and publish such work or that he was, after due diligence on his part, unable to find such owner;

(b) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation by registered air-mail post to the publisher whose name appears from the work not less than three months before the application for the licence;

(c) the Appellate Board is satisfied that the applicant is competent to reproduce and publish an accurate reproduction of the work and possesses the means to pay the owner of the copyright the royalties payable to him under this section;

(d) the applicant undertakes to reproduce and publish the work at such price as may be fixed by the Appellate Board, being a price reasonably related to the price normally charged in India for works of the same standard on the same or similar subjects;

(e) a period of six months in the case of an application for the reproduction and publication of any work of natural science, physical science, mathematics or technology, or a period of three months in the case of an application for the reproduction and publication of any other work, has elapsed from the date of making the request under clause (a), or where a copy of the request has been sent under clause (b), from the date of sending of a copy, and a reproduction of the work has not been published by the owner of the copyright in the work or any person authorised by him within the said period of six months or, three months, as the case may be;

(f) the name of the author and the title of the particular edition of the work proposed to be reproduced are printed on all the copies of the reproduction;

(g) the author has not withdrawn from circulation copies of the work; and

(h) an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work.

(5) No licence to reproduce and publish the translation of a work shall be granted under this section unless such translation has been published by the owner of the right of translation or any person authorised by him and the translation is not in a language in general use in India.

(6) The provisions of this section shall also apply to the reproduction and publication, or translation into a language in general use in India, of any text incorporated in audio-visual fixations prepared and published solely for the purpose of systematic instructional activities.

Explanation.—For the purpose of this section, "relevant period", in relation to any work, means a period of—

(a) seven years from the date of the first publication of that work, where the application is for the reproduction and publication of any work of, or relating to, fiction, poetry, drama, music or art;

(b) three years from the date of the first publication of that work, where the application is for the reproduction and publication of any work of, or relating to, natural science, physical science, mathematics or technology; and

(c) five years from the date of the first publication of that work, in any other case.

* * * * *

33A. (1) Every copyright society shall publish its tariff scheme in such manner as may be prescribed.

Tariff Scheme
by copyright
societies.

(2) Any person who is aggrieved by the tariff scheme may appeal to the Appellate Board and the Board may, it satisfied after holding such inquiry as it may consider necessary, make such orders as may be required to remove any unreasonable element, anomaly or inconsistency therein:

Provided that the aggrieved person shall pay to the copyright society any fee as may be prescribed that has fallen due before making an appeal to the Appellate Board and shall continue to pay such fee until the appeal is decided, and the Board shall not issue any order staying the collection of such fee pending disposal of the appeal:

Provided further that the Appellate Board may after hearing the parties fix an interim tariff and direct the aggrieved parties to make the payment according pending disposal of the appeal.

* * * * *

50. The Appellate Board, on application of the Registrar of Copyrights or of any person aggrieved, shall order the rectification of the Register of Copyrights by—

Rectification
of Register by
Appellate
Board.

(a) the making of any entry wrongly omitted to be made in the register, or

(b) the expunging of any entry wrongly made in, or remaining on, the register, or

(c) the correction of any error or defect in the register.

* * * * *

53A. (1) In the case of resale for a price exceeding ten thousand rupees, of the original copy of a painting, sculpture or drawing, or of the original manuscript of a literary or dramatic work or musical work, the author of such work if he was the first owner of rights under section 17 or his legal heirs shall, notwithstanding any assignment of copyright in such work, have a right to share in the resale price of such original copy or manuscript in accordance with the provisions of this section:

Resale share
right in
original
copies.

Provided that such right shall cease to exist on the expiration of the term of copyright in the work.

(2) The share referred to in sub-section (1) shall be such as the Appellate Board may fix and the decision of the Appellate Board in this behalf shall be final:

Provided that the Appellate Board may fix different shares for different classes of work:

Provided further that in no case shall the share exceed ten percent, of the resale price.

(3) If any dispute arises regarding the right conferred by this section, it shall be referred to the Appellate Board whose decision shall be final.

CHAPTER XII

CIVIL REMEDIES

Definition.

54. For the purposes of this Chapter, unless the context otherwise requires, the expression "owner of copyright" shall include—

(a) an exclusive licensee;

(b) in the case of an anonymous or pseudonymous literary, dramatic, musical or artistic work, the publisher of the work, until the identity of the author or, in the case of an anonymous work of joint authorship, or a work of joint authorship published under names all of which are pseudonyms, the identity of any of the authors, is disclosed publicly by the author and the publisher or is otherwise establishment to the satisfaction of the Appellate Board by that author or his legal representatives.

* * * * *

Appeals
against orders
of Registrar of
Copyrights
and Appellate
Board.

72. (1) Any person aggrieved by any final decision or order of the Registrar of Copyrights may, within three months from the date of the order or decision, appeal to the Appellate Board.

(2) Any person aggrieved by any final decision or order of the Appellate Board, not being a decision or order made in an appeal under sub-section (1), may, within three months from the date of such decision or order, appeal to the High Court within whose jurisdiction the appellant actually and voluntarily resides or carries on business or personally works for gain:

Provided that no such appeal shall lie against a decision of the Appellate Board under section 6.

(3) In calculating the period of three months provided for an appeal under this section, the time taken in granting a certified copy of the order or record of the decision appealed against shall be excluded.

* * * * *

CHAPTER XV

MISCELLANEOUS

Registrar of
Copyrights
and Appellate
Board to
possess certain
powers of civil
courts.

74. The Registrar of Copyrights and the Appellate Board shall have the powers of a civil court when trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely, —

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) requisitioning any public record or copy thereof from any court or office;

(f) any other matter which may be prescribed.

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Registrar of Copyrights or the Appellate Board, as the case may be, shall be the limits of the territory of India.

75. Every order made by the Registrar of Copyrights or the Appellate Board under this Act for the payment of any money or by the High Court in any appeal against any such order of the Appellate Board shall, on a certificate issued by the Registrar of Copyrights, the Appellate Board or the Registrar of the High Court, as the case may be, be deemed to be a decree of a civil court and shall be executable in the same manner as a decree of such court.

Orders for payment of money passed by Registrar of Copyrights and Appellate Board to be executable as a decree.

* * * *

45 of 1860.

77. Every officer appointed under this Act and every member of the Appellate Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Certain persons to be public servants.

78. (1) * * *

Power to make rules.

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

* * * *

(cA) the form and manner in which an organisation may apply to the Appellate Board for compulsory licence for disabled and the fee which may accompany such application under sub-section 31B;

* * * *

(ccB) the fee which is to be paid before filing an appeal to the Appellate Board under sub-section (2) of section 33A;

* * * *

(f) the matters in respect of which the Registrar of Copyrights and the Appellate Board shall have powers of a civil court;

* * * *

79. (1) * * *

Repeals, savings and transitional provisions.

(2) Where any person has, before the commencement of this Act, taken any action whereby he has incurred any expenditure or liabilities in connection with the reproduction or performance of any work in a manner which at the time was lawful or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the coming into force of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who, by virtue of this Act, becomes entitled to restrain such reproduction or performance, agrees to pay such compensation as, failing agreement, may be determined by the Appellate Board.

* * * *

EXTRACTS FROM THE CUSTOMS ACT, 1962

(52 OF 1962)

* * * *

CHAPTER VB

ADVANCE RULINGS

28E. In this Chapter, unless the context otherwise requires,—

Definitions.

* * * *

(ba) Appellate Authority means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961; 43 of 1961.

* * * * *

(f) Chairperson means the Chairperson of the Appellate Authority;

(g) Member means a Member of the Appellate Authority and includes the Chairperson; and

* * * * *

Customs
Authority for
Advance
Rulings.

28EA. (1) The Board may, for the purposes of giving advance rulings under this Act, by notification, appoint an officer of the rank of Principal Commissioner of Customs or Commissioner of Customs to function as a Customs Authority for Advance Rulings:

Provided that till the date of appointment of the Customs Authority for Advance Rulings, the existing Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall continue to be the Authority for giving advance rulings for the purposes of this Act. 43 of 1961.

* * * * *

Authority for
advance
rulings.

28F. (1) Subject to the provisions of this Act, the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall be Appellate Authority for deciding appeal under this Chapter and the said Appellate Authority shall exercise the jurisdiction, powers and authority conferred on it by or under this Act: 43 of 1961.

Provided that the Member from the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Appellate Authority for the purposes of this Act.

* * * * *

Appeal.

