

THE CENTRAL VIGILANCE COMMISSION ACT, 2003.

CHAPTER V

MISCELLANEOUS

15. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against the Commission, the Central Vigilance Commissioner, any Vigilance Commissioner, the Secretary or against any staff of the Commission in respect of anything which is in good faith done or intended to be done under this Act.

16. Central Vigilance Commissioner, Vigilance Commissioner and staff to be public servants.-The Central Vigilance Commissioner, every Vigilance Commissioner, the Secretary and every staff of the Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

17. Report of any inquiry made on reference by Commission to be forwarded to that Commission.-(1) The report of the inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission.

(2) The Commission shall, on receipt of such report and after taking into consideration any other factors relevant thereto, advise the Central Government and corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government, as the case may be, as to the further course of action.

(3) The Central Government and the corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government, as the case may be, shall consider the advice of the Commission and take appropriate action:

Provided that where the Central Government, any corporation established by or under any Central Act, Government company, society or local authority owned or controlled by the Central Government, as the case may be, does not agree with the advice of the Commission, it shall, for reasons to be recorded in writing, communicate the same to the Commission.

18. Power to call for information.-The Commission may call for reports, returns and statements from the Central Government or corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work in that Government and in the said corporations, Government companies, societies and local authorities.

19. Consultation with Commission in certain matters.-The Central Government shall, in making any rules or regulations governing the vigilance or disciplinary matters relating to persons appointed to public services and posts in connection with the affairs of the Union or to members of the All-India Services, consult the Commission.

20. Power to make rules.-(1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.

(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:-

- (a) the number of members of the staff and their conditions of service under section 7;
- (b) any other power of the civil court to be prescribed under clause (f) of section 11; and
- (c) any other matter which is required to be, or may be, prescribed.

21. Power to make regulations.-(1) The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made there under to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Act.

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

- (a) the duties and the powers of the Secretary under sub-section (4) of section 3; and
- (b) the procedure to be followed by the Commission under sub-section (2) of section 9.

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

23. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

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

24. Provisions relating to existing Vigilance Commission.- With effect from the constitution of the Commission under sub-section (1) of section 3, the Central Vigilance Commission set up by the Resolution of the Government of India in the Ministry of Home Affairs No.24/7/64-AVD, dated the 11th February, 1964 (hereafter referred to in this section as the existing Vigilance Commission) shall, in so far as its functions are not inconsistent with the provisions of this Act, continue to discharge the said functions and -

- (a) all actions and decisions taken by the Vigilance Commission insofar as such actions and decisions are relatable to the functions of the commission constituted under this Act shall be deemed to have been taken by the Commission;
- (b) all proceedings pending before the Vigilance Commission, insofar as such proceedings relate to the functions of the Commission, shall be deemed to be transferred to the Commission and shall be dealt with in accordance with the provisions of this Act;
- (c) the employees of the Vigilance commission shall be deemed to have become the employees of the Commission on the same terms and conditions;
- (d) all the assets and liabilities of the Vigilance Commission shall be transferred to the Commission.

25. Appointments, etc., of officers of Directorate of Enforcement.- Notwithstanding anything contained in the Foreign Exchange Management Act, 1999 (42 of 1999) or any other law for the time being in force,-

(a) the Central Government shall appoint a Director of Enforcement in the Directorate of Enforcement in the Ministry of Finance on the recommendation of the Committee consisting of-

- (i) the Central Vigilance Commissioner- Chairperson;
- (ii) Vigilance Commissioners- Members;
- (iii) Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government- Member;
- (iv) Secretary to the Government of India in-charge of the Ministry of Personnel in the Central Government- Member;
- (v) Secretary to the Government of India in-charge of the Department of Revenue, Ministry of Finance in the Central Government - Member;

(b) while making a recommendation, the Committee shall take into consideration the integrity and experience of the officers eligible for appointment;

(c) no person below the rank of Additional Secretary to the Government of India shall be eligible for appointment as a Director of Enforcement;

(d) a Director of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes office;

(e) a Director of Enforcement shall not be transferred except with the previous consent of the Committee referred to in clause (a);

(f) the Committee referred to in clause (a) shall, in consultation with the Director of Enforcement, recommend officers for appointment to the posts above the level of the Deputy Director of Enforcement and also recommend the extension or curtailment of the tenure of such officers in the Directorate of Enforcement;

(g) on receipt of the recommendation under clause (f), the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation.

