

Panaji, 5th August, 2004 (Sravana 14, 1926)

SERIES I No. 19

OFFICIAL GAZETTE



GOVERNMENT OF GOA

Note:- There is one Supplementary issue to the Official Gazette, Series I, No. 18, dated 29-7-2004 namely, Supplement dated 4-8-2004 from pages 411 to 417 regarding Bills from Goa Legislature Secretariat.

GOVERNMENT OF GOA

Department of General Administration

Notification

23/1/87-GA&C (Vol. I)

In exercise of the powers conferred by Article 166 of the Constitution of India and all other powers enabling him in this behalf, the Governor of Goa hereby makes the following rules so as to further amend the Business of the Government of Goa (Allocation) Rules, 1987, as follows, namely:—

1. *Short title and commencement.*— (1) These rules may be called the Business of the Government of Goa (Allocation) (Nineteenth Amendment) Rules, 2004.

(2) They shall come into force at once.

2. *Amendment of Schedule.*— In the Schedule appended to the Business of the Government of Goa (Allocation) Rules, 1987,—

(i) at serial number 17A, under the heading "Department of Information Technology", the following item shall be inserted, namely:—

"(a) Computer Centre; Computerisation in Government Departments";

(ii) at serial number 29, under the heading "Department of Planning", the entry against clause (k) shall be omitted.

By order and in the name of the Governor of Goa.

B. S. Kudalkar, Under Secretary (GA).

Panaji, 27th July, 2004.

Department of Civil Supplies and Consumer Affairs

Notification

11/16-24/94-CSD

In exercise of the powers conferred by section 14 of the Bureau of Indian Standards Act, 1986 (63 of 1986), the Central Government has issued the Order No. S. O. 189(E), dated 17-2-2003 and published in Part II, Section 3, sub-section (ii) dated 17-2-2003 of the Gazette of India (Extraordinary) is hereby re-published for general information of the public.

By order and in the name of the Governor of Goa.

N. B. Narvekar, Director of Civil Supplies and Consumer Affairs & ex-officio Joint Secretary.

Panaji, 20th February, 2004.

Ministry of Commerce and Industry
Department of Industrial Policy and Promotion

Order

New Delhi, the 17th February, 2003

S.O.189(E).— In exercise of the powers conferred by section 14 of the Bureau of Indian Standards Act, 1986 (63 of 1986), the Central Government after consulting the Bureau of Indian Standards hereby makes the following Order, namely:—

1. *Short title and commencement.*— (1) This Order may be called the Electrical Wires, Cables, Appliances and Protection Devices and Accessories (Quality Control) Order, 2003.

(2) In respect of items covered under serial numbers 1 to 7 of the Schedule, this Order shall come into force with immediate effect. In respect of items covered under serial numbers 8 to 24 of the Schedule, this Order shall come into force after a period of six months from the date of publication in the Official Gazette.

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

(a) "Act" means the Bureau of Indian Standards Act, 1986 (63 of 1986);

(b) "Appropriate Authority" means any officer not below the rank of an Under Secretary to the Government of India or an officer not below the rank of a General Manager, District Industries Centre of a State Government as may be appointed by the Central Government or the State Government by a notification published in the Official Gazette to implement the provisions of this Order;

(c) "Bureau" means the Bureau of Indian Standards;

(d) "dealer", in relation to Electrical Wires, Cables, Appliances, Protection Devices and Accessories, means a person who, or a firm or a Hindu undivided family which, carries on, directly or otherwise, the business of buying, selling, supplying or distributing any such electrical wires, cables, appliances, protection devices and accessories, whether in cash or for deferred payment or for commission, remuneration or other valuable consideration;

(e) "electrical wires, cables, appliances, protection devices and accessories" mean the items specified in column (2) of the Schedule;

(f) "manufacturer", in relation to electrical wires, cables, appliances, protection devices and accessories, means a person who, or a firm or a Hindu undivided family which produces, makes, assembles or manufactures any such electrical wires, cables, appliances, protection devices and accessories and includes a person who, or a firm or Hindu undivided family which claims such electrical wires, cables, appliances, protection devices and accessories to be produced, made, assembled or manufactured by such person or firm or Hindu undivided family, as the case may be;

(g) "Schedule" means the Schedule annexed to this Order;

(h) "Specified Standard" in relation to electrical wires, cables, appliances and protection devices and accessories means the standard as specified in the corresponding entry in column (3) of the Schedule which is in force;

(i) "State Government" includes a Union Territory Administration also;

(j) All other words and expressions used but not defined in this Order shall have the meanings respectively assigned to them in the Act.