28KA. (1) Any officer authorised by the Board, by notification, or the applicant may file an appeal to the Appellate Authority against any ruling or order passed by the Authority, within sixty days from the date of the communication of such ruling or order, in such form and manner as may be prescribed:

Provided that where the Appellate Authority is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the period so specified, it may allow a further period of thirty days for filing such appeal.

(2) The provisions of sections 28-I and 28J shall, *mutatis mutandis*, apply to the appeal under this section.

Powers of
Authority or
Appellate
Authority.

28L. (1) The Authority or Appellate Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908.

5 of 1908.

(2) The Authority or Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority or Appellate Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code. 2 of 1974.

Procedure for
Authority and
Appellate
Authority.

28M. (1) The Authority shall follow such procedure as may be prescribed. 45 of 1860.

(2) The Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers and authority under this Act.

* * * * *

EXTRACTS FROM THE PATENTS ACT, 1970

(39 OF 1970)

* * * *

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

Definitions
and Interpretation.

(a) "Appellate Board" means the Appellate Board referred to in section 116;

* * * *

(u) "prescribed" means,—

(A) in relation to proceedings before a High Court, prescribed by rules made by the High Court;

(B) in relation to proceedings before the Appellate Board, prescribed by rules made by the Appellate Board; and

* * * *

52. (1) Where the patent has been revoked under section 64 on the ground that the patent was obtained wrongfully and in contravention of the rights of the petitioner or any person under or through whom he claims, or, where in a petition for revocation, the Appellate Board or court, instead of revoking the patent, directs the complete specification to be amended by the exclusion of a claim or claims in consequence of a finding that the invention covered by such claim or claims had been obtained from the petitioner, the Appellate Board or court may, by order passed in the same proceeding, permit the grant to the petitioner of the whole or such part of the invention which the Appellate Board or court finds has been wrongfully obtained by the patentee, in lieu of the patent so revoked or is excluded by amendment.

Grant of patent to true and first inventor where it has been obtained by another in fraud of him.

(2) Where any such order is passed, the Controller shall, on request by the petitioner made in the prescribed manner grant to him:—

(i) in cases where the Appellate Board or court permits the whole of the patent to be granted, a new patent bearing the same date and number as the patent revoked;

(ii) in cases where the Appellate Board or court permits a part only of the patent to be granted, a new patent for such part bearing the same date as the patent revoked and numbered in such manner as may be prescribed:

Provided that the Controller may, as a condition of such grant, require the petitioner to file a new and complete specification to the satisfaction of the Controller describing and claiming that part of the invention for which the patent is to be granted.

* * * *

58. (1) In any proceeding before the Appellate Board or the High Court for the revocation of a patent, the Appellate Board or the High Court, as the case may be, may, subject to the provisions contained in section 59, allow the patentee to amend his complete specification in such manner and subject to such terms as to costs, advertisement or otherwise, as the Appellate Board or the High Court may think fit, and if in any proceedings for revocation the Appellate Board or the High Court decides that the patent is invalid, it may allow the specification to be amended under this section instead of revoking the patent.

Amendment of specification before Appellate Board or High Court.

(2) Where an application for an order under this section is made to the Appellate Board or the High Court, the applicant shall give notice of the application to the Controller, and the Controller shall be entitled to appear and be heard, and shall appear if so directed by the Appellate Board or the High Court.

(3) Copies of all orders of the Appellate Board or the High Court allowing the patentee to amend the specification shall be transmitted by the Appellate Board or the High Court to the Controller who shall, on receipt thereof, cause an entry thereof and reference thereto to be made in the register.

59. (1) * * * *

Supplementary provisions as to amendment of application or specification.

(2) Where after the date of grant of patent any amendment of the specification or any other documents related thereto is allowed by the Controller or by the Appellate Board or the High Court, as the case may be,—

(a) the amendment shall for all purposes be deemed to form part of the specification along with other documents related thereto;

(b) the fact that the specification or any other documents related thereto has been amended shall be published as expeditiously as possible; and

(c) the right of the applicant or patentee to make amendment shall not be called in question except on the ground of fraud;

* * * *

Revocation
of Power
patents.

64. (1) Subject to the provisions contained in this Act, a patent whether granted before or after the commencement of this Act, may, be revoked on a petition of any person interested or of the Central Government by the Appellate Board or on a counter-claim in a suit for infringement of the patent by the High Court on any of the following grounds, that is to say—

* * * *

Rectification
of register by
Appellate
Board.

71. (1) The Appellate Board may, on the application of any person aggrieved—

(a) by the absence or omission from the register of any entry; or

(b) by any entry made in the register without sufficient cause; or

(c) by any entry wrongly remaining on the register; or

(d) by any error or defect in any entry in the register,

make such order for the making, variation or deletion, of any entry therein as it may think fit.

(2) In any proceeding under this section the Appellate Board may decide any question that may be necessary or expedient to decide in connection with the rectification of the register.

(3) Notice of any application to the Appellate Board under this section shall be given in the prescribed manner to the Controller who shall be entitled to appear and be heard on the application, and shall appear if so directed by the Board.

(4) Any order of the Appellate Board under this section rectifying the register shall direct that notice of the rectification shall be served upon the Controller in the prescribed manner who shall upon receipt of such notice rectify the register accordingly.

* * * *

Officers and
employees
not to furnish
information,
etc.

76. An officer or employee in the patent office shall not, except when required or authorised by this Act or under a direction in writing of the Central Government or Appellate Board or the Controller or by order of a court,—

(a) furnish information on a matter which is being, or has been, or dealt with under this Act;

(b) prepare or assist in the preparation of a document required or permitted by or under this Act to be lodged in the patent office; or

(c) conduct a search in the records of the patent office.

* * * *

Certificate of
validity of
specification
and costs of
subsequent
suits for
infringement
thereof.

113. (1) If in any proceedings before the Appellate Board or a High Court for the revocation of a patent under section 64 and section 104, as the case may be, the validity of any claim of a specification is contested and that claim is found by the Appellate Board or the High Court to be valid, the Appellate Board or the High Court may certify that the validity of that claim was contested in those proceedings and was upheld.

* * * *

(3) Nothing contained in this section shall be construed as authorising the courts or the Appellate Board hearing appeals from decrees or orders in suits for infringement or petitions for revocation, as the case may be, to pass orders for costs on the scale referred to therein.

* * * *

CHAPTER XIX

APPEALS TO THE APPELLATE BOARD

47 of 1999. **116.** (1) Subject to the provisions of this Act, the Appellate Board established under section 83 of the Trade Marks Act, 1999 shall be the Appellate Board for the purposes of this Act and the said Appellate Board shall exercise the jurisdiction, power and authority conferred on it by or under this Act: Appellate Board.

Provided that the Technical Member of the Appellate Board for the purposes of this Act shall have the qualifications specified in sub-section (2).

(2) A person shall not be qualified for appointment as a Technical Member for the purposes of this Act unless he—

(a) has, at least five years, held the post of Controller under this Act or has exercised the functions of the Controller under this Act for at least five years; or

(b) has been for at least ten years, functioned as a Registered Patent Agent and possesses a degree in engineering or technology or a masters degree in science from any University established under law for the time being in force or equivalent.

117. (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Appellate Board in the discharge of its functions under this Act and provide the Appellate Board with such officers and other employees as it may think fit. Staff of Appellate Board.

(2) The salaries and allowances and conditions of service of the officers and other employees of the Appellate Board shall be such as may be prescribed.

(3) The officers and other employees of the Appellate Board shall discharge their functions under the general superintendence of the Chairman of the Appellate Board in the manner as may be prescribed.

117A. (1) * * * * * Appeals to Appellate Board.

(2) An appeal shall lie to the Appellate Board from any decision, order or direction of the Controller of Central Government under section 15, section 16, section 17, section 18, section 19, section 20, sub-section (4) of section 25, section 28, section 51, section 54, section 57, section 60, section 61, section 63, section 66, sub-section (3) of section 69, section 78, sub-sections (1) to (5) of section 84, section 85, section 88, section 91, section 92 and section 94.

* * * * *

(4) Every appeal shall be made within three months from the date of the decision, order or direction, as the case may be, of the Controller or the Central Government or within such further time as the Appellate Board may, in accordance with the rules made by it, allow.

47 of 1999. **117B.** The provisions of sub-sections (2) to (6) of section 84, section 87, section 92, section 95 and section 96 of the Trade Marks Act, 1999, shall apply to the Appellate Board in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Trade Marks Act, 1999. Procedure and powers of Appellate Board.

