Monthly Policy Review

November 2020

Highlights of this Issue

GDP contracted by 7.5% in the second quarter of 2020-21 (p. 5)

GDP (at constant prices) contracted by 7.5% in the July-September quarter of 2020-21. While agriculture, manufacturing, and electricity recorded growth, trade & hospitality, public services, and mining contracted.

National lockdown extended till December 31 with focus on containment (p. 2)

The new orders specify guidelines for inducing COVID appropriate behaviours, prescribing a containment and surveillance strategy, and ensuring strict compliance with lockdown-related guidelines, to reduce COVID-19 cases.

Government announces stimulus under Aatma Nirbhar Bharat 3.0 (p. 2)

Measures were announced to incentivise creation of new employment, provide stimulus to certain sectors such as infrastructure and real estate, and expand coverage of the credit line guarantee scheme to more borrowers.

Arbitration and Conciliation (Amendment) Ordinance issued (p. 7)

The Ordinance allows an arbitration award to be stayed (even if an application to set it aside has been filed) in case the agreement or the award was induced by fraud. Further, it removes the qualification criteria listed for arbitrators.

Draft Rules under Codes on Social Security, and Occupational Safety released (p. 8)

Draft social security rules set out detailed procedures for enrolment of workers and registration of establishments. Occupational safety rules provide that no worker shall work more than eight hours a day, over a 12-hour period.

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Amendment to Foreign Contribution (Regulation) Rules notified (p. 8)

For obtaining registration for receiving foreign contribution, the applicant should have spent Rs 15 lakh or more during last three years. The application fee for seeking registration or prior permission has been increased.

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Standing Committee submits its report on the COVID-19 pandemic (p. 3)

To improve management of COVID-19, the Committee recommended: (i) increasing public health funding, (ii) increasing the number of beds in government hospitals, and (iii) using reliable testing methods, among others.

Working Group reviewing ownership of private banks submitted its report (p. 5)

Recommendations include: (i) increase in long-term promoter shareholding in private banks from 15% to 26%, and (ii) permitting ownership of banks by large business houses, with safeguards to manage conflicts of interest.

Guidelines for reopening of universities and colleges issued by the UGC (p. 3)

The guidelines permit institutions outside of containment zones to re-open based on feasibility of restarting physical classes. Institutions will be reopened in a phased manner after adopting adequate safety measures.

43 mobile apps banned on the grounds of national security and public order (p. 10)

Use of these apps has disallowed under the Information Technology Act, 2000 for engaging in stealing and unauthorised transmission of users' data to servers outside India which may threaten national security.

December 1, 2020

PRS Legislative Research▪ Institute for Policy Research Studies
3rd Floor, Gandharva Mahavidyalaya ▪ 212, Deen Dayal Upadhyaya Marg ▪ New Delhi – 110002
Tel: (011) 43434035, 23234801 ▪ www.prsindia.org

COVID-19

As of December 1, 2020, there were 94,62,809 confirmed cases of COVID-19 in India.[1] Of these, 88,89,585 had been cured/discharged and 1,37,621 persons had died.[1] For details on the number of daily cases in the country and across states, please see here.

The central government has announced several policy decisions to contain the spread of the disease, and financial measures to support citizens and businesses who would get affected. For details on the major notifications released by the centre and the states, please see here. Key announcements made in this regard in October 2020 are as follows.

Lockdown extended till December 31 with additional relaxations

Roshni Sinha (roshni@prsindia.org)

To contain the spread of COVID-19, the National Disaster Management Authority (NDMA) had imposed a 21-day national lockdown in March.[2] Since then, the lockdown has been extended ten times, with the latest extension till December 31, 2020.[3] The revised lockdown guidelines stress on containing further COVID cases by focusing on a prescribed containment strategy, surveillance, and strict observance of lockdown-related guidelines. Key features of these guidelines include:

