



JSA Prism Jan Vishwas Amendment Bill

August 2023

Jan Vishwas (Amendment of Provisions) Bill, 2023

The Jan Vishwas (Amendment of Provisions) Bill, 2023, (“**Bill**”) was passed in Lok Sabha on June 27, 2023 and the Rajya Sabha on August 2, 2023. With the intent to promote the easy of doing business in India, the Bill envisages the decriminalization of a total of 183 (one hundred eighty three) provisions in 42 (forty two) central acts administered by 19 (nineteen) ministries/departments.

For effective implementation of the above, the Bill proposes measures such as:

1. pragmatic revision of fines and penalties commensurate to the offence committed;
2. establishment of adjudicating officers;
3. establishment of appellate authorities; and
4. periodic increase in the quantum of fines and penalties.

The Bill also aims to ensure that the degree and nature of punishment are commensurate with the severity of the offence.

The amendments proposed in the below mentioned central acts in the Bill are broadly covered below.

The Cable Television Networks (Regulation) Act, 1955

The Bill proposes to amend section 16 of the Cable Television Networks (Regulation) Act, 1955 (“**Cable Act**”) that deals with the penalty for contravention of provisions of the Cable Act.

Earlier, the penalty for the first contravention was punishable with imprisonment and/or a fine which could extend to 2 (two) years or INR 1,000 (Indian Rupees one thousand) respectively. For every subsequent offence thereafter, the penalty was an imprisonment for a term which could extend to 5 (five) years in addition to a fine which could extend to INR 5,000 (Indian Rupees five thousand).

As per the proposed amendment, whoever contravenes the provisions of the Cable Act for the first time will be punishable with advisory, or censure, or warning, or a penalty which may extend to INR 20,000 (Indian Rupees twenty thousand), or with both, and for every subsequent contravention within a period of 3 (three) years, with advisory, or censure, or warning, or a penalty which may extend to INR 1,00,000 (Indian Rupees one lakh), or with both, by such designated officer, as may be prescribed.

The Bill empowers the designated officer to revoke or suspend the registration granted to the offending cable operator in the event the provisions of the Cable Act are contravened more than 3 (three) times spread over a period of 3 (three)

years. However, no such order of revocation or suspension of the registration is to be made without giving the offender a reasonable opportunity to be heard.

The Bill also provides a provision for appeal, wherein the aggrieved party may appeal to the secretary to the Government of India or to such other officer as may be authorized by the secretary, within 30 (thirty) days from the date of the order. However, if the secretary to the government is satisfied that the appellant was prevented by sufficient cause from preferring the appeal, then the appeal may be entertained even after the expiry of the period of 30 (thirty) days.

The Cinematograph Act, 1952

The Bill proposes to prescribe penalties for the following offences under the Cinematograph Act, 1952;

1. Unlawful tampering or altering of already certified films;
2. Exhibiting uncertified films or video films;
3. Exhibiting films or video films with tampered or no prescribed mark of the Board of Film Certification ("**Board**");
4. Exhibiting 'A' certified films to minors and 'S' certified films to persons not belonging to the specialized profession or class;
5. Failure to comply with any order passed by the central government or the Board or with provisions of the Cinematograph Act, 1952 in relation to notifying specified details of the film to the distributor or exhibitor, as the case may be;

In case of such contraventions, the District Magistrate or any such authority notified by the State Government ("**Licensing Authority**"), has the power to revoke or suspend the license granted to cinematograph exhibitions. In an instance where there are more than 3 (three) contraventions spread over a period of 3 (three) years, the Licensing Authority may, with reasons recorded in writing, revoke the license. However, the Licensing Authority is required to give the license holder a reasonable opportunity to be heard before making such an order.

Prevention of Money-laundering Act, 2002

The Bill seeks to introduce changes to Part A of the schedule under the Prevention of Money-laundering Act, 2002 that lists offences and its penalties under various acts. While sections under the Trade Marks Act, 1999 in relation to applying false trademarks, selling goods or providing services to which false trademark or false trade description is applied, punishment of abetment in India of acts done out of India, etc., have been retained, section 107 of the Trade Marks Act, 1999 that deals with provisions in relation to penalties for falsely representing a trademark as registered, has not been covered under the list of offences. Similarly, while section 75 of the Information Technology Act, 2000 that deals with offences committed outside India has been retained, section 72 of the Information Technology Act, 2000 that deals with penalties for breach of confidentiality and privacy does not find a place under the list of offences, according to the Bill.

Additionally, paragraphs in the schedule that deal with offences under the Environment Protection Act, 1986 and offences under the Air (Prevention and Control Of Pollution) Act, 1981, have been omitted.

The Copyright Act, 1957

The Bill proposes to omit the section that deals with penalties for making false statements for the purpose of deceiving or influencing any authority or officer.

Trade Marks Act, 1999

In addition to enhancing the penalties for certain offences, the Bill seeks to introduce 2 (two) new sections that deal with the adjudication of penalties and appeal. The registrar of trademarks may authorize an officer appointed by the Central Government to act as an adjudicating officer for holding an inquiry and imposing penalties for contraventions of the Trade Marks Act, 1999. Section 112B that is proposed to be inserted deals with the form and manner of preferring an appeal against the order of the adjudicating officer. The aggrieved party is required to prefer an appeal within 60 (sixty) days from the date of receipt of the order, and after having given an opportunity of being heard to the aggrieved party, the appellate authority is required to dispose the appeal within 60 (sixty) days from the date of filing. The Bill also empowers the Central Government to make rules in relation to the manner in which the aforementioned inquiry is to be made and the manner in which an appeal is to be preferred.

Further, the Trade Marks Act, 1999 empowers the Commissioner of Customs to seek documents or information in relation to goods imported where he has to believe that the goods so imported bear false trademarks. The importer is required to comply with such requirements within 14 (fourteen) days and is liable to a penalty of INR 10,000 (Indian Rupees ten thousand) for non-compliance. The Bill seeks to empower the authority constituted under the Customs Act, 1962 to levy and recover such penalties.

Legal Metrology Act, 2009

The Bill seeks to enhance the penalties of the following offences under the Legal Metrology Act, 2009:

1. use of non-standard weight or measure;
2. manufacture or sale of non-standard weight or measure;
3. making any transaction, deal or contract in contravention of the prescribed standards,;
4. quoting or publishing, etc., of non-standard units;
5. non-production of documents;
6. sale or delivery of commodities, etc., by non-standard weight or measure;
7. rendering services by non-standard weight, measure or number.

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