117C. No court or other authority shall have or, be entitled to, exercise any jurisdiction, powers or authority in relation to the matters referred to in sub-section (2) of section 117A or section 117D. Bar of jurisdiction of courts, etc.

117D. (1) An application for revocation of a patent before the Appellate Board under section 64 and an application for rectification of the register made to the Appellate Board under section 71 shall be in such form as may be prescribed. Procedure for application for rectification, etc., before Appellate Board.

(2) A certified copy of every order or judgment of the Appellate Board relating to a patent under this Act shall be communicated to the Controller by the Board and the Controller shall give effect to the order of the Board and shall, when so directed, amend the entries in, or rectify, the register in accordance with such order.

117E. (1) The Controller shall have the right to appear and be heard—

(a) in any legal proceedings before the Appellate Board in which the relief sought includes alteration or rectification of the register or in which any question relating to the practice of the patent office is raised; Appearance of Controller in legal proceedings.

(b) in any appeal to the Appellate Board from an order of the Controller on an application for grant of a patent—

(i) which is not opposed, and the application is either refused by the Controller or is accepted by him subject to any amendments, modifications, conditions or limitations, or

(ii) which has been opposed and the Controller considers that his appearance is necessary in the public interest, and the Controller shall appear in any case if so directed by the Appellate Board.

(2) Unless the Appellate Board otherwise directs, the Controller may, in lieu of appearing, submit a statement in writing signed by him, giving such particulars as he thinks proper of the proceedings before him relating to the matter in issue or of the grounds of any decision given by him or of the practice of the patent office in like cases, or of other matters relevant to the issues and within his knowledge as the Controller may deem it necessary, and such statement shall be evidence in the proceeding.

Costs of
Controller in
proceedings
Before
Appellate
Board.

117F. In all proceedings under this Act before the Appellate Board, the costs of the Controller shall be in the discretion of the Board, but the Controller shall not be ordered to pay the costs of any of the parties.

Transfer of
pending
proceedings to
Appellate
Board.

117G. All cases of appeals against any order or decision of the Controller and all cases pertaining to revocation of patent other than on a counter-claim in a suit for infringement and rectification of register pending before any High Court, shall be transferred to the Appellate Board from such date as may be notified by the Central Government in the Official Gazette and the Appellate Board may proceed with the matter either *de novo* or from the stage it was so transferred.

Power of
Appellate
Board to make
rules.

117H. The Appellate Board may make rules consistent with this Act as to the conduct and procedure in respect of all proceedings before it under this Act.

Transmission
of orders of
courts to
Controller.

151. (1) Every order of the High Court or the Appellate Board on a petition for revocation, including orders granting certificates of validity of any claim, shall be transmitted by the High Court or the Appellate Board to the Controller who shall cause an entry thereof and reference thereto to be made in the register.

(3) The provisions of sub-sections (1) and (2) shall also apply to the court to which appeals are preferred against decisions of the Appellate Board or the courts, as the case may be, referred to in those sub-sections.

Power of
Central
Government
to make rules.

159. (1) (2) Without prejudice to the generality of the foregoing power, the Central Government may make rules to provide for all or any of the following matters, namely:—

(xiia) the salaries and allowances and other conditions of service of the officers and other employees of the Appellate Board under sub-section (2) and the manner in which the officers and other employees of the Appellate Board shall discharge their functions under sub-section (3) of section 117;

(xiib) the form of making an appeal, manner of verification and the fees payable under sub-section (3) of section 117A;

(xiic) the form in which, and the particulars to be included in, the application to the Appellate Board under sub-section (1) of section 117D;

EXTRACTS FROM THE AIR PORT AUTHORITY OF INDIA ACT, 1994

(55 OF 1994)

28A. In this Chapter, unless the context otherwise requires,—

Definitions.

* * * * *

(e) "Tribunal" means the Airport Appellate Tribunal established under sub-section (1) of section 28-I;

* * * * *

28E. (1) Where any persons have been evicted from any airport premises under section 28D, the eviction officer may, after giving ten days notice to the persons from whom possession of the airport premises has been taken and after publishing the notice in at least one newspaper having circulation in the locality, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

Disposal of property left on airport premises by unauthorised occupants.

(2) Where any property is sold under sub-section (1), the sale proceeds thereof shall, after deducting the expenses of the sale and the amount, if any, due to the Central Government or the corporate authority on account of arrears of rent or damages or costs, be paid to such person or persons as may appear to the eviction officer to be entitled to the same:

Provided that where the eviction officer is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he may refer such dispute to the Tribunal and the decision of the Tribunal thereon shall be final.

* * * * *

28-I. (1) The Central Government shall, by notification in the Official Gazette, establish a Tribunal, to be known as the Airport Appellate Tribunal, to exercise the jurisdiction, powers and authority conferred on it by or under this Act and the Control of National Highways (Land and Traffic) Act, 2002.

Establishment of Tribunal.

13 of 2002.

(2) The Tribunal shall consist of a Chairperson (hereinafter referred to in this Act, as the Chairperson of the Tribunal).

(3) The head office of the Tribunal shall be at New Delhi:

Provided that the Tribunal may hold its sittings at other places as the Chairperson of the Tribunal may decide, from time to time, having taken into consideration the convenience to decide the appeals before the Tribunal.

(4) The Chairperson of the Tribunal shall be appointed by the Central Government after consultation with the Chief Justice of India.

(5) A person shall not be qualified for appointment as Chairperson of the Tribunal unless he is, or has been, or is qualified to be, a Judge of a High Court.

(6) The Chairperson of the Tribunal shall hold office as such for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

(7) The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson of the Tribunal shall be such as may be prescribed:

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

Resignation
and removal.

28J. (1) The Chairperson of the Tribunal may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson of the Tribunal shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Chairperson of the Tribunal shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairperson had been informed of the charges against him and given reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson of the Tribunal.

Qualifications,
terms and
conditions of
service of
Chairperson.

28JA. Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson of the Tribunal appointed after the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall be governed by the provisions of section 184 of that Act: 7 of 2017.

Provided that the Chairperson appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force. 7 of 2017.

Appeals to
Tribunal.

28K. (1) Any person aggrieved by an order of the eviction officer under this Chapter may, within fifteen days from the date of such order, prefer an appeal to the Tribunal in such form as may be prescribed:

Provided that the Tribunal may entertain any appeal after the expiry of the said period of fifteen days, but not after the period of thirty days from the date aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Tribunal shall, after giving the appellant and the eviction officer an opportunity of being heard, pass such order as it thinks fit.

(3) The Tribunal shall dispose of the appeal within thirty days from the date of filing the appeal:

Provided that the Tribunal may, for reasons to be recorded in writing, dispose of the appeal within a further period of fifteen days.

(4) An order of the Tribunal passed under sub-section (2) shall be executable as a decree of a civil court and for executing the same the Tribunal shall send a copy thereof to the civil court having jurisdiction which shall execute the same, as expeditiously as may be possible, as if such order is a decree passed by that court.

(5) On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Chapter by the Tribunal in relation to any matter, no court (except the Supreme Court under article 136 and the High Court under articles 226 and 227 of the Constitution shall have, or be entitled to exercise any jurisdiction, powers or authority in relation to such matter.

Procedure and
powers of
Tribunal.

28L. (1) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice, and, subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to lay down and regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private. 5 of 1908.

(2) The Tribunal shall have, for the purpose of discharging its functions under this Chapter, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) any other matter which may be prescribed.

45 of 1860.

2 of 1974.

(3) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

28M. Subject to the provisions of this Act, every order made by an eviction officer or the Tribunal under this Chapter shall be final and shall not be called in question in any suit, application, execution or other proceeding and no injunction shall be granted by any court or other authority in respect of any action taken or intended to be taken in pursuance of any power conferred by or under this Chapter.

Finality of orders.

28N. (1) Whoever, unlawfully occupies any airport premises, shall be punishable with imprisonment for a term which may extend to six years and with fine.

Offences under this Chapter.

(2) Whoever fails to comply with any order of the eviction officer or the Tribunal under this Chapter shall be punishable with imprisonment for a term which may extend to seven years and with fine.

(3) If any person who has been evicted from any airport premises under this Chapter again occupies the premises without authority for such occupation, he shall be punishable with imprisonment for a term which may extend to ten years and with fine.

(4) The court may, while convicting a person under sub-section (3), make an order for evicting that person summarily and he shall be liable to such eviction without prejudice to any other action that may be taken under this Chapter.

