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PART V

Government of Mizoram

Acts of Parliament and ordinances promulgated by the President, by the President, Bills introduced in the Parliament of India, Bills published before introduction in the Parliament, and Reports of Selection Committees presented or to be presented in the Parliament.

No. LJD 22/73/146, the 28th February, 1974. The following Acts passed by the Parliament and assented to by the President and Published in the Gazette of India is republished for General information.

**THE COMMISSIONS OF INQUIRY
(AMENDMENT) ACT, 1971**

An Act

**to amend the Commissions of Inquiry
Act, 1952.**

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

1. This Act may be called the Commissions of Inquiry (Amendment) Act, 1971.

Short
title.

2. In section 1 of the Commissions of Inquiry Act, 1952 (hereinafter referred to as the principal Act), for sub section (2), the following sub-section shall be substituted, namely :—

Amend-
ment of
section 1.

“(2) It extends to the whole of India :
Provided that it shall apply to the State of Jammu and Kashmir only in so far as it relates to inquiries pertaining to matters relating to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State.”

3. In section 2 of the principal Act, to clause (a), the following proviso shall be added, namely :—

Amend-
ment of
section 2.

“Provided that in relation to the State of Jammu and Kashmir, this clause shall have effect subject to the modification that—

(a) in sub-clause (i) thereof, for the words and figures "List I or List II or List III in the Seventh Schedule to the Constitution", the words and figures "List I or List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir" shall be substituted ;

(b) in sub-clause (ii) thereof, for the words and figures "List II or List III in the Seventh Schedule to the Constitution", the words and figures "List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir" shall be substituted.

Insertion
of new
section 2A.

4. After section 2 of the principal Act, the following section shall be inserted, namely :

Construction
of
references
to laws
not in
force in
the State
of Jammu
and
Kashmir.

"2A. Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State".

Amendment
of section 3.

5. In section 3 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely :-

"(3) The appropriate Government may, at any stage of an inquiry by the Commission fill any vacancy which may have arisen in the office of a member of the Commission (whether consisting of one or more than one members).

(4) The appropriate Government shall cause to be laid before the House of the People or, as the case may be, the Legislative Assembly of the State, the report, if any, of the Commission.

by the Commission under sub-section (1) together with a memorandum of the action taken thereon, within a period of six months of the submission of the report by the Commission to the appropriate Government.

Amendment of section 4.

6. In section 4 of the principal Act, in clause (a), for the words "summoning and enforcing the attendance of any person", the words "summoning and enforcing the attendance of any person from any part of India" shall be substituted.

Amendment of section 5.

7. In section 5 of the principal Act, in sub-section (2), the words and figures "and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code" shall be inserted at the end.

45 of 1980.

Insertion of new section 5A.

8. After section 5 of the principal Act, the following section shall be inserted, namely :-

Power of Commission to utilise the services of certain officers and investigation agencies for conducting

"5A (1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services,

(a) in the case of a Commission appointed by the Central Government, of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be ; or,

(b) in the case of a Commission appointed by the State Government, of any officer or investigation agency of the State Government or Central Government with the concurrence of the State Government or the Central Government, as the case may be.

(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section (1) may, subject to the direction and control of the Commission, —

Investigation
pertaining
to inquiry.

(a) summons and enforce the attendance of any person and examine him ;

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

(c) requisition any public record or copy thereof from any office.

(3) The provisions of section 6 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency, whose services are utilised under sub-section (1), shall investigate into any matter pertaining to the inquiry and submit a report thereon (hereafter in this section referred to as the investigation report) to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusions, if any, arrived at in the investigation report submitted to it under subsection (4), and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit."

9. After section 6 of the principal Act, the following section shall be inserted, namely :-

"6A. Except in cases where a Commission is expressly required to inquire into the process of manufacture of any goods, nothing in this Act shall be deemed to compel any person giving evidence before the Commission to disclose any secret process of manufacture thereof."

