

**THE NATIONAL COMMISSION FOR SAFAI KARAMCHARIS
(AMENDMENT) ACT, 2001**

No. 55 OF 2001

[13th December, 2001.]

**An Act further to amend the National Commission for Safai Karamcharis
Act, 1993.**

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

1. This Act may be called the National Commission for Safai Karamcharis (Amendment) Act, 2001.

Short title.

64 of 1993.

2. In the National Commission for Safai Karamcharis Act, 1993 (hereinafter referred to as the principal Act), in section 1, in sub-section (4), for the figures, letters and words "31st day of March, 2002", the figures, letters and words "29th day of February, 2004" shall be substituted.

Amendment of section 1.

3. In section 4 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

Amendment of section 4.

"(1A) Notwithstanding anything contained in sub-section (1), the Chairperson, Vice-Chairperson and every Member appointed on or after the 16th day of February, 2001, shall hold office for a period not exceeding three years from the date of assumption of his office or up to the 29th day of February, 2004, whichever is earlier."

(3) If the Members of a Bench differ in opinion on any point, they shall state the point or points on which they differ, and the case shall be referred to the Chairman for hearing on such point or points by one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.

(4) Subject to the provisions of this Act, the Tribunal shall have power to regulate its own procedure and the procedure of Benches thereof in all matters arising out of the exercise of its powers or the discharge of its functions, including the places at which the Benches shall hold their sittings.

(5) The Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Registrar under section 11, and any proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code, and the Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

(6) Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or any other manner) shall be made on, or in, any proceedings relating to an appeal unless—

(a) copies of such appeal and of all documents in support of the plea for such interim order are furnished to the party against whom such appeal is made or proposed to be made; and

(b) opportunity is given to such party to be heard in the matter.

Transitional provision.

59. Notwithstanding anything contained in this Act, till the establishment of the Tribunal under section 54, the Intellectual Property Appellate Board established under section 83 of the Trade Marks Act, 1999 shall exercise the jurisdiction, powers and authority conferred on the Tribunal under this Act subject to the modification that in any Bench of such Intellectual Property Appellate Board constituted for the purposes of this section, for the Technical Member referred to in sub-section (2) of section 84 of the said Trade Marks Act, the Technical Member shall be appointed under this Act and he shall be deemed to be the Technical Member for constituting the Bench under the said sub-section (2) of section 84 for the purposes of this Act.

47 of 1999.

CHAPTER IX

FINANCE, ACCOUNTS AND AUDIT

Grants by Central Government.

60. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants and loans of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Authority Fund.

61. (1) There shall be constituted a fund to be called the Protection of Plant Varieties Authority Account and there shall be credited thereto—

(a) all grants and loans made to the Authority by the Central Government under section 60;

(b) all fees received by the Authority and the Registrars except the annual fee determined on the basis of benefit or royalty under sub-section (1) of section 35;

(c) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(2) The Protection of Plant Varieties Authority Account shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the Chairperson, officers and other employees of the Authority and allowances, if any, payable to the members;

(b) the other expenses of the Authority in connection with the discharge of its functions and for purposes of this Act.

62. (1) The Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the Gene Fund) and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Budget,
accounts and
audit.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

63. The Chairperson shall exercise such financial and administrative powers over the functions of the Authority as may be prescribed:

Financial and
administrative
powers of
Chairperson.

Provided that the Chairperson shall have the authority to delegate such of his financial and administrative powers as he may think fit to a member or any other officer of the Authority subject to the condition that the member or such other officer shall, while exercising such delegated powers, continue to be under the direction, control and supervision of the Chairperson.

CHAPTER X

INFRINGEMENT, OFFENCES, PENALTIES AND PROCEDURE

Infringement

64. Subject to the provisions of this Act, a right established under this Act is infringed by a person—

Infringement.

(a) who, not being the breeder of a variety registered under this Act or a registered agent or a registered licensee of that variety, sells, exports, imports or produces such variety without the permission of its breeder or within the scope of a registered licence or registered agency without permission of the registered licensee or registered agent, as the case may be;

(b) who uses, sells, exports, imports or produces any other variety giving such variety, the denomination identical with or deceptively similar to the denomination of a variety registered under this Act in such manner as to cause confusion in the mind of general people in identifying such variety so registered.

65. (1) No suit—

(a) for the infringement of a variety registered under this Act; or

(b) relating to any right in a variety registered under this Act,

Suit for
infringement,
etc.

shall be instituted in any court inferior to a District Court having jurisdiction to try the suit.

(2) For the purposes of clauses (a) and (b) of sub-section (1), "District Court having jurisdiction" shall mean the District Court within the local limits of whose jurisdiction the cause of action arises.