* * * * *

33. No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other employee of the Authority or the Chairperson of the Tribunal for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder or for any damage sustained by any aircraft or vehicle in consequence of any defect in any of the airports, civil enclaves, heliports, airstrips, aeronautical communication stations or other things belonging to or under the control of the Authority.

Protection of action taken in good faith.

* * * * *

41. (1)

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Power to make rules.

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

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(gvi) the salaries and allowances payable to, and other terms and conditions of service of, the Chairperson of the Tribunal under sub-section (7) of section 28-I;

(gvii) the procedure for the investigation of misbehaviour or incapacity of the Chairperson of the Tribunal under sub-section (3) of section 28J;

(gviii) the form of appeal under sub-section (1) of section 28k;

(gix) any other matter under clause (c) of sub-section (2) of section 28L;

* * * * *

EXTRACTS FROM AMENDMENTS OF THE TRADE MARKS ACT, 1999

(47 OF 1999)

Definitions
and Interpretation.

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

(a) "Appellate Board" means the Appellate Board established under section 83;

(d) "Bench" means a Bench of the Appellate Board;

(f) "Chairperson" means the Chairperson of the Appellate Board;

(k) "Judicial Member" means a Member of the Appellate Board appointed as such under this Act, and includes the Chairperson and the Vice-Chairperson;

(n) "Member" means a Judicial Member or a Technical Member of the Appellate Board and includes the Chairperson and the Vice-Chairperson;

(s) "prescribed" means prescribed by rules made under this Act;

(ze) "tribunal" means the Registrar or, as the case may be, the Appellate Board, before which the proceeding concerned is pending;

(zf) "Vice-Chairperson" means a Vice-Chairperson of the Appellate Board;

Limitation as
to colour.

10. (1) A trade mark may be limited wholly or in part to any combination of colours and any such limitation shall be taken into consideration by the tribunal having to decide on the distinctive character of the trade mark.

(2) So far as a trade mark is registered without limitation of colour, it shall be deemed to be registered for all colours.

Effect of
removal from
register for
failure to pay
fee for
renewal.

26. Where a trade mark has been removed from the register for failure to pay the fee for renewal, it shall nevertheless, for the purpose of any application for the registration of another trade mark during one year, next after the date of the removal, be deemed to be a trade mark already on the register, unless the tribunal is satisfied either—

(a) that there has been no *bona fide* trade use of the trade mark which has been removed during the two years immediately preceding its removal; or

(b) that no deception or confusion would be likely to arise from the use of the trade mark which is the subject of the application for registration by reason of any previous use of the trade mark which has been removed.

Proposed use
of trade mark
by company
to be formed,
etc.

46. (1) *

(3) The tribunal may, in a case to which sub-section (1) applies, require the applicant to give security for the costs of any proceedings relating to any opposition or appeal, and in default of such security being duly given, may treat the application as abandoned.

47. (1) A registered trade mark may be taken off the register in respect of the goods or services in respect of which it is registered on application made in the prescribed manner to the Registrar or the Appellate Board by any person aggrieved on the ground either—

- | | | | | |
|-----|---|---|---|---|
| (a) | * | * | * | * |
| (b) | * | * | * | * |

Removal from register and imposition of limitations on ground of non-use.

Provided that except where the applicant has been permitted under section 12 to register an identical or nearly resembling trade mark in respect of the goods or services in question, or where the tribunal is of opinion that he might properly be permitted so to register such a trade mark, the tribunal may refuse an application under clause (a) or clause (b) in relation to any goods or services, if it is shown that there has been, before the relevant date or during the relevant period, as the case may be, *bona fide* use of the trade mark by any proprietor thereof for the time being in relation to—

(i) goods or services of the same description; or

(ii) goods or services associated with those goods or services of that description being goods or services, as the case may be, in respect of which the trade mark is registered.

(2) Where in relation to any goods or services in respect of which a trade mark is registered—

- | | | | | |
|-----|---|---|---|---|
| (a) | * | * | * | * |
|-----|---|---|---|---|

(b) a person has been permitted under section 12 to register an identical or nearly resembling trade mark in respect of those goods, under a registration extending to use in relation to goods to be so sold, or otherwise traded in, or in relation to goods to be so exported, or in relation to services for use or available for acceptance in that place or for use in that country, or the tribunal is of opinion that he might properly be permitted so to register such a trade mark,

on application by that person in the prescribed manner to the Appellate Board or to the Registrar, the tribunal may impose on the registration of the first-mentioned trade mark such limitations as it thinks proper for securing that that registration shall cease to extend to such use.

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55. (1) Where under the provisions of this Act, use of a registered trade mark is required to be proved for any purpose, the tribunal may, if and, so far as it shall think right, accept use of a registered associated trade mark, or of the trade mark with additions or alterations no substantially affecting its identity, as an equivalent for the use required to be proved.

Use of one of associated or substantially identical trade marks equivalent to use of another.

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CHAPTER VII

RECTIFICATION AND CORRECTION OF THE REGISTER

57. (1) On application made in the prescribed manner to the Appellate Board or to the Registrar by any person aggrieved, the tribunal may make such order as it may think fit for cancelling or varying the registration of a trade mark on the ground of any contravention, or failure to observe a condition entered on the register in relation thereto.

Power to cancel or vary registration and to rectify the register.

(2) Any person aggrieved by the absence or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly

remaining on the register, or by any error or defect in any entry in the register, may apply in the prescribed manner to the Appellate Board or to the Registrar, and the tribunal may make such order for making, expunging or varying the entry as it may think fit.

(3) The tribunal may in any proceeding under this section decide any question that may be necessary or expedient to decide in connection with the rectification of the register.

(4) The tribunal, of its own motion, may, after giving notice in the prescribed manner to the parties concerned and after giving them an opportunity of being heard, make any order referred to in sub-section (1) or sub section (2).

(5) Any order of the Appellate Board rectifying the register shall direct that notice of the rectification shall be served upon the Registrar in the prescribed manner who shall upon receipt of such notice rectify the register accordingly.

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71. (1)*	*	*	*	*

Applications
for
Registration
of certifica-
tion trade
marks.

(3) In dealing under the said provisions with an application under this section, the tribunal shall have regard to the like considerations, so far as relevant, as if the application were applications under section 18 and to any other considerations relevant to applications under this section, including the desirability of securing that a certification trade mark shall comprise some indication that it is a certification trade mark.

CHAPTER XI

APPELLATE BOARD

Establishment
of Appellate
Board.

83. The Central Government shall, by notification in the Official Gazette, establish an Appellate Board to be known as the Intellectual Property Appellate Board to exercise the jurisdiction, powers and authority conferred on it by or under this Act and under the Copyright Act, 1957.

47 of 1957.

Composition
of Appellate
Board.

84. (1) The Appellate Board shall consist of a Chairperson, Vice-Chairperson and such number of other Members, as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Appellate Board may be exercised by Benches thereof.

(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Technical Member and shall sit at such place as the Central Government may, by notification in the Official Gazette, specify.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson—

(a) may, in addition to discharging the functions of the Judicial Member or Technical Member of the Bench to which he is appointed, discharge the functions of the Judicial Member or, as the case may be, the Technical Member, of any other Bench;

(b) may transfer a Member from one Bench to another Bench;

(c) may authorise the Vice-Chairperson, the Judicial Member or the Technical Member appointed to one Bench to discharge also the functions of the Judicial Member or the Technical Member, as the case may be, of another Bench.

(4) Where any Benches are constituted, the Central Government may, from time to time, by notification, make provisions as to the distribution of the business of the Appellate Board amongst the Benches and specify the matters which may be dealt with by each Bench.

(5) If any question arises as to whether any matter falls within the purview of the business allocated to a Bench, the decision of the Chairperson shall be final.

Explanation.—For the removal of doubts, it is hereby declared that the expression matter includes an appeal under section 91.

(6) If the Members of a Bench differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.

85. (1) A person shall not be qualified for appointment as the Chairperson unless he—

(a) is, or has been, a Judge of a High Court; or

(b) has, for at least two years, held the office of a Vice-Chairperson.

(2) A person shall not be qualified for appointment as the Vice-Chairperson, unless he—

(a) has, for at least two years, held the office of a Judicial Member or a Technical Member; or

(b) has been a Member of the Indian Legal Service and has held a post in Grade I of that Service or any higher post for at least five years.

(3) A person shall not be qualified for appointment as a Judicial Member, unless he—

(a) has been a member of the Indian Legal Service and has held the post in Grade I of that Service for at least three years; or

(b) has, for at least ten years, held a civil judicial office.

