THE LOKPAL BILL, 1996

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THE SCHEDULE.
THE LOKPAL BILL, 1996

BILL

to provide for the establishment of the institution of Lokpal to inquire into allegations of corruption against public functionaries and for matters connected therewith.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:

PRELIMINARY

1. (1) This Act may be called the Lokpal Act, 1996.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,—

(a) "Chairman" means the Chairman of the Lokpal;

(b) "competent authority", in relation to—

(i) the Prime Minister, means the House of the People;

(ii) a Member of Council of Ministers, other than the Prime Minister, means the Prime
    Minister;

(iii) a Member of Parliament, other than a Minister, means the Council of
    States in the case of a Member of that Council and the House of the People in the
    case of a Member of that House;

(c) "complaint" means a complaint alleging that a public functionary has committed any
    offence punishable under the Prevention of Corruption Act, 1988;

(d) "Lokpal" means the institution established under section 3;

(e) "Member" means a Member of the Lokpal and includes the Chairman of the Lokpal;

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

(g) "public functionary" means a person who,—

(i) holds, or has held, the office of the Prime Minister, Minister, Minister
    of State or Deputy Minister of the Union;

(ii) is, or has been, a Member of either House of Parliament.

MACHINERY FOR INQUIRIES

3. (1) As from the commencement of this Act, there shall be established, for
    the purpose of making inquiries in respect of complaints under this Act, an
    institution to be called the "Lokpal".

(2) The Lokpal shall consist of—

(a) a Chairman who is or has been a Chief Justice or Judge of the Supreme
    Court;

(b) two Members who are, or have been, or qualified to be, a Judge of the
    Supreme Court.

(1) Every Member shall, before entering upon his office, make and subscribe before
    the President, or a person appointed in that behalf by the President, an oath or
    affirmation in the form set out in the Schedule.

Appointment

4. (1) The Chairman and other Members 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 recommendations of a Committee consisting of—

(a) the Prime Minister Chairperson;

(b) Speaker of the House of the People

member;
(c) Minister in-charge of the Ministry of Home Affairs in the Government of India — member;

(d) Minister in-charge of the Ministry of Personnel, Public Grievances and Pensions in the Government of India — member;

(e) Leader of the Opposition in the House of the People — member;

(f) Leader of the Opposition in the Council of States — member;

(g) Deputy Chairman of the Council of States — member.

Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

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

5. A Member shall not be a Member of Parliament or a Member of the Legislature of any State and shall no hold any office of trust or profit (other than his office as Member), or be connected with any political party, or carry on any business, or practice any profession and accordingly, before he enters upon his office, a person appointed as the Member shall,—

(a) if he is a Member of Parliament or of the Legislature of any State, shall resign such membership; or

(b) if he holds any office of trust, or profit, resign from such office; or

(c) if he is connected with any political party, sever his connection with it; or

(d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) if he is practising any profession, cease to practice such profession.

6. (1) Every Member shall hold office for a term of five years from the date on which he enters upon his office:

Provided that he may—

(a) by writing under his hand addressed to the President, resign his office;

(b) be removed from his office in the manner provided in section 7.

(2) On ceasing to hold office, a Member shall be ineligible to any office of profit under the Government of India or the Government of a State.

(3) The salary, allowances and other conditions of service of—

(i) the Chairman shall be the same as those of the Chief Justice of India;
Provided that such salary shall be in addition to any pension to which the Member may be entitled in respect of any previous service under the Government of India or under the Government of a State and no deduction shall be made from such salary on the ground of his having received any retirement gratuity, or on the ground that he received the commuted value of a portion of the pension, in respect of his previous service.

Provided further that the salary, allowances and pension payable to, and other conditions of service of, a Member shall not be varied to his disadvantage after his appointment.

7. A Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by the Chief Justice of India or, as the case may be, by such other Judge of the Supreme Court as the Chief Justice of India may nominate in this behalf, in which the Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

8. (1) The Lokpal shall, for the purpose of assisting it in the discharge of its functions (including verification and inquiries in respect of complaints) under this Act, appoint a Secretary and such other officers and employees as the President may determine, from time to time, in consultation with the Lokpal.

(2) Without prejudice to the provisions of sub-section (1), the Lokpal may, for the purpose of dealing with any complaints or any classes of complaints, secure--

(i) the services of any officer or employee or investigating agency of the Central Government or a State Government with the concurrence of that Government, or

(ii) the services of any other person or agency.

(3) The terms and conditions of service of the officers and employees referred to in sub-section (1) and of the officers, employees, agencies and persons referred to in sub-section (2) (including such special conditions as may be considered necessary for enabling them to act without fear in the discharge of their functions) shall be such as the President may determine, from time to time, in consultation with the Lokpal.

(4) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (2) shall be subject to the exclusive administrative control and direction of the Lokpal.

9. (1) Subject to the other provisions of this Act, the Lokpal may inquire into any matter involved in, or arising from, or connected with, any allegation made in a complaint.

(2) The Lokpal may inquire into any act or conduct of any person other than a public functionary in so far as it considers it necessary so to do for the purpose of its inquiry into any such allegation.
Provided that the Lokpal shall give such person a reasonable opportunity of being heard and to produce evidence in his defence.

