

DRAFT

THE CENTRAL BUREAU OF INVESTIGATION ACT, 2010



## **STATEMENT OF OBJECTS AND REASONS**

- The Ministry of Home Affairs, Government of India's resolution No. 4/31/61-T dated 1.4.1963 established the Central Bureau of Investigation with a view to investigate serious crimes related to Defence of India, corruption in high places, serious fraud, cheating and embezzlement and social crime, particularly of hoarding , black-marketing and profiteering in essential commodities, having all-India and inter-state ramifications.
- Central Bureau of Investigation (CBI), governed by the Delhi Special Police Establishment (DSPE) Act, 1946 (No. 25 of 1946).
- DSPE Act dates back to the Pre-Independence and Pre-Constitutional era.
- CBI requires consent of States to investigate offences in their jurisdictions as per the DSPE Act.
- States have challenged the powers of the Supreme Court and the High Courts to order investigation by CBI without their consent.
- Parliamentary Committees have recommended replacement of DSPE Act by an independent CBI Act keeping in view of above constraints and the rising challenges.
- There is lack of an independent unified Central Government Agency to undertake prevention, detection, investigation and prosecution of offences related to subjects mentioned in the List I, i.e. the Union List of the seventh Schedule of the Constitution.
- Hence this Act as per provisions of Article 246 of the Constitution.

**CENTRAL BUREAU OF INVESTIGATION ACT, 2010**

(----- of 2010)

[-----, 2010]

*An Act to constitute the Central Bureau of Investigation in terms of the provisions of Article 246 of the Constitution of India, entry no. 8 in the Union List of the 7<sup>th</sup> Schedule, to prevent, investigate and prosecute offences or classes of offences relatable to matters in the Union List throughout the territory of India and also to investigate and prosecute offences or classes of offences relatable to matters in the Concurrent List of the 7<sup>th</sup> Schedule of the Constitution of India in the Union Territories.*

Be it enacted by the Parliament in the Sixtieth year of the Republic of India as follows:-

**1. Short title, extent, application and commencement** – (1) This Act may be called the Central Bureau of Investigation Act, 2010.

(2) It extends to the whole of India and it applies also -

- (a) to citizens of India outside India;
- (b) to persons in the service of the Government wherever they may be and
- (c) to persons on ships and aircrafts registered in India, wherever they may be.

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

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

- (a) "Bureau", means the Central Bureau of Investigation;
- (b) "Schedules" means Schedules to this Act;
- (c) "Scheduled Offence" means an offence specified in the Schedules in this Act;
- (d) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);

**3. Constitution of Central Bureau of Investigation** – (1) Notwithstanding anything contained in any other law, the Central Government may constitute an investigation agency to be called the Central Bureau of Investigation for prevention, investigation and prosecution of offences or

classes of offences included in the Schedules annexed to the Act and notified by the Central Government from time to time.

(2) The establishment of the Bureau may comprise of such officers and other personnel of the rank of Director, Special/Additional Director, Joint Director, Deputy Director, Assistant Director, Investigation Officer, Grade I, II, and Grade III and such other personnel as may be specified by the Central Government.

**4. Superintendence and administration of the Bureau** – (1) The superintendence of the Bureau 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 Central Vigilance Commission.

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

(3) The administration of the Bureau shall vest in the Director, appointed in this behalf by the Central Government.

**5. Committee for appointment of Director** – (1) The Central Government shall appoint the Director on the recommendation of the Committee comprising 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) Secretary to the Government of India in charge of the Ministry of Personnel - 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 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.

**6. Terms and conditions of service of the 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 4.

**7. Appointment for posts of Assistant Director and above, extension and curtailment of their tenure, etc.** – (1) The Committee referred to in section 5 shall, after consulting the Director, recommend officers for appointment to the posts of the level of Assistant Director and above and also recommend the extension or curtailment of the tenure of such officers in the Bureau.

(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.

**8. Investigation of Scheduled Offences** – (1) Notwithstanding anything contained in any other law and subject to the general or specific orders of the Central Government, the Bureau shall prevent, investigate and prosecute the offences included in the Schedule I and such other offences as notified in this behalf by the Central Government in the Official Gazette, related to matters in the Union List of the 7<sup>th</sup> Schedule of the Constitution of India.

(2) Notwithstanding anything contained in any other law and subject to the general or specific orders of the Central Government, the Bureau shall prevent, investigate and prosecute the offences included in the Schedule II and such other offences as notified in this behalf by the Central Government in the Official Gazette, related to matters in the Concurrent List of the 7<sup>th</sup> Schedule of the Constitution of India, in the Union Territories of India.

(3) Notwithstanding anything contained in any other law, Central Government may, by notification, authorize the officers of the Bureau to undertake investigation of any scheduled offence under this Act in addition to such other officers as may be specified in the law.