(4) A person shall not be qualified for appointment as a Technical Member, unless he—

(a) has, for at least ten years, exercised functions of a tribunal under this Act or under the Trade and Merchandise Marks Act, 1958, or both, and has held a post not lower than the post of a Joint Registrar for at least five years; or

(b) has, for at least ten years, been an advocate of a proven specialised experience in trade mark law.

(5) Subject to the provisions of sub-section (6), the Chairperson, Vice-Chairperson and every other Member shall be appointed by the President of India.

(6) No appointment of a person as the Chairperson shall be made except after consultation with the Chief Justice of India.

86. The Chairperson, Vice-Chairperson or other Members shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains,—

(a) in the case of Chairperson and Vice-Chairperson, the age of sixty-five years; and

(b) in the case of a Member, the age of sixty-two years, whichever is earlier.

87. (1) In the event of or any vacancy in the office of the Chairperson by reasons of his death, resignation or otherwise, the Vice-Chairperson and in his absence the senior-most Member shall act as Chairperson until the date on which a new Chairperson, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Chairperson is unable to discharge his functions owing to his absence, illness or any other cause, the Vice-Chairperson and in his absence the senior-most Member shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duty.

Qualifications for appointment as Chairperson, Vice-Chairperson, or other Members.

Term of office of Chairperson, Vice-Chairperson and other Members.

Vice-Chairperson or senior-most Member to act as Chairperson or discharge his functions in certain circumstances.

Salaries, allowances and other terms and conditions of service of Chairperson, Vice-Chairperson and other Members.

88. (1) The salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits), of the Chairperson, Vice-Chairperson and other members shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), a person who, immediately before the date of assuming office as the Chairperson, Vice-Chairperson or other Member was in service of Government, shall be deemed to have retired from service on the date on which he enters upon office as the Chairperson, Vice-Chairperson or other Member.

Resignation and removal.

89. (1) The Chairperson, Vice-Chairperson or any other Member may, by notice in writing under his hand addressed to the President of India, resign his office:

Provided that the Chairperson, Vice-Chairperson or any other Member shall, unless he is permitted by the President of India to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

(2) The Chairperson, Vice-Chairperson or any other Member shall not be removed from his office except by an order made by the President of India on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which the Chairperson, Vice-Chairperson or other Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson, Vice-Chairperson or other Member referred to in sub-section (2).

Qualifications, terms and conditions of service of Chairperson, Vice-Chairperson and member.

89A. Notwithstanding anything in this Act, the qualifications, appointment, term of office, salaries and allowances, resignations, removal and other terms and conditions of service of the Chairperson, Vice-Chairperson and other Members of the Appellate Board appointed after the commencement of Part XIV of chapter VI of the Finance Act 2017, shall be governed by the provisions of section 184 of that Act:

7 of 2017.

Provided that the Chairperson, Vice-Chairperson and other Members appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017, shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017, had not come into force.

7 of 2017.

Staff of Appellate Board.

90. (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Appellate Board in the discharge of its functions and provide the Appellate Board with such officers and other employees as it may think fit.

(2) The salaries and allowances and conditions of service of the officers and other employees of the Appellate Board shall be such as may be prescribed.

(3) The officers and other employees of the Appellate Board shall discharge their functions under the general superintendence of the Chairperson in the manner as may be prescribed.

Appeals to Appellate Board.

91. (1) Any person aggrieved by an order or decision of the Registrar under this Act, or the rules made thereunder may prefer an appeal to the Appellate Board within three months from the date on which the order or decision sought to be appealed against is communicated to such person preferring the appeal.

(2) No appeal shall be admitted if it is preferred after the expiry of the period specified under sub-section (1):

Provided that an appeal may be admitted after the expiry of the period specified therefor, if the appellant satisfies the Appellate Board that he had sufficient cause for not preferring the appeal within the specified period.

(3) An appeal to the Appellate Board shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a copy of the order or decision appealed against and by such fees as may be prescribed.

5 of 1908. **92.** (1) The Appellate Board shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by principles of natural justice and subject to the provisions of this Act and the rules made thereunder, the Appellate Board shall have powers to regulate its own procedure including the fixing of places and times of its hearing. Procedure And powers of Appellate Board.

5 of 1908. (2) The Appellate Board shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

- (a) receiving evidence;
- (b) issuing commissions for examination of witnesses;
- (c) requisitioning any public record; and
- (d) any other matter which may be prescribed.

45 of 1860.
2 of 1974. (3) Any proceeding before the Appellate Board shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code, and the Appellate Board shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

93. No court or other authority shall have or, be entitled to, exercise any jurisdiction, powers or authority in relation to the matters referred to in sub-section (1) of section 91. Bar of Jurisdiction of courts, etc.

94. On ceasing to hold office, the Chairperson, Vice-Chairperson or other Members shall not appear before the Appellate Board or the Registrar. Bar to appear before Appellate Board.

95. Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or any other manner) shall be made on, or in any proceedings relating to, an appeal unless— Conditions as to making of interim orders.

(a) copies of such appeal and of all documents in support of the plea for such interim order are furnished to the party against whom such appeal is made or proposed to be made; and

(b) opportunity is given to such party to be heard in the matter.

96. On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench. Power of Chairperson to transfer cases from one Bench to another.

97. (1) An application for rectification of the register made to the Appellate Board under section 57 shall be in such form as may be prescribed. Procedure for application for rectification, etc., before Appellate Board.

(2) A certified copy of every order or judgment of the Appellate Board relating to a registered trade mark under this Act shall be communicated to the Registrar by the Board and the Registrar shall give effect to the order of the Board and shall, when so directed, amend the entries in, or rectify, the register in accordance with such order.

98. (1) The Registrar shall have the right to appear and be heard— Appearance of Registrar in Legal proceedings.

(a) in any legal proceedings before the Appellate Board in which the relief sought includes alteration or rectification of the register or in which any question relating to the practice of the Trade Marks Registry is raised;

(b) * * * *

(2) Unless the Appellate Board otherwise directs, the Registrar may, in lieu of appearing, submit a statement in writing signed by him, giving such particulars as he thinks proper of the proceedings before him relating to the matter in issue or of the grounds of any decision given by him affecting it, or of the practice of the Trade Marks Registry in like cases, or of other matters relevant to the issues and within his knowledge as Registrar, and such statement shall be evidence in the proceeding.

Costs of Registrar in proceedings Before Appellate Board.

99. In all proceedings under this Act before the Appellate Board the costs of the Registrar shall be in the discretion of the Board, but the Registrar shall not be ordered to pay the costs of any of the parties.

Transfer of pending proceedings to Appellate Board.

100. All cases of appeals against any order or decision of the Registrar and all cases pertaining to rectification of register, pending before any High Court, shall be transferred to the Appellate Board from the date as notified by the Central Government in the Official Gazette and the Appellate Board may proceed with the matter either *de novo* or from the stage it was so transferred.

* * * *

Procedure where invalidity of registration is pleaded by the accused.

113. (1) Where the offence charged under section 103 or section 104 or section 105 is in relation to a registered trade mark and the accused pleads that the registration of the trade mark is invalid, the following procedure shall be followed:—

(a) If the court is satisfied that such defence is *prima facie* tenable, it shall not proceed with the charge but shall adjourn the proceeding for three months from the date on which the plea of the accused is recorded to enable the accused to file an application before the Appellate Board under this Act, for the rectification of the register on the ground that the registration is invalid.

(b) If the accused proves to the court that he has made such application within the time so limited or within such further time as the court may for sufficient cause allow, the further proceedings in the prosecution shall stand stayed till the disposal of such application for rectification.

(c) If within a period of three months or within such extended time as may be allowed by the court the accused fails to apply to the Appellate Board for rectification of the register, the court shall proceed with the case as if the registration were valid.

(2) Where before the institution of a complaint of an offence referred to in sub-section (1), any application for the rectification of the register concerning the trade mark in question on the ground of invalidity of the registration thereof has already been properly made to and is pending before the tribunal, the court shall stay the further proceedings in the prosecution pending the disposal of the application aforesaid and shall determine the charge against the accused in conformity with the result of the application for rectification in so far as the complainant relies upon the registration of his mark.

* * * *

Certain persons to be public servants.

123. Every person appointed under this Act and every Member of the Appellate Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Stay of Proceedings where the validity of registration of the trade mark is questioned, etc.