(3) No matter in respect of which a complaint may be made under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952, except on the recommendation, or with the concurrence, of the Lokpal.

10. (1) The Lokpal shall not inquire into any matter concerning any person if any Member has any bias in respect of such matter or person and if any dispute arises in this behalf, the President shall, on an application made by the party aggrieved, obtain, in such manner as may be prescribed, the opinion of the Chief Justice of India and decide the dispute in conformity with such opinion.

(2) The Lokpal shall not inquire into any matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952, on its recommendation or with its prior concurrence.

11. (1) Any person other than a civil servant may make a complaint under this Act to the Lokpal.

Explanation.—For the purpose of this sub-section, civil servant means—

(a) any person who is a member of a Defence service or of a civil service of the Union or a State or of an all-India service or holds any post connected with Defence or any civil post under the Union or a State;

(b) any person in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company, as defined in section 617 of the Companies Act, 1956.

(2) The complaint shall be in the prescribed form and shall set forth particulars of the offence of alleged and shall be accompanied by fees prescribed, if any, an affidavit in support of such particulars and a certificate in the prescribed form in respect of the deposit under sub-section (3) or, if the complainant is unable to make the deposit, an application for exemption from the requirement as to such deposit.

(3) The complainant shall deposit in such manner and with such authority or agency as may be prescribed a sum of one thousand rupees to be available for disposal under section 28:

Provided that the Lokpal may, for sufficient cause, be recorded in writing, exempt a complainant from the requirement under this sub-section.

(4) notwithstanding anything contained in the foregoing sub-sections, any letter written to the Lokpal or, as the case may be, the appropriate authority by a person in any jail or other place of custody or in any asylum or other place for insane persons may, if the Lokpal or, as the case may be, the appropriate authority is satisfied that it is necessary so to do, be treated as a complaint made in accordance with the provisions of this section.
19. Notwithstanding anything contained in any other enactment, it shall be the duty of a police officer or other person in charge of any jail or other place of custody or of any asylum or other place for insane persons to forward, without opening, any letter addressed to the Lokpal or the appropriate authority by a person imprisoned or detained in such jail, place of custody, asylum or other place, to the Lokpal or the appropriate authority without delay.

Explanation.—"appropriate authority" means any of the authorities which the Lokpal may, by general or special order, in writing, designate to be appropriate authorities for the purposes of this section.

12. (1) If the Lokpal is satisfied, after considering a complaint and after making such verification as it deems appropriate,—

(a) that the complaint is not made within the period of five years specified in sub-section (3) of section 10; or

(b) that it cannot make an inquiry in respect of the complaint by reason of the provisions of sub-section (2) of section 10 or any other provision of this Act; or

(c) that the complaint is frivolous or vexatious or is not made in good faith; or

(d) that there are no sufficient grounds for inquiring into the complaint,

the Lokpal shall dismiss the complaint after recording its reasons therefor and communicate the same to the complainant and to the competent authority.

(2) The procedure for verification in respect of a complaint under sub-section (1) shall be such as the Lokpal deems appropriate in the circumstances of the case and in particular the Lokpal may, if it deems it necessary so to do, call for the comments of the public functionary concerned.

13. (1) If, after the consideration and verification under section 11 in respect of a complaint, the Lokpal proposes to conduct any inquiry, it,—

(a) shall forthwith forward a copy of the complaint to the competent authority;

(b) may make such orders as to the safe custody of documents relevant to the inquiry as it deems fit;

(c) shall, at such time as it considers appropriate, forward a copy of the complaint to the public functionary concerned and afford him an opportunity to represent his case.

(2) Every such inquiry shall be conducted in camera by the Chairman and the Members sitting jointly.

(3) The Lokpal shall hold every such inquiry as expeditiously as possible and in any case complete the inquiry within a period of six months from the date of receipt of the complaint:

Provided that the Lokpal may for reasons to be recorded in writing may complete the inquiry within a further period of six months.

(4) Save as aforesaid, the procedure for conducting any such inquiry shall be such as the Lokpal considers appropriate in the circumstances of the case.
14. (1) Where the Lokpal is satisfied—

(a) that investigation by any police officer under the Code of Criminal Procedure, 1973, into any offence in respect of which a complaint is made or into any matters connected therewith may prejudicially affect the conduct of inquiry under this Act with respect to such complaint; and

(b) that having regard to all the circumstances of the case it would be proper to defer such investigation pending the completion of such inquiry;

it may, by order in writing and for reasons to be recorded therein, direct that till the completion of such inquiry or for such shorter period as may be specified in the order, any such investigation shall be deferred or, as the case may be, shall be suspended:

Provided that no such direction shall apply with respect to any investigation required to be made in pursuance of an order of any court.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in computing, for the purposes of Chapter XXXVI of that Code, the period of limitation for taking cognizance of any offence, being an offence the investigation in respect of which has been deferred or suspended by reason of an order under sub-section (1), the date on which such order was made, the period during which the investigation remained deferred or, as the case may be, suspended by reason of the order and the date on which the order ceased to have effect, shall be excluded.