3. *Prohibition regarding manufacture, storage, sale and distribution etc.*— (1) No person shall by himself or through any person on his behalf manufacture or store for sale, sell or distribute any electrical wires, cables, appliances, protection devices and accessories, which do not conform

to the Specified Standards and do not bear Standard Mark of the Bureau on obtaining certification marks licence:

Provided that nothing in this Order shall apply in relation to export of electrical wires, cables, appliances, protection devices and accessories required for export, which conform to any specification required by the foreign buyer and such specification shall not in any case be less than the Specified Standard.

(2) The sub-standard or defective electrical wires, cables, appliances, protection devices and accessories or raw-material or components, which do not conform to the Specified Standard shall be deformed by the manufacturer beyond use and disposed of as scrap within three months.

4. *Obligation for Certification.*— (1) All manufacturers of electrical wires, cables, appliances, protection devices and accessories shall make an application to the Bureau for obtaining licence for use of the Standard Mark, within forty five days of the issue of this Order, if not already obtained.

(2) The grant of licence by the Bureau for use of the Standard Mark shall be as per the provisions of the Act and rules and regulations made thereunder.

(3) When any person by himself or through any person on his behalf proposes to manufacture electrical wires, cables, appliances, protection devices and accessories any of the items 8 to 24 specified in column (2) of the Schedule shall commence regular production only after obtaining a valid licence from Bureau for the use of Standard Mark.

(4) Consequent to the expiry of any licence or cancellation thereof by the Bureau for one or more of the electrical wires, cables, appliances, protection devices and accessories mentioned in column (2) of the Schedule, the Appropriate Authority shall also be informed of the same by the Bureau.

5. *Power to call for information, etc.*— (1) The Appropriate Authority may, with a view to securing compliance with this Order—

(a) require any person engaged in the manufacture, storage for sale, sale or distribution of any electrical wires, cables, appliances, protection devices and accessories to give such information as he deems necessary relating to the manufacture, storage for sale, sale or distribution of any electrical wires, cables, appliances, protection devices and accessories for the implementation of this Order or require any such person to furnish to him samples of any such electrical wires, cables, appliances, protection devices and accessories or any components of any such electrical wires, cables, appliances, protection devices and accessories.

(b) inspect or cause to be inspected any books or other documents and other electrical wires, cables, appliances, protection devices and accessories or the components of any such electrical wires, cables, appliances, protection devices and accessories kept by or belonging to or in the possession or under the control of any person engaged in the manufacture, storage for sale, sale or distribution of any such electrical wires, cables, appliances, protection devices and accessories.

(c) enter and search any premises and seize any electrical wires, cables, appliances, protection devices and accessories in respect of which it has reason to believe that a contravention of this Order has been committed or the said electrical wires, cables, appliances, protection devices and accessories are not of the Specified Standard; and

(2) The provision of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizures shall so far as may be, apply to searches and seizures under this clause.

6. *Testing of samples.*— Samples of any electrical wires, cables, appliances, protection devices and accessories bearing the Standard Mark and drawn by the Appropriate Authority, for ascertaining whether they are of the Specified Standard, shall be tested in the laboratory approved by the Bureau and in the manner as may be determined by the Bureau.

7. *Power to issue direction to manufactures and dealers or sellers.*— The Appropriate Authority may issue such directions to manufacturers and dealers or sellers, consistent with the provisions of the Act or this Order, as may be necessary for carrying out the purposes of this Order.

8. *Compliance of directions.*— Every person engaged in the manufacture, storage for sale, sale or distribution of any electrical wires, cables, appliances, protection devices and accessories to whom any direction is issued under this Order, shall comply with such direction.