**9. Extension of powers and jurisdiction of the Bureau to States** – (1) The Central Government may by order extend to any area (including

Railway areas), in a State, not being Union Territory, the powers and jurisdiction of officers of the Bureau for the prevention, investigation and prosecution of offences specified in sub-section (2) of section 8.

(2) Nothing contained in sub – section (1) above, shall be deemed to enable any officer of the Bureau to exercise powers and jurisdiction in any area in a State, not being a Union Territory or railway area, without the consent of the Government of the State.

**10. Officer of the Bureau to exercise powers of officer in charge of a Police Station** – An officer of the Bureau, while exercising functions under this Act, may exercise the same powers and be subject to the same provisions as the officer in charge of a police station may exercise and is subject to under the Code in a cognizable case, including the powers and provisions relating to registration, investigation, arrest, search, seizure, and filing of final report in the Court.

**11. Powers of officers of the Bureau** - An officer of the Bureau may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of the Bureau who is subordinate to him.

**12. Powers of Courts to order investigation** – (1) Notwithstanding anything contained in any other law, the Supreme Court and the High Courts shall be competent to direct the Bureau to investigate or enquiry into any offence.

(2) Notwithstanding anything to the contrary contained in the Code or any other law for the time being in force, no subordinate court shall be competent to direct the Bureau to investigate or enquire into any offence.

**13. Modified application of certain provisions of the Code** - Section 162 of the Code shall not apply in relation to an investigation conducted by an officer of the Bureau. The statement made by any person to an officer of the Bureau shall be reduced in writing and signatures or thumb impressions, as the case may be, of the person making it shall be obtained by the officer of the Bureau on such statement.

**14. Protection of action taken in good faith** - (1) No suit, prosecution or other legal proceeding shall lie against any officer of the Bureau or any other person exercising any power or performing any functions

under this Act or the rules framed there under except with the previous sanction of the Central Government.

(2) Notwithstanding the provisions in sub –section (1), no such requests, as specified therein, shall be entertained by the Central Government, after a period of two years to the alleged incident.

**15. Powers of State Governments not to be affected** - Nothing contained in this Act, shall affect the powers of the State Governments to investigate and prosecute any Scheduled Offence or other offences under any law for the time being in force.

**16. Repeal and Savings** - (1) The Delhi Special Police Establishment Act, 1946 (25 of 1946) is hereby repealed.

(2) Notwithstanding such repeal, but without prejudice to the application of Section 6 of the General Clauses Act, 1897, anything done or any action taken or purported to have been done or taken under or in pursuance of the Act, such repeal shall, in so far as it is not inconsistent with the provisions of this Act, shall be deemed to have been done or taken in pursuance of the provision of the Act.

(3) Upon repeal of the said Act, all persons who were members of the Delhi Special Police Establishment immediately before such repeal, shall be deemed to be appointed as members of the Bureau.

(4) In the Central Vigilance Commission Act, 2003 (45 of 2003) –

(a) Section 2 (c) may be replaced as –

‘Central Bureau of Investigation’ means the Central Bureau of Investigation constituted under sub-section (1) of section 3 of the Central Bureau of Investigation Act, 2010;

(b) ‘Delhi Special Police Establishment’ shall be replaced by ‘Central Bureau of Investigation’ wherever it occurs in section 8;

(c) Section 26 may be omitted as its provisions have been incorporated in this Act.

(5) In the Prevention of Corruption Act, 1988 (48 of 1988), sub – section (a) of section 17 may be replaced as – ‘in the case of the Central Bureau of Investigation, of an Inspector Grade I & II’.

**SCHEDULE I**

1. Offences punishable under Sections 121, 121A, 122, 123, 124, 124A, 128, 129, 130, 131, 132, 133, 134, 135, 136, 138, 140, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 263A, 489A, 489B, 489C, 489D, 489E of the Indian Penal Code, 1860 (Act No.45 of 1860) related to matters in the List I of the 7<sup>th</sup> Schedule.
2. The Aircraft Act, 1934 (Act No. 22 of 1934) and rules made under the said Act.
3. The Anti-Hijacking Act, 1982 (Act No. 65 of 1982).
4. The Antiquities and Art Treasures Act, 1972 (Act No. 52 of 1972).
5. The Arms Act, 1959 (Act No. 54 of 1959).
6. The Atomic Energy Act, 1962 (Act No. 33 of 1962).
7. The Central Excises and Salt Act, 1944 (Act No.1 of 1944).
8. Sections 63, 63-A, 63-B, 65, 67, 68, 68A and 69 of the Copyrights Act, 1957 (Act No. 14 of 1957).
9. The Customs Act, 1962 (Act No. 52 of 1962).
10. The Drugs and Cosmetics Act, 1940 (Act No. 23 of 1940).
11. Section 24 of the Emigration Act, 1983 (Act No. 31 of 1983).
12. Emergency Provisions (Continuance) Ordinance 1946 (Ordinance No. 20 of 1946) if committed by the Employees of the Central Government or contractors or sub-contractors or their representatives by contravening any order issued by the Central Government.
13. The Essential Commodities Act, 1955 (Act No. 10 of 1955).
14. The Explosives Act, 1884 (Act No.4 of 1884).
15. The Explosive Substances Act, 1908 (Act No.6 of 1908).