20 15. (1) Subject to the provisions of this section, for the purpose of any inquiry (including the verification under section 12), the Lokpal—

(a) may require any public servant or any other person, who, in its opinion is able to furnish information or produce documents relevant to such inquiry, to furnish any such information or produce any such document;

(b) shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(i) summoning and enforcing the attendance of any person and examining him on oath;

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

(iii) receiving evidence on affidavits;

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

(v) issuing commissions for the examination of witnesses or documents;

and

(vi) such other matters as may be prescribed.

(2) A proceeding before the Lokpal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

(3) Subject to the provisions of sub-section (4),---

(a) no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to Government or any public servant, whether

2 of 1974.

Power of
Lokpal to
issue, in
certain
circumstances
directions
for defer-
ring or
suspending
investiga-
tion into
an offence.

Evidence.
imposed by any enactment or by any provision of law whatever shall apply to the
disclosure of information for the purposes of any inquiry (including the verification
under section 12) under this Act, and

(b) the Government or any public servant shall not be entitled, in relation to
any such verification or inquiry, to any such privilege in respect of the production
of documents or the giving of evidence as is allowed by any enactment or by any
provision of law whatever in legal proceedings.

(4) No person shall be required or authorised by virtue of this Act to furnish any
such information or answer any such question or produce so much of any document—

(a) as might prejudice the security, or defence, or international relations of India
(including India's relations with the Government of any other country or with any
international organisation), or the investigation or detection of crime; or

(b) as might involve the disclosure of proceedings of the Cabinet of the Union
Government or of any Committee of such Cabinet; Cabinet of the State
Government or of any Committee of such Cabinet; and for the purpose of this sub-
section, a certificate issued by a Secretary to the Government of India or Chief
Secretary of the State Government, as the case may be, certifying that any
information, answer, or portion of a document, is of the nature specified in clause
(a) or clause (b) shall be binding and conclusive:

Provided that the Lokpal may require any information or answer or portion of a
document in respect of which a certificate is issued under this sub-section to the effect
that it is of the nature specified in clause (a) to be disclosed to it in private for scrutiny
and if on such scrutiny the Lokpal is satisfied that such certificate ought not to have
been issued, it shall declare the certificate to be of no effect.

Explanation.--For the purposes of this section, "public servant" shall have the same
meaning as in section 21 of the Indian Penal Code.

16. (1) If the Lokpal has reason to believe that any documents which, in its opinion,
will be useful for, or relevant to, any inquiry under this Act, are secreted in any place,
it may authorise any officer subordinate to it, or any officer of an investigating agency
referred to in sub-section (2) of section 8, to search for and seize such documents.

(2) If the Lokpal is satisfied that any documents seized under sub-section (1) would
be evidence for the purpose of any inquiry under this Act and that it would be
necessary to retain the document in its custody, it may so retain the said document till
the completion of such inquiry:

Provided that when such document is seized before the commencement of such
inquiry, the Lokpal shall return the document before the expiration of a period of one
year from the date on which it is seized unless such inquiry has been commenced
before such expiration.

Explanation.--For the purposes of this sub-section, an inquiry in respect of a
complaint—

(a) shall be deemed to have commenced on the date on which the Lokpal
forwards a copy of the complaint to the competent authority under clause (a) of
sub-section (1) of section 13;

(b) shall be deemed to have been completed on the date on which the Lokpal
closes the case under clause (a) of sub-section (1) of section 17 or where the
Lokpal makes a report to the competent authority under clause (b) of that sub-section, on the expiry of the period mentioned in sub-section (2) of that section.

2 of 1974. (3) The provisions of the Code of Criminal Procedure, 1973, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if, for the word "Magistrate", wherever it occurs, the words "Lokpal or any officer authorised by it" were substituted.

17. (1) If, after inquiry in respect of a complaint, the Lokpal is satisfied that—

(a) no allegation made in the complaint has been substantiated either wholly or partly, it shall close the case and intimate the complainant, the public functionary and the competent authority accordingly;

(b) all or any of the allegations made in the complaint have or has been substantiated either wholly or partly, it shall by report in writing communicate its findings and recommendations to the competent authority and intimate the complainant and the public functionary about its having made the report.

(2) The competent authority in the case of a public functionary, other than the Prime Minister, shall examine the report forwarded to it under clause (b) of sub-section (1) and communicate to the Lokpal, within three months of the date of receipt of the report, the action taken or proposed to be taken on the basis of the report.

(3) The Speaker, in the case of the Prime Minister or a Member of the House of the People and Chairman of the Council of States in the case of a Member of that Council shall, as soon as may be after and in any case not later than ninety days from the receipt of report under clause (b) of sub-section (1), cause the same to be laid before the House of the People.

Explanation.—In computing the period of ninety days referred to in this sub-section, any period during which the House of the People is not in session shall be excluded.

(4) The Lokpal shall present annually to the President a consolidated report on the administration of this Act and the President shall, as soon as may be after, and in any case not later than ninety days from the receipt of such report, cause the same, together with an explanatory memorandum, to be laid before each House of Parliament.