9. *Obligation to furnish information.*— No manufacturer or dealer shall with intent to evade the provisions of this Order, refuse to give any information lawfully demanded from him under clause 5 or conceal, destroy, mutilate or deface any books or documents or any electrical wires, cables, appliances, protection devices and accessories kept by, or in the possession or control of, such person.

SCHEDULE

[See clause 2 (e)]

S. No.	Item	Standard
1	2	3
1.	Safety of household and similar electrical appliances—Electrical immersion water heaters.	IS: 302-2-201 (1992)
2.	Safety of household and similar electrical appliances—Electric Iron.	IS: 302-2-3 (1992)
3.	Safety of household and similar electrical appliances—Electric stoves.	IS: 302-2-202 (1992)
4.	Safety of household and similar electrical appliances—Electric radiators.	IS: 302-2-30 (1992)
5.	Switches for domestic and similar purposes.	IS: 3854: 1988
6.	2 Amp switches for domestic and similar purposes.	IS: 4949: 1968
7.	Tungsten Filament General Services Lamps.	IS 418
8.	Self ballasted lamps for general lighting services: Part 1 safety requirements.	IS 15111 (Pt. 1)
9.	Self ballasted lamps for general lighting services: Part 2 Performance requirements.	IS 15111 (Pt. 2)
10.	Electrical Accessories - Circuit Breakers for over current protection for household and similar installations.	IS 8828
11.	Residual current operated circuit breakers for household and similar uses (Pt. 1): Circuit breakers without Integral overcurrent protection (RCCBs).	IS 12640 (Pt. 1)
12.	Residual current operated circuit breakers for household and similar uses (Pt. 2): Circuit breakers without Integral overcurrent protection (RCVOs).	IS 12640 (Pt. 2)
13.	Low voltage fuses for voltages not exceeding 1000 V AC or 1500 V DC (Pt. 2) fuses for use by authorised persons.	IS 13703 (Pt. 2)

1	2	3
14.	High voltage fuses (Pt. 1): current limiting fuses	IS 9385 (Pt. 1)
15.	High voltage fuses (Pt. 2): expulsion similar fuses.	IS 9385 (Pt. 2)
16.	Low voltage switchgear & control gear - (Pt. 2) circuit breakers.	IS 13947 (Pt. 2)
17.	Low voltage switchgear & control gear - (Pt. 3) switches, disconnectors, switch disconnectors and fuse combination units.	IS 13947 (Pt. 3)
18.	Low voltage switchgear & control gear - (Pt. 4) contactors and motor starters.	IS 13947 (Pt. 4)
19.	Low voltage switchgear & control gear - (Pt. 5) control circuit devices & switching elements.	IS 13947 (Pt. 5)
20.	PVC insulated cables for working Voltages upto and including 1100 V	IS 694
21.	Elastemer insulated cables (Pt. 1) for working voltages upto and including 1100 V.	IS 9968 (Pt. 1)
22.	AC watt-hour meters, class 0.5, 1 & 2 (KWH).	IS 13010
23.	AC static watt-hour meters, class 1 & 2 (KWH).	IS 13779
24.	AC static transformer operated watt-hour and VAR - hour meters, class 0.2S & 0.5S.	IS 14697

[F No. 6(9)/2001-LEI]
S. JAGADEESAN, *Jt. Secy.*

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Department of Law & Judiciary

Legal Affairs Division

Notification

10/3/2003-LA

The Central Vigilance Commission Act, 2003 (Central Act No. 45 of 2003), which has been passed by the Parliament and assented to by the President of India on 11-9-2003 and published in the Gazette of India, Extraordinary, Part II,

Section I, dated 12-9-2003, is hereby published for the general information of the public.

S. G. Marathe, Under Secretary (Drafting).

Panaji, 19th February, 2004.

THE CENTRAL VIGILANCE COMMISSION
ACT, 2003

ARRANGEMENT OF SECTIONS

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27. Repeal and saving.

THE SCHEDULE.