26. Amendment of Act 25 of 1946. In the Delhi Special Police Establishment Act, 1946,-

(a) after section 1, the following section shall be inserted, namely:-

"1A. Interpretation section. Words and expressions used herein and not defined but defined in the Central Vigilance Commission Act, 2003, shall have the meanings, respectively, assigned to them in that Act.;"

(b) for section 4, the following sections shall be substituted, namely:-

"4. Superintendence and administration of Special Police Establishment.-(1) The superintendence of the Delhi Special Police Establishment in so far as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988), shall vest in the Commission.

(2) Save as otherwise provided in sub-section (1), the superintendence of the said police establishment in all other matters shall vest in the Central Government.

(3) The administration of the said police establishments shall vest in an officer appointed in this behalf by the Central Government (hereinafter referred to as the Director) who shall exercise in respect of that police establishments such of the powers exercisable by an Inspector General of Police in respect of the police force in a State as the Central Government may specify in this behalf.

4A. Committee for appointment of Director.-(1) The Central Government shall appoint the Director on the recommendation of the Committee consisting of-

(a) the Central Vigilance Commissioner - Chairperson;

(b) Vigilance Commissioners - Members;

(c) Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government - Member;

(d) Secretary (Coordination and Public Grievances) in the Cabinet Secretariat - Member.

(2) While making any recommendation under sub-section (1), the Committee shall take into consideration the views of the outgoing Director.

(3) The Committee shall recommend a panel of officers-

(a) on the basis of seniority, integrity and experience in the investigation of anti-corruption cases; and

(b) chosen from amongst officers belonging to the Indian Police Service constituted under the All-India Services Act, 1951 (61 of 1951),

for being considered for appointment as the Director.

4B. Terms and conditions of service of Director.-(1) The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.

(2) The Director shall not be transferred except with the previous consent of the Committee referred to in sub-section (1) of section 4A.

4C. Appointment for posts of Superintendent of Police and above, extension and curtailment of their tenure, etc.-(1) The Committee referred to in section 4A shall, after consulting the Director, recommend officers for appointment to the posts of the level of Superintendent of Police and above and also recommend the extension or curtailment of the tenure of such officers in the Delhi Special Police Establishment.

(2) On receipt of the recommendation under sub-section (1), the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation.;"

(c) after section 6, the following section shall be inserted, namely:-

"6A. Approval of Central Government to conduct inquiry or investigation.-(1) The Delhi Special Police Establishment

shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988) except with the previous approval of the Central Government where such allegation relates to-

(a) the employees of the Central Government of the level of Joint Secretary and above; and

(b) such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

(2) Notwithstanding anything contained in sub-section (1), no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration referred to in clause (c) of the Explanation to section 7 of the Prevention of Corruption Act, 1988 (49 of 1988).".

27. Repeal and Saving.- The Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Resolution No.371/20/99-AVD.III, dated the 4th of April, 1999 as amended *vide* resolution of even number, dated the 13th August, 2002 is hereby repealed.

(2) Notwithstanding such repeal and cesser of operation of the Central Vigilance Commission Ordinance, 1999, anything done or any action taken under the said Resolution and the said Ordinance including the appointments made and other actions taken or anything done or any action taken or any appointment made under the Delhi Special Police Establishment Act, 1946 and the Foreign Exchange Regulation Act, 1973 as amended by the said Ordinance shall be deemed to have been made or done or taken under this Act or the Delhi Special Police Establishment Act, 1946 and the Foreign Exchange Regulation Act, 1973 as if the amendments made in those Acts by this Act were in force at all material times.