Explanation.—In computing the period of ninety days referred to in this sub-section, any period during which Parliament or, as the case may be, either House of Parliament, is not in session, shall be excluded.

DECLARATION OF ASSETS AND LIABILITIES

18. Every Member of Parliament shall furnish a return of all assets owned by him and members of his family and all liabilities incurred by him and the members of his family before Lokpal every year in such form as may be prescribed by Members of Parliament.
19. The salaries, allowances and pensions payable to, or in respect of, the Members, shall be expenditure charged on the Consolidated Fund of India.

20. (1) Any information obtained by the Lokpal, or by any officer, employee, agency or person referred to in section 8, in the course of, or for the purposes of, any verification or inquiry under this Act, and any evidence recorded or collected in connection therewith shall be treated as confidential and, notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall be entitled to compel the Lokpal, or any such officer, employee, agency or person, to give evidence relating to such information or to produce the evidence so recorded or collected.

(2) Nothing in sub-section (1) shall apply to the disclosure of the information or evidence referred to therein—

(a) for the purposes of this Act or for the purposes of any action or proceedings to be taken on any report under section 17; or

(b) for the purposes of any proceedings, for an offence of giving or fabricating false evidence, under the Indian Penal Code; or

(c) for such other purposes as may be prescribed.

21. (1) Whoever intentionally offers any insult, or causes any interruption, to the Lokpal while the Lokpal or any of its Members is making any verification or conducting any inquiry under this Act, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Whoever, by words spoken or intended to be read, makes or publishes any statement, or does any other act, which is calculated to bring the Lokpal into disrepute, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(3) The provisions of sub-section (2) of section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (2) of the said section 199, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Lokpal.

22. (1) If, at any stage of a proceeding before the Lokpal, it appears to the Lokpal that any person appearing in such proceedings had knowingly or wilfully given false evidence or had fabricated false evidence with the intention that such evidence should be used in such proceedings, the Lokpal may, if satisfied that it is necessary and expedient in the interest of justice that the person should be tried summarily for giving or fabricating, as the case may be, false evidence, take cognizance of the offence and may, after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973, and sentence him to imprisonment for a term which may extend to...
(2) When any such offence as is described in section 175, section 178, section 179 or section 180 of the Indian Penal Code is committed in the view or presence of the Lokpal, the Lokpal may cause the offender to be detected in custody and may, at any time on the same day, take cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, try such offender summarily so far as may be in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to simple imprisonment for a term which may extend to one month, or to fine which may extend to five hundred rupees, or to both.

(3) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the finding and the sentence.

(4) Any person convicted on a trial held under this section may appeal to the High Court and the provisions of Chapter XXIX of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to appeals under this section and the High Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

Explanation.—For the purposes of this sub-section, "High Court" means the High Court within the jurisdiction of which the person convicted ordinarily resides or carries on business or personally works for gain or the High Court within whose jurisdiction the order of conviction has been passed.

(5) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

23. (1) If any person prints or publishes any information with respect to any complaint under this Act (including the identity of the person making the complaint, the public functionary against whom the complaint has been made and the particulars contained in the complaint) or with respect to any proceeding, act or thing taken or done or purported to have been taken or done under this Act in relation to such complaint,--

(a) where the Lokpal dismisses such complaint under section 12, at any time before such dismissal, or

(b) where the Lokpal closes the case with respect to such complaint under clause (a) of sub-section (1) of section 17, at any time before such closure; or

(c) where the Lokpal forwards to the competent authority a report of its findings and recommendations with respect to such complaint under clause (b) of sub-section (1) of section 17, at any time before the expiry of three months from the date of receipt of the report by the competent authority,

such person shall be guilty of an offence under this sub-section.

(2) If any person prints or publishes any information alleging or suggesting that a complaint has been made under this Act against any public functionary and such information is false, such person shall be guilty of an offence under this sub-section.

(3) When any offence under sub-section (1) or sub-section (2) is committed, the Lokpal may take cognizance of the offence and, after giving the offender reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily so far as may be in accordance with the procedure prescribed for
summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term which may extend to six months, or to fine which may extend to ten thousand rupees, or to both.

(4) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the findings and the sentence.

(5) Any person convicted in a trial under this section may with the leave of the Supreme Court, prefer an appeal to the Supreme Court within thirty days of such conviction or within such further period as the Supreme Court may, for sufficient cause allow and, save as aforesaid, no appeal or revision shall lie in any court against such conviction.

(6) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

Action in case of false complaints.

24. (1) Every person who makes any complaint which is held by the Lokpal to be false shall be punishable as provided in sub-section (2).

(2) When any offence under sub-section (1) is committed, the Lokpal may take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term which shall not be less than one year but which may extend to three years and also to fine which may extend to fifty thousand rupees and may also award, out of the amount of fine, to the public functionary against whom such false complaint has been made, such amount of compensation as the Lokpal thinks fit.

(3) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the findings and the sentence.

(4) Any person convicted on a trial under this section may, with the leave of the Supreme Court, prefer an appeal to the Supreme Court within thirty days of such conviction or within such further period as the Supreme Court may, for sufficient cause allow and, save as aforesaid, no appeal or revision shall lie in any court against such conviction.