124. (1) Where in any suit for infringement of a trade mark—

(a) the defendant pleads that registration of the plaintiff's trade mark is invalid;

or

(b) the defendant raises a defence under clause (e) of sub-section (2) of section

30 and the plaintiff pleads the invalidity of registration of the defendant's trade mark, the court trying the suit (hereinafter referred to as the court), shall,—

(i) if any proceedings for rectification of the register in relation to the plaintiff's or defendant's trade mark are pending before the Registrar or the Appellate Board, stay the suit pending the final disposal of such proceedings;

(ii) if no such proceedings are pending and the court is satisfied that the plea regarding the invalidity of the registration of the plaintiff's or defendant's trade mark is *prima facie* tenable, raise an issue regarding the same and adjourn the case for a period of three months from the date of the framing of the issue in order to enable the party concerned to apply to the Appellate Board for rectification of the register.

* * * * *

125. (1) Where in a suit for infringement of a registered trade mark the validity of the registration of the plaintiff's trade mark is questioned by the defendant or where in any such suit the defendant raises a defence under clause (e) of sub-section (2) of section 30 and the plaintiff questions the validity of the registration of the defendant's trade mark, the issue as to the validity of the registration of the trade mark concerned shall be determined only on an application for the rectification of the register and, notwithstanding anything contained in section 47 or section 57, such application shall be made to the Appellate Board and not the Registrar.

Application for rectification of register to be made to Appellate Board in certain cases.

(2) Subject to the provisions of sub-section (1), where an application for rectification of the register is made to the Registrar under section 47 or section 57, the Registrar may, if he thinks fit, refer the application at any stage of the proceedings to the Appellate Board.

* * * * *

130. If a person who is a party to a proceeding under this Act (not being a proceeding before the Appellate Board or a court) dies pending the proceeding, the Registrar may, on request, and on proof to his satisfaction of the transmission of the interest of the deceased person, substitute in the proceeding his successor in interest in his place, or, if the Registrar is of opinion that the interest of the deceased person is sufficiently represented by the surviving parties, permit the proceeding to continue without the substitution of his successor in interest.

Death of party to a proceeding.

* * * * *

141. If in any legal proceeding for rectification of the register before the Appellate Board a decision is on contest given in favour of the registered proprietor of the trade mark on the issue as to the validity of the registration of the trade mark, the Appellate Board may grant a certificate to that effect, and if such a certificate is granted, then, in any subsequent legal proceeding in which the said validity comes into question the said proprietor on obtaining a final order or judgment in his favour affirming validity of the registration of the trade mark shall, unless the said final order or judgment for sufficient reason directs otherwise, be entitled to his full cost charges and expenses as between legal practitioner and client.

Certificate of validity.

* * * * *

144. In any proceeding relating to a trade mark, the tribunal shall admit evidence of the usages of the trade concerned and of any relevant trade mark or trade name or get up legitimately used by other persons.

Trade usages, etc., to be taken into consideration.

* * * * *

Power to
make rules.

157. (1) * * * *

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

* * * *

(xxxi) the salaries and allowances and other conditions of service of the officers and other employees of the Appellate Board under sub-section (2), and the manner in which the officers and other employees of the Appellate Board shall discharge their functions under sub-section (3) of section 90;

(xxxii) the form of making an appeal, the manner of verification and the fee payable under sub-section (3) of section 91;

(xxxiii) the form in which and the particulars to be included in the application to the Appellate Board under sub-section (1) of section 97;

EXTRACTS FROM THE GEOGRAPHICAL INDICATIONS OF GOODS
(REGISTRATION AND PROTECTION) ACT, 1999

(48 OF 1999)

* * * *

Definitions
and
Interpretation.

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

(a) "Appellate Board" means the Appellate Board established under section 83 of the Trade Marks Act, 1999;

47 of 1999.

* * * *

(p) "tribunal" means the Registrar or, as the case may be, the Appellate Board before which the proceeding concerned is pending.

* * * *

Effect of
removal from
register for
failure to pay
fee for
renewal.

19. Where a geographical indication has been removed from the register for failure to pay the fee for renewal, it shall nevertheless, for the purpose of any application for the registration of another geographical indication during one year, 11 next after the date of removal, be deemed to be a geographical indication already on the register, unless the tribunal is satisfied either—

(a) that there has been no bona fide trade use of the geographical indication which has been removed within the two years immediately preceding its removal; or

(b) that no deception or confusion would be likely to arise from the use of the geographical indication which is the subject of the application for registration by reason of any previous use of the geographical indication which has been removed.

* * * *

Registration
to be *prima
facie* evidence
of validity.

23. (1) In all legal proceedings relating to a geographical indication, the certificate of registration granted in this regard by the Registrar under this Act, being a copy of the entry in the register under the seal of the Geographical Indications Registry, shall be *prima facie* evidence of the validity thereof and be admissible in all courts and before the Appellate Board without further proof or production of the original.

* * * *

CHAPTER VI

RECTIFICATION AND CORRECTION OF THE REGISTER

27. (1) On application made in the prescribed manner to the Appellate Board or to the Registrar by any person aggrieved, the tribunal may make such order as it may think fit for cancelling or varying the registration of a geographical indication or authorised user on the ground of any contravention, or failure to observe the condition entered on the register in relation thereto.

Power to cancel or vary registration and to rectify the register.

(2) Any person aggrieved by the absence or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may apply in the prescribed manner to the Appellate Board or to the Registrar, and the tribunal may make such order for making, expunging or varying the entry as it may think fit.

(3) The tribunal may in any proceeding under this section decide any question that may be necessary or expedient to decide in connection with the rectification of the register.

(4) The tribunal, of its own motion, may, after giving notice in the prescribed manner to the parties concerned and after giving them an opportunity of being heard, make any order referred to in sub-section (1) or sub-section (2).

(5) Any order of the Appellate Board rectifying the register shall direct that notice of the rectification shall be served upon the Registrar in the prescribed manner who shall upon receipt of such notice rectify the register accordingly.

* * * * *

CHAPTER VII

APPEALS TO THE APPELLATE BOARD

31. (1) Any person aggrieved by an order or decision of the Registrar under this Act, or the rules made thereunder, may prefer an appeal to the Appellate Board within three months from the date on which the order or decision sought to be appealed against is communicated to such person preferring the appeal.

Appeals to the Appellate Board.

(2) No appeal shall be admitted if it is preferred after the expiry of the period specified under sub-section (1):

Provided that an appeal may be admitted after the expiry of the period specified therefore, if the appellant satisfies the Appellate Board that he had sufficient cause for not preferring the appeal within the specified period.

(3) An appeal to the Appellate Board shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a copy of the order or decision appealed against and such fees as may be prescribed.

32. No court or other authority shall have or, be entitled to, exercise any jurisdiction, powers or authority in relation to the matters referred to in sub-section (1) of section 31.

Bar of jurisdiction of courts, etc.

33. The provisions of sub-sections (2), (3), (4), (5), (6) of section 84, section 87, section 92, section 95 and section 96 of the Trade Marks Act, 1999, shall apply to the Appellate Board in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Trade Marks Act, 1999.

Procedure of the Appellate Board.

34. (1) An application for rectification of the register made to the Appellate Board under section 27 shall be in such form as may be prescribed.

Procedure for application for rectification, etc., before Appellate Board.

(2) A certified copy of every order or judgment of the Appellate Board relating to a registered geographical indication under this Act shall be communicated to the Registrar by the Appellate Board and the Registrar shall give effect to the order of the Board and shall, when so directed, amend the entries in, or rectify, the register in accordance with such order.

Procedure for application for rectification, etc., before Appellate Board.

35. (1) The Registrar shall have the right to appear and be heard—

(a) in any legal proceedings before the Appellate Board in which the relief sought includes alteration or rectification of the register or in which any question relating to the practice of the Geographical Indications Registry is raised;

(b) in any appeal to the Board from an order of the Registrar on an application for registration of a geographical indication or authorised user—

(i) which is not opposed, and the application is either refused by the Registrar or is accepted by him subject to any amendments, modifications, conditions or limitations, or

(ii) which has been opposed and the Registrar considers that his appearance is necessary in the public interest, and the Registrar shall appear in any case if so directed by the Board.

(2) Unless the Appellate Board otherwise directs, the Registrar may, in lieu of appearing, submit a statement in writing signed by him, giving such particulars as he thinks proper of the proceedings before him relating to the matter in issue or of the grounds of any decision given by him affecting it, or of the practice of the Geographical Indications Registry in like cases, or of other matters relevant to the issues and within his knowledge as Registrar, and such statement shall be evidence in the proceeding.

Costs of Registrar in Proceedings Before Appellate Board.

36. In all proceedings under this Act before the Appellate Board the costs of the Registrar shall be in the discretion of the Board, but the Registrar shall not be ordered to pay the costs of any of the parties.