10 For section 7 of the principal Act, the following section shall be substituted, namely :-

"7. (1) The appropriate Government may, by notification in the Official Gazette, declare that —

(a) a Commission (other than a Commission appointed in pursuance of a resolution passed by the House of the People or, as the case may be, the Legislative Assembly of the State) shall cease to exist, if it is of opinion that the continued existence of the Commission is unnecessary ;

Insertion
of new
section 6A.

Persons
not obliged
to disclose
secret
process of
manufacture
of goods in
certain cases.

Substitution
of new
section for
section 7.

Com-
mission
to cease
to exist
when so
declared

(b) a Commission appointed in pursuance of a resolution passed by the House of the People or, as the case may be, the Legislative Assembly of the State, shall cease to exist if a resolution for the discontinuance of the Commission is passed by the House of the People or, as the case may be, the Legislative Assembly of the State.

(2) Every notification issued under subsection (1) shall specify the date from which the Commission shall cease to exist and on the issue of such notification, the Commission shall cease to exist with effect from the date specified therein".

Amend-
ment of
section 8.

11. In section 8 of the principal Act, the words "and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members" shall be omitted.

Insertion
of new
sections
8A, 8B
and 8C.

12. After section 8 of the principal Act, the following sections shall be inserted, namely :-

Inquiry
not to be
interrupted
by
reason of
vacancy
or change
in the
consti-
tution of
the Com-
mission

"8A. (1) Where the Commission consists of two or more members, it may act notwithstanding the absence of the Chairman or any other member or any vacancy among its members

(2) Where during the course of an inquiry before a Commission, a change has taken place in the constitution of the Commission by reason of any vacancy having been filled or by any other reason, it shall not be neces-

sary for the Commission to commence the inquiry afresh and the inquiry may be continued from the stage at which the change took place.

Persons
likely to
be pre-
judicially
affected to
be heard.

8B. If, at any stage of the inquiry, the Commission, —

(a) considers it necessary to inquire into the conduct of any person ; or

(b) is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence :

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

8C. The appropriate Government, every person referred to in section 8B and, with the permission of the Commission, any other person whose evidence is recorded by the Commission, —

Right of
cross exami-
nation and
representa-
tion by
legal practi-
tioner.

(a) may cross examine a witness other than a witness produced by it or him ;

(b) may address the Commission ; and

(c) may be represented before the Commission by a legal practitioner or, with the permission of the Commission, by any other person".

13. After section 10 of the principal Act, the following section shall be inserted, namely :—

Insertion
of new
section-10A.

"10A. (1) If any person, by words either spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Commission or any member thereof into disrepute, he shall be punishable with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Penalty
for
acts
calculated
to
bring the
Commission or
any
member
thereof
into
disrepute.

5 of 1938

(2) The provisions of section 198B of the Code of Criminal Procedure, 1898 shall apply in relation to an offence under sub-section (1) as they apply in relation to an offence referred to in sub-section (1) of the said section 198B, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction, —

(a) in the case of a Commission, or member of a Commission appointed by the Central Government, of the Central Government ; or

(b) in the case of a Commission, or member of a Commission appointed by the State Government, of the State Government."

14. In section 12 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

Amendment of
section 12.

“(3) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is 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 successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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 rule.”

Principal
Act as
amended
to come
into force
in Jammu
and
Kashmir
and in
certain
districts in
Nagaland.

15. The principal Act, as amended by this Act, shall come into force in the State of Jammu and Kashmir and in the districts of Kohima and Mokokchung in the State of Nagaland on such date as the Central Government may, by notification in the Official Gazette, appoint.

No. LJD.22/73/146, the 28th February, 1974. The following Acts passed by the Parliament and assented to by the President and Published in the Gazette of India is republished for General information.

**THE HIGH COURT JUDGES
(CONDITIONS OF SERVICE)
AMENDMENT ACT, 1971**

AN ACT

further to amend the High Court Judges (Conditions of Service) Act, 1954. —

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

1. (1) This Act may be called the High Court Judges (Conditions of Service) Amendment Act, 1971.