(5) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

25. Subject to the other provisions of this Act and subject to the modification that for purpose of transfer of any case under section 23 or section 24, the provisions of section 406 of the Code of Criminal Procedure, 1973, shall alone apply, the provisions of the said Code shall apply to proceedings before a Lokpal under sections 22, 23 and 24 and for the purposes of the said provisions of that Code and the said proceedings the Lokpal shall be deemed to be a Court of Session and shall have all the powers of a Court of Session.

26. Notwithstanding anything contained in any other law for the time being in force, where on an inquiry in respect of a complaint against a public functionary the Lokpal or the competent authority has held that any allegations made in the complaint have not been proved or substantially substantiated, no prosecution shall lie on any complaint, report, information or otherwise and no court shall take cognizance of any offence on the basis of the same or substantially the same allegations as in the complaint.
27. (1) The President, may, by order in writing and subject to such conditions or limitations as may be specified in the order, direct the Lokpal to inquire into any allegation (being an allegation in respect of which a complaint may be made) specified in the order in respect of a public functionary, notwithstanding anything contained in this Act, the Lokpal shall comply with such order.

(2) When the Lokpal is to make any inquiry under sub-section (1), the Lokpal shall exercise the same powers and discharge the same functions as it would in the case of any inquiry made on a complaint under this Act and the provisions of this Act (except section 24) shall apply accordingly.

28. The sum deposited by a complainant under section 11 shall be disposed of by the Lokpal in a case where the complaint is dismissed under clause (c) of sub-section (4) of section 12, stand forfeited to the Central Government;

(b) if the Lokpal, for reasons to be recorded in writing so directs, be utilised for compensating the public functionary complained against; and

(c) in any other case, be refunded to the complainant.

29. If the Lokpal is satisfied—

(a) that all or any of the allegations made in a complaint have or has been substantiated either wholly or partly, and

(b) that having regard to the expenses incurred by the complainant in relation to the proceedings to respect of such complaint and all other relevant circumstances of the case the complainant deserves to be compensated or rewarded,

the Lokpal shall determine the amount which shall be paid to the complainant by way of such compensation or reward and the Central Government shall pay the amount or amounts so determined, to the complainant.

30. (1) No suit, prosecution or other legal proceedings shall lie against the Lokpal or against any officer, employee, agency or person referred to in section 8, in respect of anything which is in good faith done, or intended to be done, under this Act.

(2) Save as otherwise provided in this Act, no proceedings or decision of the Lokpal shall be liable to be challenged, reviewed, quashed or called in question in any Court.

31. The Lokpal may, by general or special order in writing, and subject to such conditions and limitations as may be specified therein, direct that any powers conferred or duties imposed on it by or under this Act (except the powers under the proviso to sub-section (3) of section 11, the power to dismiss a complaint under sub-section (1) of section 12, the powers to close cases and make reports under section 16 and the powers under sections 22, 23 and 24) may also be exercised or discharged by such of the officers, employees or agencies referred to in sub-section (1) or sub-section (2) of section 8, as may be specified in the order.

32. (1) The President may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(a) the manner in which the President shall obtain the opinion of the Chief Justice of India under sub-section (1) of section 10;
(b) the form in which complaints may be made under sub-section (2) of section 11 and the fees, if any, which may be charged in respect thereof;

(c) the manner in which and the authorities or agencies with whom deposits shall be made under sub-section (3) of section 11 and the form in which certificates shall be furnished in respect of such deposits;

(d) the matters referred to in sub-clause (vi) of clause (b) of sub-section (1) of section 15;

(e) the form in which return has to be furnished under section 18;

(f) the purposes referred to in clause (e) of sub-section (2) of section 20;

(g) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two 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 rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

33. For the removal of doubts, it is hereby declared that nothing in this Act shall operate to confer or enable the conferring of any jurisdiction on the Lokpal to make any inquiry—

(a) into any allegation against or any act or conduct of—

(i) the President, the Vice-President or the Speaker of the House of the People;

(ii) the Chief Justice or any other Judge of the Supreme Court of India;

(iii) the Comptroller and Auditor-General of India, the Chief Election Commissioner or other Election Commissioner or the Chairman or any other Member of the Union Public Service Commission;

(b) upon its own knowledge or information.

34. Nothing contained in this Act shall be construed as affecting the constitution of, or the continuance of functioning or exercise of powers by, any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 before the commencement of this Act and no complaint shall be made under this Act in respect of any matter referred for inquiry to such Commission before such commencement.

35. In section 3 of the Commissions of Inquiry Act, 1952, in sub-section (1), for the words "The appropriate Government may", the words, brackets and figures "Subject to the provisions of sub-section (3) of section 9 of the Lokpal Act, 1996, the appropriate Government may" shall be substituted.
THE SCHEDULE

[See section 3(3)]

I, ____________________________, having been appointed Chairman/Member of the Lokpal do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will.
STATEMENT OF OBJECTS AND REASONS

In its interim report on the "Problem of Redress of Citizens' Grievances" submitted in 1966, the Administrative Reforms Commission recommended, inter alia, the setting up of an institution of Lokpal.