16. The Foreign Contribution (Regulation) Act, 1976 (Act No. 49 of 1976).
17. The Foreigners Act, (Act No. 31 of 1946).
18. The Foreign Exchange Regulation Act, 1973 (Act No. 46 of 1973).
19. The General Insurance Business (Nationalization) Act, 1922 (Act. No. 57 of 1922).
20. The Income Tax Act, 1961 (Act No. 43 of 1961).
21. The Import and Export (Control) Act, 1947 (Act No. 18 of 1947).
22. The Insurance Act, 1938 (Act No.4 of 1938).
23. The Industries (Development and Regulation) Act, 1951 (Act No. 65 of 1951).
24. The Information Technology Act, 2000 (Act No. 21 of 2000).
25. The Indian Stamp Act, 1899.
26. The Mines and Minerals (Regulation & Development) Act, 1957 (Act No. 67 of 1957).
27. The Narcotic Drugs and Psychotropic Substance Act, 1985 (Act No. 61 of 1985).
28. The Official Secrets Act, 1923 (Act No. 19 of 1923).
29. The Passport Act, 1920 (Act No. 24 of 1920) and rule 6 of Passport Rules 1950.
30. The Passport (Entry into India) Rules 1950 r/w Passport (Entry into India) Act 1920, (Act No. 34 of 1920).
31. The Passport Act, 1967 (Act No. 15 of 1967).
32. The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (Act No. 46 of 1988).
33. The Prevention of Insults to National Honour Act, 1971 (Act No. 69 of 1971).
34. The Prevention of Money Laundering Act, 2002 (Act No. 15 of 2003).
35. The Prevention of Money Laundering (Amendment) Act, 2009 (Act No. 21 of 2009)

36. The Press and Registration of Books Act, 1867 (Act No. 25 of 1867).
37. Section 4 and 5 of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978 (Act No. 43 of 1978).
38. The Post Office Act, 1898 (Act No.6 of 1898).
39. The Railways Act, 1890 (Act No.9 of 1890).
40. The Railways Stores (Unlawful Possession) Act, 1955 (Act No. 51 of 1955).
41. The Railways Act, 1989 (Act No. 24 of 1989).
42. The Representation of the People Act, 1950 (Act No. 43 of 1950).
43. The Representation of the People Act, 1951 (Act No. 43 of 1951).
44. The Registration of Foreigners Act, 1939 (Act No. 16 of 1939).
45. Section 24 of the Security Exchange Board of Binders Act, 1942.
46. The Suppression of Unlawful Act against Safety of Civil Aviation Act, 1982 (Act No. 66 of 1982).
47. Sections 11 and 12 of the Territorial Waters Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (Act No.80 of 1976).
48. The Telegraph Act, 1885 (Act No. 13 of 1885).
49. The Telegraph Wires (Unlawful Possession) Act, 1950 (Act No.74 of 1950).
50. The Unlawful Activities (Prevention) Act, 1967 (Act No. 37 of 1967).
51. The Wireless and Telegraphy Act, 1933 (Act No. 17 of 1933).
52. The Wealth Tax Act, 1957 (Act No. 27 of 1957).
53. The Prevention of Communal Violence Act, -----

Attempts, abetments and conspiracies in relation to or in connection with the offences mentioned in Schedule I and any other offences committed in the course of the same transaction arising out of the same facts.