Short
title
and
com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

28 of 1954.

2 In section 2 of the High Court Judges (Conditions of Service) Act, 1954 (hereinafter referred to as the principal Act), in subsection (1), in sub-clause (ii) of clause (h), for the words "one month," the words "forty-five days" shall be substituted.

Amend-
ment of
section 2.

3 In section 3 of the principal Act, in subsection (1), for clause (a), the following clause shall be substituted, namely : —

Amend-
ment of
section 3.

"(a) leave on full allowances (including commuted leave on half allowances into leave on full allowances on medical certificate); or".

Amend-
ment of
section 5.

4. In section 5 of the principal Act, in sub-section (3), for the words "The maximum period of leave which may be granted", the words, brackets, figures and letter "Subject to the provisions of sub-section (2) of section 5A, the maximum period of leave which may be granted" shall be substituted.

Insertion of
new
section 5A.

5. After section 5 of the principal Act, the following section shall be inserted, namely : —

Commur-
tation of
leave on
half
allow-
ances
into
leave on
full
allow-
ances.

"5A. (1) Notwithstanding anything contained in sub-section (2) of section 5, a Judge may be permitted to commute leave on half allowances into leave on full allowances on medical certificate up to a maximum of three months during the whole period of his service as a Judge

(2) In computing the maximum period of leave on full allowances which may be granted at one time to a Judge under sub-section (3) of section 5, the amount of commuted leave permitted to him under this section shall not be taken into account."

Amend-
ment of
section 9.

6. In section 9 of the principal Act, in sub-section (1), for the words "for the first month of such leave", the words "for the first forty-five days of such leave" shall be substituted.

No. LJD, 22/73/146, the 28th February, 1974. The following Acts passed by the Parliament and assented to by the President and Published in the Gazette of India is republished for General information.

THE SUPREME COURT JUDGES (CONDITIONS OF SERVICE) AMENDMENT ACT, 1971

An Act

to amend the Supreme Court Judges (Conditions of Service) Act, 1958.

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

1. (1) This Act may be called the Supreme Court Judges (Conditions of Service) Amendment Act, 1971.

Short title and commencement.

(2) Section 3 shall be deemed to have come into force on the 1st day of May, 1958, clauses (a) and (b) of section 4 shall be deemed to have come into force on the 17th day of October, 1958 and the other provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 3 of the Supreme Court Judges (Conditions of Service) Act, 1958 (hereinafter referred to as the principal Act), in sub-section

Amendment of section 3.

(1), for clause (a), the following clause shall be substituted, namely:—

“(a) leave on full allowances (including commuted leave on half allowances into leave on full allowances on medical certificate); or”.

3. In clause (a) of sub-section (2) of section 4 of the principal Act, —

Amend-
ment of
section 4

(a) in sub-clause (i), the word “and”, occurring at the end shall be omitted;

(b) after sub-clause (ii), the following sub-clause shall be inserted, namely: —

“(iii) where the Judge was, prior to his appointment as such, a Judge of a High Court, the period of leave earned by him as a Judge of the High Court, so, however, that such period shall not exceed four months in terms of leave on half allowances; and”.

4. In section 5 of principal Act,—

Amend-
ment of
section 5.

(a) in sub-section (1), after the words “three years”, the bracketed words, figures and letter “[including the period credited to his leave account under sub-section (2) (a) (ii) of section 4 as leave earned by him as a Judge of a High Court]” shall be inserted;

(b) in sub-section (2), for the words, brackets, figures and letter “credited to his leave account under sub-section (2) (a) (ii) of section 4 as compensation for vacation not enjoyed”, the following shall be substituted, namely: —

“credited to his leave account —

(a) under sub-section (2) (a) (ii) of section 4 as compensation for vacation not enjoyed, and

(b) under sub-section (2) (a) (iii) of section 4 as leave earned by him as a Judge of a High Court”;

(c) in sub-section (3), for the words "The maximum period of leave which may be granted", the words, brackets, figures and letter "Subject to the provisions of sub-section (2) of section 5A, the maximum period of leave which may be granted" shall be substituted.

