



## JSA Prism Jan Vishwas Amendment Bill

August 2023

### Jan Vishwas (Amendment of Provisions) Bill, 2023

The Government of India passed [Jan Vishwas \(Amendment of Provisions\) Bill, 2023](#) (“**Jan Vishwas Bill**”) on August 2, 2023. The Jan Vishwas Bill aims to boost ease of doing business and ease of living. Jan Vishwas Bill is an extension of [Jan Vishwas \(Amendment of Provisions\) Bill, 2022](#) which was first introduced before the lower house of the Parliament. The 2022 Bill was subsequently referred to the Joint Committee for detailed examination, which gave its report early this year, pursuant to which Jan Vishwas Bill was passed by the Parliament.

#### Highlights of Jan Vishwas Bill

1. The main objective of the Jan Vishwas Bill is to decriminalize minor offences that do not involve any harm to the public interest or national security and replace them with civil penalties or administrative actions.
2. For effective implementation of the Jan Vishwas Bill, certain measures have been proposed such as:
  - a) Periodic increase in quantum of fines and penalties;
  - b) Revisions of existing fines and penalties;
  - c) Establishment of Adjudicating Officers; and
  - d) Establishment of Appellate Authorities.
3. Jan Vishwas Bill aims to decriminalise provisions of 42 (forty two) central acts, the list of which can be found [here](#).
4. The Jan Vishwas Bill has proposed revisions *inter alia* to the following legislations:
  - a) The Information Technology Act, 2000; and
  - b) The Payment and Settlement Systems Act, 2007;

#### Information Technology Act, 2000

Jan Vishwas Bill proposes to introduce revised monetary penalties and decriminalise penalties under the Information Technology Act, 2000 (“**IT Act**”). Some of the key provisions that would be amended once the Jan Vishwas Bill is implemented are as follows:

1. **Services by an intermediary under lawful contract:** Section 72-A of the IT Act stipulates both punishment and penalty for an intermediary which is providing services under a lawful contract and has secured access to personal information of a person with the intent to cause wrongful loss or wrongful gain without such person’s consent.

Jan Vishwas Bill has proposed to decriminalize this provision and instead propose penalties up to INR 25,00,000 (Indian Rupees twenty five lakhs).

2. **Omission of Section 66A:** The Jan Vishwas Bill seeks to omit Section 66A of the IT Act in full. Section 66A of the IT Act provides punishment for sending offensive messages through communication service or a computer resource. If a person sends any information that (a) causes annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will – knowing such information to be false; (b) is grossly offensive or has menacing character – such person is punishable with imprisonment of up to 3 (three) years.

Once the Jan Vishwas Bill is implemented, a person who (a) causes annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will – knowing such information to be false; (b) is grossly offensive or has menacing character, will be punishable in accordance with Section 45 (*described below*) of the IT Act.

3. **Preservation and retention of data:** Section 67-C of the IT Act mandates an intermediary to preserve and retain data as the Government may specify. In case an intermediary fails to retain such information, he/she/it may be punishable with imprisonment up to 3 (three) years and a fine.

Jan Vishwas Bill has proposed to remove the criminal punishment under this provision of the IT Act and impose a monetary penalty up to INR 25,00,000 (Indian Rupees twenty five lakh).

4. **Powers with CERT-In:** Section 70-B empowers the Government to appoint the Indian Computer Emergency Response Team (“**CERT-In**”) pursuant to which CERT-In is entitled to request information from any service provider; intermediary; data centres, body corporate or person. In case they fail to provide the requested information, they must be punishable with imprisonment of 1 (one) year or a fine of INR 1,00,000 (Indian Rupees one lakh only).

Jan Vishwas Bill has proposed to decriminalise this provision and instead include a hefty monetary penalty of INR 1,00,00,000 (Indian Rupees one crore only).

5. **Suspension of license:** Section 33 of the IT Act states that a certifying authority whose license is suspended or revoked must surrender its license immediately. In case a certifying authority fails to surrender its license, it must be punishable with imprisonment up to 6 months or a fine up to ten thousand rupees or both.

Jan Vishwas Bill has proposed to limit this non-compliance to a fine of INR 5,00,000 (Indian Rupees Five Lakhs Only).

6. **Residuary Penalty:** Section 45 of the IT Act stipulates that for any non-contravention of the IT Act or rules thereunder for which no separate penalty is provided, a person must be liable to pay compensation up to INR 25,000 (Indian Rupees Twenty Five Thousand only) to the aggrieved person.

7. Jan Vishwas Bill has proposed to increase the monetary penalty up to INR 10,00,000 (Indian Rupees ten lakh) in case of breach by a corporate; and INR 1,00,000 (Indian Rupees one lakh) in case of breach by an individual.

## The Payment and Settlement Systems Act, 2007

Jan Vishwas Bill has introduced new monetary penalties under the Payment and Settlement Systems Act, 2007 (“**PSS Act**”). The key provisions that would be amended once Jan Vishwas Bill is implemented are as follows:

1. **Failure to furnish information:** Section 26(3) of the PSS Act currently punishes a person with imprisonment in case a person fails to produce any information or documentation in relation to its operations of payment systems. Failure to furnish information must be punishable with a fine up to INR (Indian Rupees ten lakh) and in case on continuing contravention, the fine may extend to INR 25,000 (India Rupees twenty five thousand) per day.
2. **Residuary information:** Further Section 26 (6) of the PSS Act states that in case of any contravention or default for which the PSS Act does not provide a separate penalty, such non-compliance must be punishable with a fine

up to INR 10,00,000 (Indian Rupees ten lakh) and in case of continuing contravention, the fine may extend to INR 25,000 (Indian Rupees twenty five thousand) per day.

Jan Vishwas Bill has proposed the revision of the penalties under the aforementioned Sections in accordance with Section 30 of the PSS Act. Therefore, once Jan Vishwas Bill comes into effect, the penalty for non-compliance with the abovementioned Sections 26(3) and 26(6) will be a penalty up to INR 10,00,000 (Indian Rupees ten lakh) and in case of continuing contravention, the penalty may extend up to INR 25,000 (Indian Rupees twenty five thousand) per day. Please note, Jan Vishwas Bill has proposed edits to Section 30 of the PSS Act as well as pursuant to which one time penalty of INR 5,00,000 (Indian Rupees five lakh) has been proposed to be revised to INR 10,00,000 (Indian Rupees ten lakh)

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