**SCHEDULE II**

1. Offences punishable under Sections 34,114,120B, 143, 147, 148, 149, 153A, 153B, 161, 162, 163, 164, 165, 165A, 166, 167, 168, 169, 170, 171E, 171F, 182, 186, 188, 189, 190, 193, 196, 197, 198, 199, 200,201,204,211,212, 214, 216, 216-A, 218, 220, 222, 223, 224, 225, 225B, 275, 277, 279, 283, 284, 285, 286, 292, 295, 295A, 302, 303, 304, 304A, 304B, 306, 307, 308, 309,323,324,325,326,328,330,331,332,333,336,337, 338, 341, 342, 343, 344, 346, 347, 352, 353, 354, 355, 363, 363A, 364, 364A, 365, 366, 367, 368, 376, 376-A, 376B, 376C, 376D, 379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 392, 393, 394, 395, 396, 397, 398, 399, 401, 402, 403, 406, 407, 408, 409, 411,412,413,414,417,418,419,420,421,426,427,429, 431, 435, 436, 440, 447,448,452,454,456,457,460,461,465,466,467,468, 469,471,472, 473, 474,475,476,477, 477A, 489, 495, 498A, 499, 500, 501, 502, 504, 505, 506, 507, 509 of the Indian Penal Code, 1860 (Act No.45 of 1860) related to matters in the List III of the 7<sup>th</sup> Schedule.
2. Section 3 of the Benami Transaction (Prohibition) Act, 1988 (Act No. 45 of 1988).
3. The Companies Act, 1956 (Act No.1 of 1956).
4. The Criminal Law (Amendment) Act, 1961 (Act No. 23 of 1961).
5. The Electricity Act, 1910 (Act No.9 of 1910).
6. The Gift Tax Act, 1958 (Act No.18 of 1958).
7. Section 3, 4, 5, 8, 9 and 15 of the Immoral Traffic (Prevention) Act, 1956 (Act No. 104 of 1956).
8. The Industries (Development and Regulation) Act, 1951 (Act No. 65 of 1951).
9. The Information Technology Act, 2000 (Act No. 21 of 2000).
10. The Motor Vehicles Act, 1939 (Act No.4 of 1939).

11. Section 138 of the Negotiable Instruments Act, 1881 (Act No. 26 of 1881).
12. The Prevention of Corruption Act, 1988 (Act No. 49 of 1988).
13. The Prevention of Food Adulteration Act, 1954 (Act No. 37 of 1954).
14. The Prevention of Damage to Public Property Act, 1984 (Act No.3 of 1984).
15. The Press and Registration of Books Act, 1867 (Act No. 25 of 1867).
16. The Religious Institutions (Prevention of Misuse) Act, 1988 (Act No.41 of 1988).
17. Section 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
18. Section 51 of the Wildlife Protection Act, 1972 (Act No. 53 of 1972).
19. The Assam Opium Prohibition Act, 1947.
20. The Andhra Pradesh Control of Organized Crime Act, 2001.
21. The Bombay Stamp Act, 1958.
22. (a) Section 121, 147, 161, 162, 163, 164, 165, 166, 167, 168, 169, 182, 193, 197, 198, 201, 204, 211, 218, 223, 224, 231, 232, 233, 234, 235, 236, 237, 238,239,240,241,242,243,246,247,248,249,450,251, 252,253,254, 258, 259, 260, 261, 262, 263, 263-A, 302, 304, 304-A, 306, 307, 308, 309, 323, 324, 325, 326, 328, 330, 332, 333, 336, 337, 338, 341, 342, 343, 344, 346, 347, 352, 353, 354, 355, 363, 363-A, 364, 365, 366, 367, 368, 376, 379, 380, 381, 382, 384, 385, 386, 387, 388, 389, 392, 395, 403, 406, 407, 408, 409, 411, 412, 413, 414, 417, 418, 419, 420, 427, 452, 465, 466, 467, 468, 471,472,473, 474, 475, 476, 477-A, 489-A, 489-B, 489-C, 489-D, 511 of the Jammu and Kashmir State Ranbir Penal Code Sambat & Jammu and Kashmir Act No. 12 of Sambat 1989).
- (b) The Jammu and Kashmir State Prevention of Corruption Act Sambat 2006 (J&K Act No. 13 of Sambat 2006).
- (c) Section 132, 133, 135, 136 of the Custom Act, 1962 (Jammu and Kashmir Act No. 52 of 1962).
- (d) The Energy Agents Ordinance of Sambat 2005 issued by Government of Jammu and Kashmir.

23. The Karnataka Control of Organized Crime Act, 2000.
24. The Karnataka Stamp Act, 1957.
25. The Maharashtra Control of Organized Crime Act, 1999.
26. Section 7 of the Nagaland Security Regulation 1962 (Regulation 5 of 1962).
27. The Punjab Special Powers (Press) Act, 1956 (Punjab Act No. 38 of 1956).
28. The Uttar Pradesh Indian Medicines Act, 1939 (U.P. Act No. 10 of 1939).
29. The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 (Uttar Pradesh Act No.7 of 1986).
30. The West Bengal Security Acts 1950 (West Bengal Act No. 19 of 1950) as re enacted by the West Bengal Security (re-enacted and validation) Ordinance, 1966.

Attempts, abetments and conspiracies in relation to or in connection with the offences mentioned in Schedule II and any other offences committed in the course of the same transaction arising out of the same facts.

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