* * * * *

Procedure where invalidity of registration is pleaded by the accused.

48. (1) Where the offence charged under section 39 or section 40 or section 41 is in relation to a registered geographical indication and the accused pleads that the registration of the geographical indication is invalid, the following procedure shall be followed:—

(a) if the court is satisfied that such defence is *prima facie* tenable, it shall not proceed with the charge but shall adjourn the proceeding for three months from the date on which the plea of the accused is recorded to enable the accused to file an application before the Appellate Board under this Act, for the rectification of the register on the ground that the registration is invalid;

(b) if the accused proves to the court that he has made such application within the time so limited or within such further time as the court may for sufficient cause allow, the further proceedings in the prosecution shall stand stayed till the disposal of such application for rectification;

(c) if within a period of three months or within such extended time as may be allowed by the court the accused fails to apply to the Appellate Board for rectification of the register, the court shall proceed with the case as if the registration were valid.

(2) Where before the institution of a complaint of an offence referred to in sub-section (1), any application for the rectification of the register concerning the geographical indication in question on the ground of invalidity of the registration thereof has already been properly made to and is pending before the tribunal, the court shall stay the further proceedings in the prosecution pending the disposal of the application aforesaid and shall determine the charge against the accused in conformity with the result of the application for rectification in so far as the complainant relies upon the registration of his geographical indication.

* * * * *

57. (1) Where in any suit for infringement of a geographical indication the defendant pleads that registration of the geographical indication relating to plaintiff is invalid, the court trying the suit (hereinafter referred to as the court), shall,—

Stay of proceedings where the validity of registration of the geographical indication is questioned, etc.

(a) if any proceedings for rectification of the register to the geographical indication relating to plaintiff or defendant are pending before the Registrar or the Appellate Board, stay the suit pending the final disposal of such proceedings;

(b) if no such proceedings are pending and the court is satisfied that the plea regarding the invalidity of the registration of the geographical indication relating to plaintiff or defendant is *prima facie* tenable, raise an issue regarding the same and adjourn the case for a period of three months from the date of the framing of the issue in order to enable the party concerned to apply to the Appellate Board for rectification of the register.

* * * * *

58. (1) Where in a suit for infringement of a registered geographical indication the validity of the registration of the geographical indication relating to plaintiff is questioned by the defendant or where in any such suit the plaintiff questions the validity of the registration of the geographical indication relating to defendant, the issue as to the validity of the registration of the geographical indication concerned shall be determined only on an application for the rectification of the register and, notwithstanding anything contained in section 27, such application shall be made to the Appellate Board and not to the Registrar.

Application for rectification of register to be made to Appellate Board in certain cases.

(2) Subject to the provisions of sub-section (1), where an application for rectification of the register is made to the Registrar under section 27, the Registrar may, if he thinks fit, refer the application at any stage of the proceedings to the Appellate Board.

* * * * *

63. If a person who is a party to a proceeding under this Act (not being a proceeding before the Appellate Board or a court) dies pending the proceeding, the Registrar may, on request, and on proof to his satisfaction of the transmission of the interest of the deceased person, substitute in the proceeding his successor in interest in his place, or, if the Registrar is of opinion that the interest of the deceased person is sufficiently represented by the surviving parties, permit the proceeding to continue without the substitution of his successor in interest.

Death of party to a proceeding.

* * * * *

72. If in any legal proceedings for rectification of the register before the Appellate Board a decision is on contest given in favour of the registered proprietor or, as the case may be, authorised user of the geographical indication on the issue as to the validity of the registration of the geographical indication or the authorised user, the Appellate Board may grant a certificate to that effect, and if such a certificate is granted, then, in any subsequent legal proceeding in which the said validity comes into question the said proprietor or the authorised user, as the case may be, on obtaining a final order or judgment in his favour affirming validity of the registration of the geographical indication or the authorised user, as the case may be, shall unless the said final order or judgment for sufficient reason directs otherwise, be entitled to his full cost charges and expenses as between legal practitioner and client.

Certificate of validity.

* * * * *

75. In any proceeding relating to a geographical indication, the tribunal shall admit evidence of the usages of the trade concerned and of any relevant geographical indication legitimately used by other persons.

Trade usages, etc., to be taken into consideration.

* * * * *

Power to
make rules.

87. (1) * * * *

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

* * * *

(n) the form of making an appeal, the manner of verification and the fee payable under sub-section (3) of section 31;

* * * *

EXTRACTS FROM THE PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS ACT, 2001

(53 OF 2001)

* * * *

Definitions.

2. In this Act, unless the context otherwise requires,—

* * * *

(d) "Chairman" means the Chairman of the Tribunal;

* * * *

(n) "Judicial Member" means a Member of the Tribunal appointed as such under sub-section (1) of section 55 and includes the Chairman;

(o) "Member" means a Judicial Member or a Technical member of the Tribunal and includes the Chairman;

* * * *

(q) "prescribed" means prescribed by rules made under this Act;

* * * *

(y) "Tribunal" means the Plant Varieties Protection Appellate Tribunal established under section 54;

(z) "Technical Member" means a Member of the Tribunal who is not a Judicial Member;

* * * *

Exemption
from fees.

44. A farmer or group of farmers or village community shall not be liable to pay any fees in any proceeding before the Authority or Registrar or the Tribunal or the High Court under this Act or the rules made thereunder.

Explanation.—For the purposes of this section, "fees in any proceeding" includes any fees payable for inspection of any document or for obtaining a copy of any decision or order or document under this Act or the rules made thereunder.

* * * *

CHAPTER VIII

PLANT VARIETIES PROTECTION APPELLATE TRIBUNAL

Tribunal.

54. The Central Government may, by notification in the Official Gazette, establish a Tribunal to be known as the Plant Varieties Protection Appellate Tribunal to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

Composition
of Tribunal.

55. (1) The Tribunal shall consist of a Chairman and such number of Judicial Members and Technical Members as the Central Government may deem fit to appoint.

(2) A Judicial Member shall be a person who has for at least ten years held a judicial office in the territory of India or who has been a member of the Indian Legal Service and has held a post in Grade-II of that Service or any equivalent or higher post for at least three years or who has been an advocate for at least twelve years.

Explanation.—For the purposes of this sub-section,—

(i) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate or has held the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law;

(ii) in computing the period during which a person has been an advocate, there shall be included any period during which the person has held judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law after he became an advocate.

(3) A Technical Member shall be a person who is an eminent agricultural scientist in the field of plant breeding and genetics and possesses an experience of at least twenty years to deal with plant variety or seed development activity, or who has held the post in the Central Government or a State Government dealing with plant variety or seed development equivalent to the Joint Secretary to the Government of India for at least three years and possesses the special knowledge in the field of plant breeding and genetics.

(4) The Central Government shall appoint a Judicial Member of the Tribunal to be the Chairman thereof.

(5) The Central Government may appoint one of the Members of the Tribunal to be the senior Member thereof.

(6) The senior Member or a Member shall exercise such of the powers and perform such of the functions of the Chairman as may be delegated to him by the Chairman by a general or special order in writing.

56. (1) An appeal shall be preferred to the Tribunal within the prescribed period from any—

Appeals to
Tribunal.

(a) order or decision of the Authority or Registrar, relating to registration of a variety; or

(b) order or decision of the Registrar relating to registration as an agent or a licensee of a variety; or

(c) order or decision of the Authority relating to claim for benefit sharing; or

(d) order or decision of the Authority regarding revocation of compulsory licence or modification of compulsory licence; or

(e) order or decision of the Authority regarding payment of compensation, made under this Act or rules made thereunder.

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(3) The Tribunal in disposing of an appeal under this section shall have the power to make any order which the Authority or the Registrar could make under this Act.

57. (1) The Tribunal may, after giving both the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit.

Orders of
Tribunal.

(2) The Tribunal may, at any time within thirty days from the date of the order, with a view to rectifying the mistake apparent from the record, amend any order passed by it under

sub-section (1), and make such amendment if the mistake is brought to its notice by the appellant or the opposite party.

(3) In every appeal, the Tribunal may, where it is possible, hear and decide such appeal within a period of one year from the date of filing of the appeal.

(4) The Tribunal shall send a copy of any order passed under this section to the Registrar.

(5) The orders of the Tribunal under this Act shall be executable as a decree of a civil court.

Procedure
of Tribunal.

58. (1) The powers and functions of the Tribunal may be exercised and discharged by Benches constituted by the Chairman of the Tribunal from among the Members thereof.