Inser-
tion of
new
section 5A.

Comm-
utation of
leave on
half
allow-
ances
into
leave on
full
allow-
ances.

Amend-
ment of
section 9.

5. After section 5 the principal Act, the following section shall be inserted, namely :—

5A. (1) Notwithstanding anything contained in sub-section (2) of section 5, a Judge may be permitted to commute leave on half allowances into leave on full allowances on medical certificate up to a maximum of three months during the whole period of his leave as a Judge.

(2) In computing the maximum period of leave on full allowances which may be granted at one time to a Judge under sub-section (3) of section 5, the amount of commuted leave permitted to him under this section shall not be taken into account."

6. In section 9 of the principal Act, to sub-section (2), the following proviso shall be added, namely :—

"Provided that the monthly rate of leave allowances payable to a Judge in respect of leave credited to his leave account under sub-section (2) a (iii) of section 4 shall not exceed the rate of leave allowances admissible to him therefor as a Judge of a High Court and shall be payable by the State Government concerned."

7. In section 24 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely :—

Amend-
ment of
section 24.

"(3) Every rule made under this section shall be laid as soon as may be after it is 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 successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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 rule."

No. LJD. 22/73/146, the 28th February, 1974.

The following Acts passed by the Parliament and assent, to by the President and Published in the Gazette of India is republished for General information.

THE PREVENTION OF INSULTS TO NATIONAL HONOUR ACT 1971

An Act

to prevent insults to national honour.

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

1. (1) This Act may be called the Prevention of Insults to National Honour Act, 1971.

Short title
and extent.

(2) It extends to the whole of India.

2. Whoever in any public place or any others within public view burns, mutilates, defaces, disfiles, disfigures, destroys, tramples upon or otherwise brings into contempt (whether by words, either spoken or written, or by acts) the Indian National Flag or the Constitution of India or any part thereof, shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Insult to
Indian
National
Flag and
Constitution of
India.

Explanation 1.—Comments expressing disapprobation or criticism of the Constitution or of the Indian National Flag or of any measures of the Government with a view to obtain an amendment of the Constitution.

tution of India or an alteration of the Indian National Flag by lawful means do not constitute an offence under this section.

Explanation 2.—The expression "Indian National Flag" includes any picture, painting, drawing or photograph, or other visible representation of the Indian National Flag, or of any part or parts thereof, made of any substance or represented on any substance.

Explanation 3.—The expression "public place" means any place intended for use by, or accessible to, the public and includes any public conveyance.

Prevention
of singing
of Indian
National
Anthem, etc

3. Whoever intentionally prevents the singing of the Indian National Anthem or causes disturbance to any assembly engaged in such singing shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

No. LID. 22/73/146, the 28th February, 1974.

The following Act passed by the Parliament and assented to by the President and Published in the Gazette of India is republished for General information.

THE CONTEMPT OF COURTS ACT, 1971

An Act

to define and limit the powers of certain courts in punishing contempts of courts, and to regulate their procedure in relation thereto.

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

1 (1) This Act may be called the Contempt of Courts Act, 1971.

Short title and extent.

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to contempt of the Supreme Court.

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

Definitions.

(a) "contempt of court" means civil contempt or criminal contempt;

(b) "civil contempt" means wilful disobedience to any judgment, decree, direction, order, writ or other process of a court, or wilful breach of an undertaking given to a court;

(c) "criminal contempt" means the publication (whether by words, spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which—

(i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court ; or

(ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding ; or

(iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner;

(d) "High Court" means the High Court for a State or a Union territory, and includes the court of the Judicial Commissioner in any Union territory,

3. (1) A person shall not be guilty of contempt of court on the ground that he has published (whether by words spoken or written or by signs or by visible representations, or otherwise) any matter which interferes or tends to interfere with, or obstructs or tends to obstruct, the course of justice in connection with any civil or criminal proceeding pending at the time of publication, if at that time he had no reasonable grounds for believing that the proceeding was pending.