THE CENTRAL VIGILANCE COMMISSION ACT,
2003

AN

ACT

to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto.

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

CHAPTER I

Preliminary

1. *Short title.*— This Act may be called the Central Vigilance Commission Act, 2003.

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

(a) "Central Vigilance Commissioner" means the Central Vigilance Commissioner appointed under sub-section (1) of section 4;

(b) "Commission" means the Central Vigilance Commission constituted under sub-section (1) of section 3;

(c) "Delhi Special Police Establishment" means the Delhi

Special Police Establishment constituted under sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946; 25 of 1946.

(d) "Government company" means a Government company within the meaning of the Companies Act, 1956; 1 of 1956.

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

(f) "Vigilance Commissioner" means a Vigilance Commissioner appointed under sub-section (1) of section 4.

CHAPTER II

The Central Vigilance Commission

3. *Constitution of Central Vigilance Commission.*— (1) There shall be constituted a body to be known as the Central Vigilance Commission to exercise the powers conferred upon, and to perform the functions assigned to it under this Act and the Central Vigilance Commission constituted under sub-section (1) of section 3 of the Central Vigilance Commission Ordinance, 1999 which ceased to operate, and continued under 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 April, 1999 as amended vide Resolution of even number, dated the 13th August, 2002 shall be deemed to be the Commission constituted under this Act. Ord. 4 of 1999.

(2) The Commission shall consist of—

(a) a Central Vigilance — Chairperson; Commissioner

(b) not more than two — Members; Vigilance Commissioners

(3) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed from amongst persons—

(a) who have been or are in an All-India Service or in any civil service of the Union or in a civil post under the Union having

knowledge and experience in the matters relating to vigilance, policy making and administration including police administration; or

(b) who have held office or are holding office in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government and person who have expertise and experience in finance including insurance and banking, law, vigilance and investigations:

Provided that, from amongst the Central Vigilance Commissioner and the Central Vigilance Commissioners, not more than two persons shall belong to the category of persons referred to either in clause (a) or clause (b):

(4) The Central Government shall appoint a Secretary to the Commission on such terms and conditions as it deems fit to exercise such powers and discharge such duties as the Commission may by regulations specify in this behalf.

(5) The Central Vigilance Commissioner, the other Vigilance Commissioners and the Secretary to the Commission appointed under the Central Vigilance Commission Ordinance, 1999 or the Resolution of 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 April, 1999 as amended *vide* Resolution of even number, dated the 13th August, 2002 shall be deemed to have been appointed under this Act on the same terms and conditions including the term of office subject to which they were so appointed under the said Ordinance or the Resolution, as the case may be.

Ord. 4 of 1999.

Explanation.— For the purposes of this sub-section, the expression "term of office" shall be construed as the term of office with effect from the date the Central Vigilance Commissioner or any Vigilance Commissioner has entered upon his office and continued as such under this Act.

(6) The headquarters of the Commission shall be at New Delhi.

4. *Appointment of Central Vigilance Commissioner and Vigilance Commissioners.*— (1) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of—

- (a) the Prime Minister — Chairperson;
- (b) the Minister of Home — Member;
Affairs
- (c) the Leader of the — Member.
Opposition in the
House of the People

Explanation.— For the purposes of this sub-section, "the Leader of the Opposition in the House of the People" shall, when no such Leader has been so recognised, include the Leader of the single largest group in opposition of the Government in the House of the People.

(2) No appointment of a Central Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in the Committee.

5. *Terms and other conditions of service of Central Vigilance Commissioner.*— (1) Subject to the provisions of sub-sections (3) and (4), the Central Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier. The Central Vigilance Commissioner, on ceasing to hold the office, shall be ineligible for reappointment in the Commission.

(2) Subject to the provisions of sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier:

Provided that every Vigilance Commissioner, on ceasing to hold office, shall be eligible for appointment as the Central Vigilance Commissioner in the manner specified in sub-section (1) of section 4:

Provided further that the term of the Vigilance Commissioner, if appointed as the Central Vigilance Commissioner, shall not be more than four years in aggregate as the Vigilance Commissioner and the Central Vigilance Commissioner.