2. To give effect to this recommendation of the Administrative Reforms Commission, a Bill called the "Lokpal and Lokayuktas Bill, 1968" was introduced in the Fourth Lok Sabha in 1968. The Bill was considered by a Joint Committee of the two Houses of Parliament and the Bill, as reported by the Joint Committee, was passed by the Lok Sabha in 1969. While this Bill was pending in Rajya Sabha, the Fourth Lok Sabha was dissolved and consequently, the Bill lapsed. In 1971, the Bill passed by the previous Lok Sabha was re-introduced in the Lok Sabha as the "Lokpal and Lokayuktas Bill, 1971". This Bill also lapsed on the dissolution of the Fifth Lok Sabha.

3. A fresh Bill called the "Lokpal Bill, 1977" was introduced in the Lok Sabha in 1977. This Bill was referred to a Joint Committee of both the Houses of Parliament which submitted its report in July, 1978. When the Bill, as reported by the Joint Committee, was under consideration of the Lok Sabha, the Lok Sabha was prorogued and was subsequently dissolved. Consequently that Bill also lapsed.

4. The Lokpal Bill, 1985 was introduced in the Lok Sabha and subsequently withdrawn. The Lokpal Bill, 1989 which sought to include the office of Prime Minister also within the jurisdiction of the Lokpal which was to be a three Member body lapsed with the dissolution of the Lok Sabha.

5. The Lokpal Bill, 1996 provides for setting up the office of Lokpal with a Chairman and two members for a fixed tenure. With a view to ensuring that the Lokpal is able to act independently and discharge its functions without fear or favour, the Bill provides that the Chairman or Member of Lokpal shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by the Chief Justice of India or by any other Judge of the Supreme Court nominated by the Chief Justice of India for this purpose. It is also provided that the Chairman and other Members shall be appointed by the President by warrant under his hand and seal on the recommendations of a Committee consisting of Prime Minister as Chairman, Speaker Lok Sabha, Deputy Chairman Rajya Sabha, Leaders of the Opposition in the Lok Sabha/Rajya Sabha, Minister in charge of the Ministry of Home Affairs and Minister of State, Ministry of Personnel and Public Grievances and Pensions as Members. Under the scheme of the Bill, the Lokpal will inquire into complaints alleging that a public functionary as defined in the Bill has committed an offence punishable under the Prevention of Corruption Act, 1988 and the expression "public functionary" covers, Prime Minister, Ministers, Ministers of State, Deputy Ministers and Members of Parliament. It seeks to carry out in this respect the object and purpose of the recommendations of the Administrative Reforms Commission for enabling the citizen to have recourse to a convenient and effective forum for determination of complaints and thereby save him from pursuing his remedy through the process of Courts, which may prove expensive or dilatory and may not facilitate in speedy determination. The Bill also seeks to make special provisions for discouraging frivolous, vexatious and false complaints. The Bill also provides for declaration of
assets and liabilities by Members of Parliament and their family members, annually. The Notes on clauses explain the provisions contained in the Bill.

6. The Bill seeks to achieve the above objects.

NEW DELHI;

S.R. BALASUBRAMONIYAN.

The 10th September, 1996.
Notes on clauses

Clause 2 defines the various expressions used in the Bill.

Clause 3 provides for the establishment of Lokpal consisting of a Chairman and two Members. The person to be appointed as Chairman will be a person who is or has been the Chief Justice of India or a Judge of the Supreme Court. Member shall be a person who is, or has been or is qualified to be a Judge of that Court.

Clause 4 provides that the Chairman and other Members shall be appointed after obtaining the recommendations of a Committee consisting of the Prime Minister, Speaker of the House of the People, Home Minister, Leaders of the Opposition in the House of the People and the Council of States, the Deputy Chairman of the Council of States and the Minister in-charge of Ministry of Personnel.

Clause 5 is self-explanatory.

Clause 6 provides for the term of office and other conditions of service of the Chairman or Members of Lokpal. His conditions of service, salary, allowances and pension of the Chairman will be the same as those of Chief Justice of India. The salary of the Member will be in addition to any pension which he might be entitled to in respect of any previous service under the Government of India or under the Government of a State, and no deduction will also be made in regard to any retirement gratuity or commuted value of pension in respect of his previous service. After a person is appointed as Member, his conditions of service, allowances and pension payable to him shall not be varied to his disadvantage.

Clause 7 deals with the removal of a Member.

Clause 8 deals with the staff of the Lokpal and the powers of the Lokpal to utilise the services, inter alia, of any investigating agencies of Government and of any other agencies.

Clause 9 deals with the jurisdiction of the Lokpal. Sub-clause (1) provides that the Lokpal may inquire into any matter involved in, or arising from, or connected with any allegation made in a complaint. Sub-clause (2) provides that the Lokpal may conduct an inquiry into any act or conduct of any person other than the public functionary concerned if it considers necessary to do so for the purposes of his inquiry into any allegation. Sub-clause (3) provides that an inquiry under the Commissions of Inquiry Act, 1952 cannot be made in respect of a matter in respect of which a complaint has been made to the Lokpal except on the recommendation or with the concurrence of the Lokpal.