(2) A Bench shall consist of one Judicial Member and one Technical Member.

(3) If the Members of a Bench differ in opinion on any point, they shall state the point or points on which they differ, and the case shall be referred to the Chairman for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.

(4) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or the discharge of its functions, including the places at which the Benches shall holding their sittings.

(5) The Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Registrar under section 11, and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

(6) Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or any other manner) shall be made on, or in, any proceedings relating to an appeal unless—

(a) copies of such appeal and of all documents in support of the plea for such interim order are furnished to the party against whom such appeal is made or proposed to be made; and

(b) opportunity is given to such party to be heard in the matter.

Transitional
provision.

59. Notwithstanding anything contained in this Act, till the establishment of the Tribunal under section 54, the Intellectual Property Appellate Board established under section 83 of the Trade Marks Act, 1999, shall exercise the jurisdiction, powers and authority conferred on the Tribunal under this Act subject to the modification that in any Bench of such Intellectual Property Appellate Board constituted for the purposes of this section, for the Technical Member referred to in sub-section (2) of section 84 of the Trade Marks Act, the Technical Member shall be appointed under this Act and he shall be deemed to be the Technical Member for constituting the Bench under the said sub-section (2) of section 84 for the purposes of this Act.

47 of 1999.

* * * * *

Bar of
jurisdiction.

89. No civil court shall have jurisdiction in respect of any matter which the Authority or the Registrar or the Tribunal is empowered by or under this Act to determine.

* * * * *

EXTRACTS FROM THE CONTROL OF NATIONAL HIGHWAYS (LAND AND TRAFFIC) ACT, 2002

(13 OF 2003)

* * * * *

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appointed day", in relation to a Tribunal, means the date on which such Tribunal is established under sub-section (1) of section 5;

* * * * *

(1) "Tribunal" means the Airport Appellate Tribunal referred to in sub-section (1) of Section 5;

* * * * *

CHAPTER II

HIGHWAYS ADMINISTRATION AND TRIBUNALS ETC.

* * * * *

7 of 2017.
55 of 1994.

5. (1) The Airport Appellate Tribunal established under section 28-I of the Airports Authority of India Act, 1994 shall, on and from the commencement of Part XIV of Chapter VI of the Finance Act, 2017, be the Tribunal for the purposes of this Act and the said Tribunal shall exercise the jurisdiction, power and authority conferred on it by or under this Act.

Establishment
of Tribunals.

(2) The Central Government shall specify, by notification in the Official Gazette, the limits of the Highway within which, or the length of Highway on which, the Tribunal may exercise jurisdiction for entertaining and deciding the appeals filed before it.

* * * * *

14. A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals from the orders passed or actions (except issuance or serving of notices) taken under sections 26, 27, 28, 36, 37 and 38 by the Highway Administration or an officer authorised on its behalf, as the case may be.

Jurisdiction,
powers and
authority of
Tribunal.

15. On and from the appointed day, no court (except the Supreme Court and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) or other authority, except the Tribunal shall have, or be entitled to exercise, any jurisdiction, powers or authority in relation to the matters specified in section 14.

Bar of
jurisdiction.

5 of 1908.

16. (1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Tribunal shall have powers to regulate its own procedure including the places at which it shall have its sittings.

Procedure and
powers of
Tribunal.

(2) The appeal filed before the Tribunal under section 14 shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within four months from the date of the receipt of the appeal.

5 of 1908.

(3) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for examination of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an appeal or application for default or deciding it *ex parte*;

(g) setting aside any order of dismissal of any appeal or application for default or any order passed by it *ex parte*; and

(h) any other matter which may be prescribed.

(4) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860.
2 of 1974.

Conditions as to making of interim order.

17. Notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceeding relating to, an application or appeal unless—

(a) copies of such application or appeal and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or appeal is preferred; and

(b) opportunity is given to such party to be heard in the matter:

Provided that the Tribunal may dispense with the requirements of clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant or the appellant, as the case may be; which cannot be adequately compensated in money; but any such interim order shall, if it is not sooner vacated, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period and the Tribunal has continued the operation of the interim order.

Execution of orders of Tribunal.

18. (1) An order passed by the Tribunal under this Act shall be executable by the Tribunal as a decree of a civil court, and for this purpose, the Tribunal shall have all the powers of the civil court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may transmit any order made by it to the civil court having local jurisdiction and such civil court shall execute the order as if it were a decree made by that court.

Limitation.

19. Every appeal to the Tribunal under this Act shall be preferred within a period of sixty days from the date on which the order appealed against has been made:

Provided that an appeal may be admitted after the expiry of the said period of sixty days, if the appellant satisfies the Tribunal that he had sufficient cause for not preferring the appeal within the specified period.

* * * * *

CHAPTER VIII

MISCELLANEOUS

Right of appellant to take assistance of legal practitioner.

40. A person preferring an appeal to the Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

Finality of orders.

41. Save as otherwise expressly provided in this Act, every order made or any action taken by the Highway Administration or the officer authorised in this behalf by such Administration or every order passed or decision made on appeal under this Act by the Tribunal shall be final and shall not be called in question in any original suit, application or execution proceeding and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act to the Highway Administration or Tribunal.

* * * * *

50. (1) * * * * * Power to make rules.

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

* * * * *

(f) the additional matters in respect of which the Tribunal may exercise the powers of a civil court under clause (h) of sub-section (3) of section 16;

* * * * *

EXTRACT FROM THE FINANCE ACT, 2017

(7 OF 2017)

* * * * *

184. (1) The Central Government may, by notification, make rules to provide for qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or, as the case may be, other Authorities as specified in column (2) of the Eighth Schedule:

Provided that the Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or other Authority shall hold office for such term as specified in the rules made by the Central Government but not exceeding five years from the date on which he enters upon his office and shall be eligible for reappointment:

Provided further that no Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member shall hold office as such after he has attained such age as specified in the rules made by the Central Government which shall not exceed,—

(a) in the case of Chairperson, Chairman or President, the age of seventy years;

(b) in the case of Vice-Chairperson, Vice-Chairman, Vice-President, Presiding Officer or any other Member, the age of sixty-seven years.

(2) Neither the salary and allowances nor the other terms and conditions of service of Chairperson, Vice-Chairperson, Chairman, Vice-Chairman, President, Vice-President, Presiding Officer or Member of the Tribunal, Appellate Tribunal or, as the case may be, other Authority may be varied to his disadvantage after his appointment.

* * * * *

THE EIGHTH SCHEDULE

[See sections 183 and 184]

S. No.	Tribunal/Appellate Tribunal/Board/Authority				Acts
(1)	(2)				(3)
10.	Airport Appellate Tribunal				The Airport Authority of India Act, 1994 (55 of 1994).
	*	*	*	*	*
12.	Appellate Board				The Trade Marks Act, 1999 (47 of 1999).
	*	*	*	*	*
14.	Authority for Advance Ruling				The Income-Tax Act, 1961 (43 of 1961).
	*	*	*	*	*
15.	Film Certification Appellate Tribunal				The Cinematograph Act, 1952 (37 of 1952).
	*	*	*	*	*

LOK SABHA

A

BILL

further to amend the Cinematograph Act, 1952, the Customs Act, 1962, the Airports Authority of India Act, 1994, the Trade Marks Act, 1999 and the Protection of Plant Varieties and Farmers' Rights Act, 2001 and certain other Acts.

(Smt. Nirmala Sitharaman, Minister of Finance and Corporate Affairs)

LOK SABHA

CORRIGENDA

to

**THE TRIBUNAL REFORMS (RATIONALIZATION AND CONDITIONS OF SERVICE)
BILL, 2021**

[To be/As introduced in Lok Sabha]

1. Page 3, line 13,-
for “shall be substituted, –”
read “shall be substituted, namely: –”
2. Page 6, line 43,-
for “as the cvase ”
read “as the case”
3. Page 7, line 26,-
for “they ocur,”
read “they occur,”
4. Page 9, line 7,-
for “refered to as”
read “referred to as”
5. Page 9, in the marginal citation against line 41,-
for “51 of 1947.”
read “14 of 1947.”
6. Page 9, against line 44,-
insert marginal citation “51 of 1993.”

7. Page 10, line 35,-

for “the expression”

read “the expressions”

8. Page 14, line 3,-

for “Airport Authority”

read “Airports Authority”

9. Page 14, line 36,-

for “the Copyrights Act, 1957,”

read “the Copyright Act, 1957,”

February 13, 2021
Magha 24, 1942 (Saka)