Innocent
publication
and distri-
bution of
matter
not con-
tempt.

(2) Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, the publication of any such matter as is mentioned in subsection (1) in connection with any civil or criminal proceeding which is not pending at the time of publication shall not be deemed to constitute contempt of court.

(3) A person shall not be guilty of contempt of court on the ground that he has distributed a publication containing any such matter as is mentioned in sub-section (1), if at the time of distribution he had no reasonable grounds for believing that it contained or was likely to contain any such matter as aforesaid :

Provided that this sub-section shall not apply in respect of the distribution of—

(i) any publication which is a book of paper printed or published otherwise than in conformity with the rules contained in section 3 of the Press and Registration of Books Act, 1867;

23 of 1867

(ii) any publication which is a news-paper published otherwise than in conformity with the rules contained in section 5 of the said Act.

Explanation—For the purposes of this section, a judicial proceeding—

(a) is said to be pending—

(A) in the case a civil proceeding, when it is instituted by the filing of a plaint or otherwise;

(B) in the case of a criminal proceeding under the Code of Criminal Procedure, 1898, or any other law—

5 of 1898

(i) where it relates to the commission of an offence, when the charge-sheet or challan is filed, or when the court issues summons or warrant, as the case may be, against the accused, and

(ii) in any other case, when the court takes cognizance of the matter to which the proceeding relates, and

in the case of a civil or criminal proceeding, shall be deemed to continue to be pending until it is heard and finally decided, that is to say, in a case where an appeal or revision is competent, until the appeal or revision is heard and finally decided or, where no appeal or revision is preferred, until the period of limitation prescribed for such appeal or revision has expired ;

(b) which has been heard and finally decided shall not be deemed to be pending merely by reason of the fact that proceedings for the execution of the decree, order or sentence passed therein are pending.

4. Subject to the provisions contained in section 7, a person shall not be guilty of contempt of court for publishing a fair and accurate report of a judicial proceeding or any stage thereof.

Fair and accurate report of judicial proceeding not contempt

5. A person shall not be guilty of contempt of court for publishing any fair comment on the merits of any case which has been heard and finally decided.

Fair criticism of judicial act not contempt.

6. A person shall not be guilty of contempt of court in respect of any statement made by him in good faith concerning the presiding officer of any subordinate court to—

(a) any other subordinate court, or

(b) the High Court,

to which it is subordinate.

Explanation against presiding officers of subordinate courts not contempt.

Explanation.—In this section, "subordinate court" means any court subordinate to a High Court.

7. (1) Notwithstanding anything contained in this Act, a person shall not be guilty of contempt of court for publishing a fair and accurate report of a judicial proceeding before any court sitting in chambers or in camera except in the following cases, that is to say,—

Publication of information relating to proceedings in chambers or in camera not contempt except in certain cases.

(a) where the publication is contrary to the provisions of any enactment for the time being in force;

(b) where the court, on grounds of public policy or in exercise of any power vested in it, expressly prohibits the publication of all information relating to the proceeding or of information of the description which is published;

(c) where the court sits in chambers or in camera for reasons connected with public order or the security of the State, the publication of information relating to those proceedings;

(d) where the information relates to a secret process, discovery or invention which is an issue in the proceedings.

(2) Without prejudice to the provisions contained in sub-section (1), a person shall not be guilty of contempt of court for publishing the text or a fair and accurate summary of the whole, or any part, of an order made by a court sitting in chambers or in camera, unless the court has expressly prohibited the publication thereof on grounds of public policy, or for reasons connected with public

order or the security of the State, or on the ground that it contains information relating to a secret process, discovery or invention, or in exercise of any power vested in it.

Other defences not affected.

8. Nothing contained in this Act shall be construed as implying that any other defence which would have been a valid defence in any proceedings for contempt of court has ceased to be available merely by reason of the provisions of this Act.

Act not to imply enlargement of scope of contempt.