Clause 10 provides that Lokpal shall not inquire into any matter in respect of any person if he has any bias in respect of such person or matter, or into any matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952, on its recommendation or with its prior concurrence. It also provides that Lokpal shall not inquire into any complaint made after a period of five years from the date of the Commission of the offence mentioned in the complaint.

Clause 11 provides that any person other than a public servant as defined therein can file a complaint which shall be in the prescribed form and shall be accompanied by an affidavit. This clause also provides for a deposit of Rs.1,000 by the complainant.

Clause 12 provides for preliminary scrutiny of complaints by the Lokpal.

Clause 13 provides for the procedure for making inquiries into the complaints by the
Clause 14 provides for deeming or for suspension for a specified period or till the completion of inquiry by the Lokpal of any investigation or inquiry by any police officer under the Code of Criminal Procedure, 1973, in respect of matters connected with a complaint being inquiry into by the Lokpal by an order and for the reasons to be recorded. However, the Lokpal cannot give such a direction in respect of any investigation to be made in pursuance of an order of any Court. Sub-clause (2) of this clause also provides that for the purposes of Chapter XXXVI of the Code of Criminal Procedure, 1973, the period of deeming or suspension of any investigation into an offence will be excluded from the period of limitation for taking cognizance of the offence.

Sub-clause (1) of clause 15 deals with the powers of the Lokpal to require any public servant to furnish any information or produce any document. Sub-clause (2) provides that the proceedings before the Lokpal shall be deemed to be judicial proceedings within the meaning of section 193 of the Code of Criminal Procedure, 1973.

Clause 16 seeks to confer powers of search and seizure on the Lokpal.

Clause 17 relates to reports of the Lokpal and action thereon. Sub-clause (1) provides that when after inquiry no allegation made in the complaint is substantiated, the Lokpal shall order the case and intimate the complainant, the public functionary and the competent authority accordingly. When all or any of the allegations made in the complaint are substantiated, the Lokpal will make a report communicating his findings and recommendations to the competent authority and will also intimate the complainant as well as the public functionary about his having made the report. Sub-clause (2) provides that the competent authority will inform the Lokpal of the action taken or proposed to be taken on the report within a period of three months. Sub-clause (3) provides for the presentation by the Lokpal of annual reports on the administration of the Act to the President and for the laying of such reports before the Houses of Parliament.

Clause 18 provides for declaration of assets by Members of Parliament.

Clause 19 provides that the salaries, allowances and pension payable to the Members of Lokpal shall be charged on the Consolidated Fund of India.

Clause 20 provides for secrecy of information and evidence collected during any inquiry by Lokpal.

Clause 21 provides for punishment for intentional insult or interruption to, or bringing into disrepute the Lokpal.

Clause 22 seeks to confer powers on the Lokpal to try summarily and punish persons giving false evidence, etc., in any proceedings before the Lokpal or committing offences under section 173, 178, 179 or 180 of the Indian Penal Code in the view of the presence of the member. The clause also provides that a person convicted thereunder may prefer an appeal to the High Court within the jurisdiction of which the person convicted ordinarily resides or carries on business or personally works for gain or the High Court within whose jurisdiction the order of conviction has been passed.

Clause 23 provides for the disclosure of information in respect of complaints against public functionary on proceedings relating thereto causing irreparable damage to the public functionary in those cases where the public functionary has been absolved of the charges against him. This clause accordingly makes printing or publication of any such
information in relation to any complaint before the inquiry under the Act has reached a definitive stage an offence triable summarily by the Lokpal. The clause also seeks to make the printing or publishing of any false information alleging or suggesting that a complaint has been made against a public functionary an offence triable summarily by the Lokpal. The clause also provides that an appeal against any conviction for any offence thereunder may be made to the Supreme Court of India with the leave of that Court.

Clause 24 provides for the punishment which may be awarded by the Lokpal to a person making a complaint which is found by the Lokpal to be false. The clause also provides that any person convicted thereunder may, with the leave of the Supreme Court, prefer an appeal to that Court.

Clause 25 provides for the modified application of the provisions of the Code of Criminal Procedure for the trial of offences under sections 22, 23 and 24.

Clause 26 provides for bar of proceedings on allegations not proved or not substantiated before the Lokpal.

Clause 27 relates to conferment of certain additional functions on the Lokpal.

Clause 28 provides for the disposal of deposits made by the complainants.

Clause 29 provides for compensation or reward or both payable to complainant in the event of all or any of the allegations made in a complaint being substantiated.

Clause 30 provides for protection from legal proceedings, etc.

Clause 31 provides for delegation of powers by the Lokpal to its staff, etc.

Clause 32 provides for the power of the President to make rules.

Clause 33 seeks to make it clear that the Lokpal shall not have any jurisdiction to conduct any inquiry into any allegation against or any act or conduct of the President, the Vice-President or the Speaker of the House of the People, the Chief Justice or any other Judge of the Supreme Court of India, the Comptroller and Auditor-General of India, the Chief Election Commissioner or other Election Commissioners or the Chairman or any other Member of the Union Public Service Commission or to make any inquiry suo-moto.