(3) The Central Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the President, or some other person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in Schedule to this Act.

(4) The Central Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand addressed to the President, resign his office.

(5) The Central Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in section 6.

(6) On ceasing to hold office, the Central Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for—

(a) any diplomatic assignment, appointment as administrator of a Union territory and such other assignment or appointment which is required by law to be made by the President by warrant under his hand and seal;

(b) further employment to any office of profit under the Government of India or the Government of a State.

(7) The salary and allowances payable to and the other conditions of service of—

(a) the Central Vigilance Commissioner shall be the same as those of the Chairman of the Union Public Service Commission;

(b) the Vigilance Commissioner shall be the same as those of a Member of the Union Public Service Commission:

Provided that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Central Vigilance Commissioner or any Vigilance Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of

retirement benefits in respect of any previous service rendered in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government, his salary in respect of the service as the Central Vigilance Commissioner or, as the case may be, the Vigilance Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salary, allowances and pension payable to, and the other conditions of service of, the Central Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

6. *Removal of Central Vigilance Commissioner and Vigilance Commissioner.*— (1) Subject to the provisions of sub-section (3), the Central Vigilance Commissioner or any Vigilance Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Central Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Central Vigilance Commissioner or any Vigilance Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Central Vigilance Commissioner or any Vigilance Commissioner if the Central Vigilance Commissioner or such Vigilance Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his

functions as a Central Vigilance Commissioner or a Vigilance Commissioner.

(4) If the Central Vigilance Commissioner or any Vigilance Commissioner is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

7. *Power to make rules by Central Government for staff.*— The Central Government may, in consultation with the Commission, make rules with respect to the number of members of the staff of the Commission and their conditions of service.

CHAPTER III

Functions and powers of the Central Vigilance Commission

8. *Functions and powers of Central Vigilance Commission.*— (1) The functions and powers of the Commission shall be to—

(a) exercise superintendence over the functioning of the Delhi Special Police Establishment in so far as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 or an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial; 49 of 1988. 2 of 1974.

(b) give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946: 25 of 1946.

Provided that while exercising the powers of superintendence under clause (a) or giving directions under this clause, the Commission shall not exercise powers in such a manner so as to require the Delhi Special Police

Establishment to investigate or dispose of any case in a particular manner;

(c) inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988 or an offence with which a public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial; 49 of 1988. 2 of 1974.

(d) inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988 and an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973, be charged at the same trial; 49 of 1988. 2 of 1974.

(e) review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988 or the public servant may, under the Code of Criminal Procedure, 1973, be charged at the same trial; 49 of 1988. 2 of 1974.

(f) review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988; 49 of 1988.

(g) tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as

may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;

(h) exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government:

Provided that nothing contained in this clause shall be deemed to authorise the Commission to exercise superintendence over the Vigilance administration in a manner not consistent with the directions relating to vigilance matters issued by the Government and to confer power upon the Commission to issue directions relating to any policy matters;

(2) The persons referred to in clause (d) of sub-section (1) are as follows:—

(a) members of All-India Services serving in connection with the affairs of the Union and Group 'A' officers of the Central Government;

(b) such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf:

Provided that till such time a notification is issued under this clause, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1).

9. *Proceedings of Commission.*— (1) The proceedings of the Commission shall be conducted at its headquarters.

(2) The Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Central Vigilance Commissioner and other Vigilance Commissioners.

(3) Save as provided in sub-section (2), all business of the Commission shall, as far as possible, be transacted unanimously.

(4) Subject to the provisions of sub-section (3), if the Central Vigilance Commissioner and other Vigilance Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

(5) The Central Vigilance Commissioner, or, if for any reason he is unable to attend any meeting of the Commission, the senior-most Vigilance Commissioner present at the meeting, shall preside at the meeting.

(6) No act or proceeding of the Commissioner shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as the Central Vigilance Commissioner or as a Vigilance Commissioner; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

10. *Vigilance Commissioner to act as Central Vigilance Commissioner in certain circumstances.*— (1) In the event of the occurrence of any vacancy in the office of the Central Vigilance Commissioner by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Vigilance Commissioners to act as the Central Vigilance Commissioner until the appointment of a new Central Vigilance Commissioner to fill such vacancy.