9. Nothing contained in this Act shall be construed as implying that any disobedience, breach, publication or other act is punishable as contempt of court which would not be so punishable apart from this Act.

Power of High Court to punish contempts of subordinate courts.

10. Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it, as it has and exercises in respect of contempts of itself.

Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code.

45 of 1860.

Power of High Court to try offences committed or offenders found outside jurisdiction

11. A High Court shall have jurisdiction to inquire into or try a contempt of itself or of court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits.

Punish-
ment for
contempt
of court.

12. (1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court.

Explanation.— An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide.

(2) Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) for any contempt either in respect of itself or of a court subordinate to it.

(3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt of court, if it considers that a fine will not meet the ends of justice and that the sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit.

(4) Where the person found guilty of contempt of court in respect of any undertaking given to a court or a company, every person who, at the time the contempt was committed,

was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of each such person:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment if he proves that the contempt was committed without his knowledge or that he exercised all due diligence to prevent its commission.

(5) Notwithstanding anything contained in sub-section (4), where the contempt of court referred to therein has been committed by a company and it is proved that the contempt has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer.

Explanation.— For the purpose of sub-sections (4) and (5),—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

13. Notwithstanding anything contained in any law for the time being in force, no court shall impose a sentence under this Act for a contempt of court unless it is satisfied that the contempt is of such a nature that it substantially interferes, or tends substantially to interfere with the due course of justice.

Contempts
not
punishable
in certain
cases.

14. (1) When it is alleged, or appears to the Supreme Court or the High Court upon its own view, that a person has been guilty of contempt committed in its presence or hearing, the Court may cause such person to be detained in custody, and, at any time before the rising of the Court, on the same day, or as early as possible thereafter, shall —

Procedure
where
contempt
is in the
face
of the
Supreme
Court or
a High
Court.

(a) cause him to be informed in writing of the contempt with which he is charged ;

(b) afford him an opportunity to make his defence to the charge ;

(c) after taking such evidence as may be necessary or as may be offered by such person and after hearing him, proceed, either forthwith or after adjournment, to determine the matter of the charge ; and

(d) make such order for the punishment or discharge of such person as may be just.

(2) Notwithstanding anything contained in sub-section (1), where a person charged with contempt under that sub-section applies, whether orally or in writing, to have the charge against him tried by some Judge other than the Judge or Judges in whose presence or hearing the offence is alleged

to have been committed, and the Court is of opinion that it is practicable to do so and that in the interests of proper administration of justice the application should be allowed, it shall cause the matter to be placed, together with a statement of the facts of the case, before the Chief Justice for such directions as he may think fit to issue as respects the trial thereof.

(3) Notwithstanding anything contained in any other law, in any trial of a person charged with contempt under sub-section (1) which is held, in pursuance of a direction given under sub-section (2), by a Judge other than the Judge or Judges in whose presence or hearing the offence is alleged to have been committed, it shall not be necessary for the Judge or Judges in whose presence or hearing the offence is alleged to have been committed to appear as a witness and the statement placed before the Chief Justice under sub-section (2) shall be treated as evidence in the case.

(4) Pending the determination of the charge, the Court may direct that a person charged with contempt under this section shall be detained in such custody as it may specify :

Provided that he shall be released on bail, if a bond for such sum of money as the Court thinks sufficient is executed with or without sureties conditioned that the person charged shall attend at the time and place mentioned in the bond and shall continue to so attend until otherwise directed by the Court :

Provided further that the Court may, if it thinks fit, instead of taking bail from such person, discharge him on his executing a bond without sureties for his attendance as aforesaid.

Cogni-
zance of
criminal
contempt
in other
cases.

15. (1) In the case of a criminal contempt, other than a contempt referred to in section 14, the Supreme Court or the High Court may take action on its own motion or on a motion made by—

(a) the Advocate-General, or

(b) any other person, with the consent in writing of the Advocate-General.