Clause 34 provides that the provisions of this Bill shall not affect the constitution or the continuance of any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952 before the coming into force of the provisions of this Bill.

Clause 35 seeks to make a consequential amendment in the Commissions of Inquiry Act, 1952.
FINANCIAL MEMORANDUM

Clause 3 (1) of the Bill provides for the appointment of the Lokpal consisting of a Chairman and two other Members. Clause 6 (3) of the Bill envisages that the salary, allowances and all other conditions of service of, the Chairman shall be the same as those of the Chief Justice of India and the Members as those of the judge of the Supreme Court. It also provides that the salary payable to the Members shall be in addition to any pension and pension equivalent or other perquisite benefits to which the Member may be entitled in respect of any previous service under the Government of India or under the Government of a State.

2. Sub-clause (1) of clause 8 provides that the Lokpal shall appoint a Secretary and such other officers and employees as the President may determine, from time to time, in consultation with Lokpal to assist him in the discharge of his functions. Sub-clause (2) of clause 8 empowers the Lokpal to secure, for the purpose of dealing with any complaints or any classes of complaints, the services of any officer or employee or investigating agency of the Central Government or a State Government or the services of any other person or agency. Sub-clause (3) of clause 8 provides that the terms and conditions of service of the officers and employees of the Lokpal and of the officers, employees, agencies and persons referred to in sub-clause (2) of that clause shall be such as the President may determine in consultation with the Lokpal.

3. Clause 19 of the Bill provides that the expenditure on the salaries, allowances and pensions payable to Members shall be charged on or in respect of the Consolidated Fund of India.

4. Clause 29 of the Bill provides for payment of compensation or reward to a complainant as determined by the Lokpal, by the Central Government.

5. At this stage, it is not possible to give precise details of the expenditure to be incurred on the Lokpal. It is, however, expected that the Bill, when enacted, will involve a non-recurring expenditure of Rs. 25 lakhs and a recurring expenditure of Rs. 1 crore a year. In case it becomes necessary to construct a building to house the establishment of the Lokpal, additional expenditure of a non-recurring nature of the order of Rs. 1 crore may also be involved.

The Bill if enacted will not incur any other recurring or non-recurring expenditure.
MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 32 of the Bill empowers the President to make rules for the purpose of carrying into effect the provisions of proposed enactment. The various matters in relation to which such rules may be made have been enumerated in detail under various items of sub-clause (2) of that clause and relate mainly to the form in which complaints may be made and the fees, if any, which may be charged in respect thereof; the manner in which and the authorities or agencies with whom deposits shall be made under sub-clause (3) of clause 11 and the form in which certificate shall be furnished in respect of such deposits under sub-clause (2) of clause 11; and the additional matters in respect of which powers of a civil court may be exercised by the Lokpal. These are matters of detail necessary for effective administration of the provisions of the Bill and it is difficult to provide for all the situations in the Bill itself. The delegation of legislative power is, therefore, of a normal character.
ANNEXURE

EXTRACT FROM THE COMMISSION OF INQUIRY ACT, 1952

(30 of 1952)

3. (i) The appropriate Government may, if it is of opinion that it is necessary so to do, and shall, if a resolution in this behalf is passed by the House of the People or, as the case may be, the Legislative Assembly of the State, by notification in the Official Gazette, appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification, and the Commission so appointed shall make the inquiry and perform the functions accordingly:

Provided that where any such Commission has been appointed to inquire into any matter—

(a) by the Central Government, no State Government shall, except with the approval of the Central Government, appoint another Commission to inquire into the same matter for so long as the Commission appointed by the Central Government is functioning,

(b) by a State Government, the Central Government shall not appoint another Commission to inquire into the same matter for so long as the Commission appointed by the State Government is functioning, unless the Central Government is of opinion that the scope of the inquiry should be extended to two or more States.
A BILL

to provide for the establishment of the institution of Lokpal to inquire into allegations of corruption against public functionaries and for matters connected therewith.

(Shri S.P. Balabanon, Minister of State in the Ministry of Personnel, Public Grievances and Pensions)
Lok Sabha
CORRIGENDA
to
THE LOKPAL BILL, 1996

1. Page 3, line 34,
   after "ineligible" insert 
   "for further employment"

2. Page 5, line 27,
   for "offence of alleged"
   read "offence alleged"

3. Page 6, line 15,
   after "provisions of" insert 
   "sub-section (1) or"

4. Page 6, line 25,
   for "section 11" read "section 12"

5. Page 9, line 21,
   after "People and" insert "the"

6. Page 9, line 24,
   add at the end 
   "er the Council of States, as the case 
   may be,"

7. Page 9, line 26,
   after "People" insert 
   "as the Council of States, as the 
   case may be,"
8. Page 11, line 37,-

add at the end -

"or, as the case may be, at any time before the report is laid before the House of the People or the Council of States under sub-section (3) of section 17."

9. Page 13, line 34,-

for "section 16" read "section 17"

NEW DELHI;

September 11, 1996
Bhadra 20, 1918 (Saka)