(2) When the Central Vigilance Commissioner is unable to discharge his functions owing to absence on leave or otherwise, such one of the Vigilance Commissioners as the President may, by notification, authorise in this behalf, shall discharge the functions of the Central Vigilance Commissioner until the date on which the Central Vigilance Commissioner resumes his duties.

11. *Power relating to inquiries.*—

The Commission shall, while conducting any inquiry referred to in clauses (b) and (c) of sub-section (1) of section 8, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and in particular, in respect of the following matters, namely:—

5 of 1908.

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

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

(c) receiving evidence on affidavits;

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

(e) issuing commissions for the examination of witnesses or other documents; and

(f) any other matter which may be prescribed.

12. *Proceedings before Commission to be judicial proceedings.*— The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

2 of 1974.

45 of 1860.

CHAPTER IV

Expenses and annual report

13. *Expenses of Commission to be charged on the Consolidated Fund of India.*— The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the Central Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, shall be charged on the Consolidated Fund of India.

14. *Annual report.*— (1) It shall be the duty of the Commission to present annually to the President a report as to the work done by the Commission within six months of the close of the year under report.

(2) The report referred to in sub-section (1) shall contain a separate part on the functioning of the Delhi Special Police Establishment in so far as it relates to sub-section (1) of section 4 of Delhi Special Police Establishment Act, 1946.

25 of 1946.

(3) On receipt of such report, the President shall cause the same to be laid before each House of Parliament.

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 thereunder 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) of sub-section (2) of section 8 and every rule made by the Central Government and every regulation 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 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, 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 establishment 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 establishment 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 incharge 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 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 corporation 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.*— (1) 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 April, 1999 as amended vide Resolution of even number, dated the 13th August, 2002 is hereby repealed.

(2) Notwithstanding such repeal and the 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 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.

Ord. 4 of 1999.

25 of 1946.

46 of 1973.

THE SCHEDULE

[See section 5(3)]

Form of oath or affirmation to be made by the Central Vigilance Commissioner or Vigilance Commissioner:—

“I, A. B., having been appointed Central Vigilance Commissioner (or Vigilance Commissioner) of the Central Vigilance Commission do swear in the name of God

_____ that I will solemnly affirm

bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the constitution and the laws.”.

Notification

10/4/99-LA (Vol. IV)

The Indian Medicine Central Council (Amendment) Act, 2002 (Central Act No. 52 of 2002), which has been passed by the Parliament and assented to by the President of India on 8-12-2002 and published in the Gazette of India, Extraordinary, Part II, Section I, dated 9-12-2002, is hereby published for general information of the public.

S. G. Marathe, Under Secretary (Drafting).

Panaji, 15th April, 2004.

THE INDIAN MEDICINE CENTRAL COUNCIL (AMENDMENT) ACT, 2002

AN

ACT

furtherto amend the Indian Medicine Central Council Act, 1970.

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

1. *Short title and commencement.*— (1) This Act may be called the Indian Medicine Central Council (Amendment) Act, 2002.

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

2. *Insertion of new Chapter IIA.*— After Chapter II of the Indian Medicine Central Council Act, 1970 (hereinafter referred to as the principal Act), the following Chapter shall be inserted, namely:—

‘CHAPTER II A

Permission for new medical institution, course, etc.

13A. *Permission for establishment of new medical institution, new course of study, etc.*— (1) Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) no person shall establish a medical institution; or

(b) no medical institution shall—

(i) open a new or higher course of study or training, including a post-graduate course of study or training, which would enable students of such course or training to qualify himself for the award of any recognised medical qualification; or

(ii) increase its admission capacity in any course of study or training including a post-graduate course of study or training,

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.— For the purposes of this section, "person" includes any University or a trust, but does not include the Central Government.

Explanation 2.— For the purposes of this section, "admission capacity", in relation to any course of study or training, including post-graduate course of study or training, in a medical institution, means the maximum number of students as may be fixed by the Central Council from time to time for being admitted to such course or training.