(2) In the case of any criminal contempt of a subordinate court, the High Court may take action on a reference made to it by the subordinate court or on a motion made by the Advocate-General or, in relation to a Union territory, by such Law Officer as the Central Government may, by notification in the Official Gazette specify in this behalf

(3) Every motion or reference made under this section shall specify the contempt of which the person charged is alleged to be guilty.

Explanation.—In this section, the expression “Advocate General” means,—

(a) in relation to the Supreme Court, the Attorney-General or the Solicitor-General ;

(b) in relation to the High Court, the Advocate General of the State or any of the States for which the High Court has been established;

(c) in relation to the court of a Judicial Commissioner, such Law Officer as the Central Government may, by notification in the Official Gazette, specify in this behalf.

16. (1) Subject to the provisions of any law for the time being in force, a judge, magistrate or other person acting judicially shall also be liable for contempt of his own court or of any other court in the same manner as any other individual is liable and the provisions of this Act shall, so far as may be, apply accordingly.

Contempt
by judge,
magistrate
or other
person
acting
judicially.

(2) Nothing in this section shall apply to any observations or remarks made by a judge, magistrate or other person acting judicially, regarding a subordinate court in an appeal or revision pending before such judge, magistrate or other person against the order or judgment of the subordinate court.

17. (1) Notice of every proceeding under section 15 shall be served personally on the person charged, unless the Court for reasons to be recorded directs otherwise.

Procedure
after
cognizance.

(2) The notice shall be accompanied,—

(a) in the case of proceedings commenced on a motion, by a copy of the motion as also copies of the affidavits, if any, on which such motion is founded; and

(b) in the case of proceedings commenced on a reference by a subordinate court, by a copy of the reference.

(3) The Court may, if it is satisfied that a person charged under section 15 is likely to abscond or keep out of the way to avoid service of the notice, order the attachment of his property of such value or amount as it may deem reasonable.

(4) Every attachment under sub-section (3) shall be effected in the manner provided in the Code of Civil Procedure, 1908, for the attachment of property in execution of a decree for payment of money, and if, after such attachment, the person charged appears and shows to the satisfaction of the Court that he did not abscond or keep out of the way to avoid service of the notice, the Court shall order the release of his property from attachment upon such terms as to costs or otherwise as it may think fit.

5 of 1908

(5) Any person charged with contempt under section 15 may file an affidavit in support of his defence, and the Court may determine the matter of the charge either on the affidavits filed or after taking such further evidence as may be necessary, and pass such order as the justice of the case requires.

Hearing of cases of criminal contempt to be by Benches.

18. (1) Every case of criminal contempt under section 15 shall be heard and determined by a Bench of not less than two Judges

(2) Sub section (1) shall not apply to the Court of a Judicial Commissioner

Appeals.

19. (1) An appeal shall lie as of right from any order or decision of High Court in the exercise of its jurisdiction to punish for contempt—

(a) where the order or decision is that of a single judge, to a Bench of not less than two Judges of the Court;

(b) where the order or decision is that of a Bench, to the Supreme Court:

Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.

(2) Pending any appeal, the appellate Court may order that—

(a) the execution of the punishment or order appealed against be suspended;

(b) if the appellant is in confinement, he be released on bail; and

(c) the appeal be heard notwithstanding that the appellant has not purged his contempt.

(3) Where any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2).

(4) An appeal under sub-section (1) shall be filed—

(a) in the case of an appeal to a Bench of the High Court, within thirty days;

(b) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against,

Limitation
for actions
for contempt

20. No court shall initiate any proceedings for contempt, either on its own motion or otherwise, after the expiry of a period of one year from the date on which the contempt is alleged to have been committed.

Act not to
apply to
Nyaya Panchayats or
other village
courts.

21. Nothing contained in this Act shall apply in relation to contempt of Nyaya Panchayats or other village courts, by whatever name known, for the administration of justice, established under any law.

Act to be in
addition to,
and not in
derogation
of, other
laws
relating to
contempt.

22. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law relating to contempt of courts.

23. The Supreme Court or, as the case may be, any High Court, may make rules, not inconsistent with the provisions of this Act, providing for any matter relating to its procedure.

