The Central Vigilance Commission Act, 2003

Act 45 of 2003. 33 sections. Bare Act with the official footnotes.

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Contents

CHAPTER I PRELIMINARY (Sections 1 to 2)
CHAPTER II THE CENTRAL VIGILANCE COMMISSION (Sections 3 to 7)
CHAPTER III FUNCTIONS AND POWERS OF THE CENTRAL VIGILANCE COMMISSION (Sections 8 to 12)
CHAPTER IV EXPENSES AND ANNUAL REPORT (Sections 13 to 14)
CHAPTER V MISCELLANEOUS (Sections 15 to 27)
Schedules (1): see the end of this PDF

[11th September, 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

Section 1. Short title

This Act may be called the Central Vigilance Commission Act, 2003.

Section 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);

[1][(da) "Lokpal" means the Lokpal established under sub-section (1) of section 3 of the Lokpal and Lokayuktas Act, 2013 (1 of 2014);]

(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.

[1] Ins. by Act 1 of 2014, s. 58 and the Schedule (w.e.f. 16-1-2014).

CHAPTER II THE CENTRAL VIGILANCE COMMISSION

Section 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 (Ord. 4 of 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.

(2) The Commission shall consist of-

(a) a Central Vigilance Commissioner | - | Chairperson;

(b) not more than two Vigilance Commissioners | - | Members.

(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 persons 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 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 (Ord. 4 of 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.

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.

Section 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 Affairs | - | Member;

(c) the Leader of the Opposition in the House of the People | - | Member.

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.

Section 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 the 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.

Section 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.

Section 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

Section 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 (49 of 1988) or an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial;

(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 (49 of 1988) or an offence with which a public servant may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial;

(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 (49 of 1988) and an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial;

(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 (49 of 1988) or the public servant may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial;

(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);

[1][(c) on a reference made by the Lokpal under the proviso to sub-section (1) of section 20 of the Lokpal and Lokayuktas Act, 2013 (1 of 2014), the persons referred to in clause (d) of sub-section (1) shall also include-

(i) members of Group B, Group C and Group D services of the Central Government;

(ii) such level of officials or staff 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 officials or staff of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred in clause (d) of sub-section (1).]

[1] Ins. by Act 1 of 2014, s. 58 and the Schedule (w.e.f. 16-1-2014).

Section 8A. Action on preliminary inquiry in relation to public servants

[1][(1) Where, after the conclusion of the preliminary inquiry relating to corruption of public servants belonging to Group C and Group D officials of the Central Government, the findings of the Commission disclose, after giving an opportunity of being heard to the public servant, a prima facie violation of conduct rules relating to corruption under the Prevention of Corruption Act, 1988 (49 of 1988) by such public servant, the Commission shall proceed with one or more of the following actions, namely:-

(a) cause an investigation by any agency or the Delhi Special Police Establishment, as the case may be;

(b) initiation of the disciplinary proceedings or any other appropriate action against the concerned public servant by the competent authority;

(c) closure of the proceedings against the public servant and to proceed against the complainant under section 46 of the Lokpal and Lokayuktas Act, 2013 (1 of 2014).

(2) Every preliminary inquiry referred to in sub-section (1) shall ordinarily be completed within a period of ninety days and for reasons to be recorded in writing, within a further period of ninety days from the date of receipt of the complaint.

[1] Ins. by Act 1 of 2014, s. 58 and the Schedule (w.e.f. 16-1-2014).

Section 8B. Action on investigation in relation to public servants

(1) In case the Commission decides to proceed to investigate into the complaint under clause (a) of sub-section (1) of section 8A, it shall direct any agency (including the Delhi Special Police Establishment) to carry out the investigation as expeditiously as possible and complete the investigation within a period of six months from the date of its order and submit the investigation report containing its findings to the Commission:

Provided that the Commission may extend the said period by a further period of six months for the reasons to be recorded in writing.

(2) Notwithstanding anything contained in section 173 of the Code of Criminal Procedure, 1973 (2 of 1974), any agency (including the Delhi Special Police Establishment) shall, in respect of cases referred to it by the Commission, submit the investigation report to the Commission.

(3) The Commission shall consider every report received by it under sub-section (2) from any agency (including the Delhi Special Police Establishment) and may decide as to-

(a) file charge-sheet or closure report before the Special Court against the public servant;

(b) initiate the departmental proceedings or any other appropriate action against the concerned public servant by the competent authority.]

Section 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 Commission 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.

Section 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.

Section 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 (5 of 1908) and in particular, in respect of the following matters, namely:-

(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.

Section 11A. Director of Inquiry for making preliminary inquiry

[1][(1) There shall be a Director of Inquiry, not below the rank of Joint Secretary to the Government of India, who shall be appointed by the Central Government for conducting preliminary inquiries referred to the Commission by the Lokpal.

(2) The Central Government shall provide the Director of Inquiry such officers and employees as may be required for the discharge of his functions under this Act.]

[1] Ins. by Act 1 of 2014, s. 58 and the Schedule (w.e.f. 16-1-2014).

Section 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 (2 of 1974) and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860).

CHAPTER IV EXPENSES AND ANNUAL REPORT

Section 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.

Section 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 the 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

Section 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.

Section 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).

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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, insofar 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.

Section 25. Appointments, etc., of officers of Directorate of Enforcement

Notwithstanding anything contained in the Foreign Exchange Management Act, 1999 (42 of 1999) or any other law for the time being in force,-

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

(i) the Central Vigilance Commissioner - Chairperson;

(ii) Vigilance Commissioners - Members;

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

(iv) Secretary to the Government of India in-charge of the Ministry of Personnel in the Central Government - Member;

(v) Secretary to the Government of India in-charge of the Department of Revenue, Ministry of Finance in the Central Government - Member;

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

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

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

[1][Provided that the period for which the Director of Enforcement holds the office on his initial appointment may, in public interest, on the recommendation of the Committee under clause (a) and for the reasons to be recorded in writing, be extended up to one year at a time:

Provided further that no such extension shall be granted after the completion of a period of five years in total including the period mentioned in the initial appointment;]

(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.

[1] Ins. by Act 46 of 2021, s. 2 (w.e.f. 14-11-2021).

Section 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 (45 of 2003), shall have the meanings, respectively, assigned to them in that Act.";

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

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

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

(3) The administration of the said police 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.

Section 4A. Committee for appointment of Director

(1) The Central Government shall appoint the Director on the recommendation of the Committee consisting of-

(a) the Central Vigilance Commissioner | | | | - | Chairperson;

(b) Vigilance Commissioners | | | | - | Members;

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

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

Section 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.

Section 4C. Appointment for posts of Superintendent of Police and above, extension and curtailment of their tenure, etc

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

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

(c) after section 6, the following section shall be inserted, namely:- "6A. Approval of Central Government to conduct inquiry or investigation.-(1) The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988) except with the previous approval of the Central Government where such allegation relates to-

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

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

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

Section 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 (Ord. 4 of 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 (25 of 1946) and the Foreign Exchange Regulation Act, 1973 (46 of 1973) as amended by the said Ordinance shall be deemed to have been made or done or taken under this Act or the Delhi Special Police Establishment Act, 1946 and the Foreign Exchange Regulation Act, 1973 as if the amendments made in those Acts by this Act were in force at all material times.

Schedules

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THE SCHEDULE (official file, page 14)

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