(2) Every person or medical institution shall, for the purpose of obtaining permission under sub-section (1), submit to the Central Government a scheme in accordance with the provisions of sub-section (3) and the Central Government shall refer the scheme to the Central Council for its recommendations.

(3) The scheme referred to in sub-section (2), shall be in such form and contain such particulars and be preferred in such manner and accompanied with such fees, as may be prescribed.

(4) On receipt of a scheme from the Central Government under sub-section (2), the Central Council may obtain such other particulars as may be considered necessary by it from the person or medical institution concerned, and thereafter, it may,—

(a) if the scheme is defective and does not contain necessary particulars, give a reasonable opportunity to the person or medical institution concerned for making a written representation and it shall be open to such person or medical institution to rectify the defects, if any, specified by the Central Council;

(b) consider the scheme, having regard to the factors referred to in sub-section (8) and submit it to the Central Government together with its recommendations thereon within a period not exceeding six months from the date of receipt of the reference from the Central Government.

(5) The Central Government may, after considering the scheme and recommendation of the Central Council under sub-section (4) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or institution concerned and having regard to the factors referred to in sub-section (8), either approve the scheme with such conditions, if any, as it may consider necessary or disapprove the scheme and any such approval shall constitute as a permission under sub-section (1):

Provided that no scheme shall be disapproved by the Central Government except after giving the person or medical institution concerned a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person or medical institution whose scheme has not been approved by the Central Government to submit a fresh scheme and the provision of this section shall apply to such scheme, as if such scheme had been submitted for the first time under sub-section (2).

(6) Where, within a period of one year from the date of submission of the scheme to the Central Government under sub-section (2), no order is communicated by the Central Government to the person or medical institution submitting the scheme, such scheme shall be deemed to have been approved by the Central Government in the form in which it was submitted, and, accordingly, the permission of the Central Government required under sub-section (1) shall also be deemed to have been granted.

(7) In computing the time-limit specified in sub-section (6), the time taken by the person or medical institution concerned submitting the scheme, in furnishing any particulars called for by the Central Council, or by the Central Government shall be excluded.

(8) The Central Council while making its recommendations under clause (b) of sub-

-section (4) and the Central Government while passing an order, either approving or disapproving the scheme under sub-section (5), shall have due regard to the following factors, namely:—

(a) whether the proposed medical institution or the existing medical institution seeking to open a new or higher course of study or training, would be in a position to offer the minimum standards of medical education as prescribed by the Central Council under section 22;

(b) whether the person seeking to establish a medical institution or the existing medical institution seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training, hospital or other facilities to ensure proper functioning of the medical institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such medical institution or course of study or training or the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme;

(e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such medical institution or the course of study or training by persons having recognised medical qualifications;

(f) the requirement of manpower in the field of practice of Indian medicine in the institution;

(g) any other factors as may be prescribed.

(9) Where the Central Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person or medical institution concerned.

13B. *Non-recognition of medical qualifications in certain cases.*— (1) Where any medical institution is established without the previous permission of the Central Government in accordance with the provisions of section 13A, medical qualification granted to any student of such medical institution shall not be deemed to be a recognised medical qualification for the purposes of this Act.

(2) Where any medical institution opens a new or higher course of study or training including a post-graduate course of study or training without the previous permission of the Central Government in accordance with the provisions of section 13A, medical qualification granted to any student of such institution on the basis of such study or training shall not be deemed to be a recognised medical qualification for the purposes of this Act.

(3) Where any medical institution increases its admission capacity in any course of study or training without the previous permission of the Central Government in accordance with the provisions of section 13A, medical qualification granted to any student of such medical institution on the basis of the increase in its admission capacity shall not be deemed to be a recognised medical qualification for the purposes of this Act.

3. *Amendment of section 36.*— In section 36 of the principal Act, in sub-section (1), after clause (g), the following clauses shall be inserted, namely:—

“(ga) the form of the scheme, the particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fees payable with the scheme under sub-section (3) of section 13A;

(gb) any other factor under clause (g) of sub-section (8) of section 13A;”.