Power of
Supreme
Court and
High Courts
to make
rules.

32 of 1952

24. The Contempt of Courts Act, 1952, is hereby repealed.

Repeal.

No. LJD.22/73/146, the 28th February, 1974. The following Acts passed by the Parliament and assented to by the President and Published in the Gazette of India is republished for General information.

**THE INDUSTRIES (DEVELOPMENT
AND REGULATION) AMENDMENT
ACT 1973**

An Act

further to amend the Industries (Development and Regulation) Act, 1951.

Be it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows :—

1. (1) This Act may be called the Industries (Development and Regulation) Amendment Act, 1973.

Short title,
and
commence-
ment.
Amendment
of section
10.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

65 of 1951.

2. In section 10 of the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act),—

Amend-
ment of
section 10.

(i) in sub-section (3), for the words "containing such particulars as may be prescribed", the following shall be substituted, namely :—

"containing the productive capacity of the industrial undertaking and such other particulars as may be prescribed";

(ii) after sub-section (3), the following sub-sections shall be inserted, namely :

“(4) The owner of every industrial undertaking to whom a certificate of registration has been issued under this section before the commencement of the Industries (Development and Regulation) Amendment Act, 1973, shall, if the undertaking falls within such class of undertakings as the Central Government may, by notification in the Official Gazette, specify in this behalf, produce, within such period as may be specified in such notification, the certificate of registration for entering therein the productive capacity of the industrial undertaking and other prescribed particulars.

(5) In specifying the productive capacity in any certificate of registration issued under sub-section (3), the Central Government shall take into consideration the productive or installed capacity of the industrial undertaking as specified in the application for registration made under sub-section (1), the level of production immediately before the date on which the application for registration was made under sub-section (1), the level of the highest annual production during the three years immediately preceding the introduction in parliament of the Industries (Development and Regulation) Amendment Bill, 1973, the extent to which production during the said period was utilised for export and such other factors as the Central Government may consider relevant including the

extent of under-utilisation of capacity, if any, during the relevant period due to any cause."

Amend-
ment of
section 24.

3. In sub-section (1) of section 24 of the principal Act, in clause (i), after the word, brackets and figure "sub-section (1)," where they occur for the first time, the words, brackets and figure "or sub-section (4)" shall be inserted.

Amend-
ment of
the First
Schedule.

4. In the First Schedule to the principal Act, under the heading "38. MISCELLANEOUS INDUSTRIES :," the item "Cigarettes. shall be numbered as item (1), and after the item as so numbered, the following item shall be inserted, namely :—

"(2) Linoleum, whether felt based or jute based."

No. LJD.22/73/146, the 28th February, 1974.

The following Acts passed by the Parliament and assented to by the President and Published in the Gazette of India is republished for General information.

**THE COMPANIES (AMENDMENT)
ACT, 1971**

An Act

furtherto amend the Companies Act, 1956.

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

1. (1) This Act may be called the Companies (Amendment) Act, 1971.

(2) It shall be deemed to have come into force on the 3rd day of December 1971.

2. In the Companies Act, 1956, after section 293A, the following section shall be inserted, namely:—

1 of 1956.

“293B. (1) The Board of directors of any company or any person or authority exercising the powers of the Board of directors of a company, or of the company in general meeting, may, notwithstanding anything contained in sections 293 and 293A or any other provision of this Act or in the memorandum, articles or any other instrument relating to the company, contribute such amount as it thinks fit to the National Defence Fund or any other Fund approved by the Central Government for the purpose of national defence.

(2) Every company shall disclose in its profits and loss account the total amount or amounts contributed by it to the Fund referred to in sub-section (1) during the financial year to which the amount relates.”

Short title
and com-
mencement.

Insertion of
new section
293B.

Power of
Board and
other per-
sons to make
contribu-
tions to the
National
Defence
Fund, etc.

K. N. Srivastava,
Under Secy.
Law & Judicial Deptt.
Mizoram, Aizawl.