- **COVID appropriate behaviour**: States must take steps to promote COVID-19 appropriate behaviour. These may include: (i) administrative actions, such as fines, for not wearing face masks, (ii) strict observance of SOPs issued by the Ministry of Health and Family Welfare to regulate overcrowding in marketplaces, and (iii) issuance of guidelines for regulating travel in modes of public transport (e.g., buses).
- **Surveillance and containment**: Lockdown will continue to remain in force in containment zones, demarcated by district authorities. In such zones: (i) only essential activities will be permitted, (ii) movement will only be permitted for medical emergencies and supply of essential goods and services, and (iii) listing of contacts of COVID positive persons will be carried out, along with their tracking, identification, quarantine, and follow up. 80% of all contacts must be traced within 72 hours. States must ensure accountability of officers responsible for implementing these measures.
- **Compliance with SOPs**: In areas outside containment zones, most activities have resumed. Activities that continue to operate with restrictions include: (i) international air travel, except as permitted by the Ministry of Home Affairs, (ii) cinema halls and theatres up to 50% capacity, (iii) swimming pools, only for training of sports persons, (iv) exhibition halls only for business to business purposes, and (v) congregations in closed spaces for social, religious, political, and other purposes up to 50% hall capacity with a ceiling of 200 persons (which states may reduce to 100 persons). Strict compliance of these must be enforced by competent authorities.

States cannot impose local lockdown outside the containment zones without consultation with the central government.[3] In cities where the weekly positive rate exceeds 10%, states may implement staggered office timings or take other measures to reduce the number of employees attending office at the same time. Further, no restriction may be imposed on intra-state and inter-state movement of persons and goods including those for land-border trade with neighbouring countries (based on treaties).

The guidelines continue to mandate directives for COVID-19 management in workplaces and public spaces. These measures include: (i) compulsory wearing of face cover in public spaces and workplaces, and (ii) staggering of work hours in all workplaces.

Government announces stimulus under Aatma Nirbhar Bharat 3.0

Madhunika Iyer (madhunika@prsindia.org)

The Finance Minister announced measures to increase employment, and provide stimulus to certain sectors such as infrastructure and real estate.[4] These measures include:

- **EPF contribution**: The central government will pay the employee provident fund (EPF) contribution for new employees for two years. New employees are defined to include those who (i) joined an EPF Organisation registered establishment for the first time, or (ii) lost employment between March 1 and September 30, 2020, but re-joined the workforce from October 1, 2020. The scheme is open till June 30, 2021, and applies to employees earning less than Rs 15,000 per month. For establishments with less than 1,000 employees, EPF contribution of both the employer and the employee will be covered. For others, the government will only cover the employee's EPF contribution.

- **Extension of credit guarantee scheme**: The Emergency Credit Line Guarantee Scheme was announced as part of the Aatma Nirbhar Bharat Abhiyaan in May.[5] It provides eligible entities additional, collateral-free credit of up to 20% of the outstanding loan value as on February 29, 2020, at capped interest rates. Eligible entities include: (i) MSMEs, those availing individual loans for business purposes, among others, and (ii) those with outstanding credit of up to Rs 25 crore, and annual turnover of up to Rs 100 crore. The period of the loan is four years, one-year moratorium on repayment and three-year repayment period. 100% of the additional credit is guaranteed by the government. The scheme was valid till November 30, 2020.[6]
- The latest announcement extends the scheme till March 31, 2021, covering entities with outstanding loans of up to Rs 50 crore (without any restriction based on turnover).[7] Further, the scheme has been expanded to cover entities in 26 stressed sectors (such as real estate, construction, and hospitality) identified by the Expert Committee on Resolution of COVID-19 related Stress.[8] Entities in these sectors with outstanding loan of between Rs 50 crore and Rs 250 crore are eligible for the scheme. The period of the loan will be five years, one-year moratorium and four-year repayment.
- **Additional budgetary allocation**: The central government has proposed to increase spending under the Pradhan Mantri Awas Yojana -Urban by Rs 18,000 crore for construction of housing in urban areas. This is in addition to Rs 8,000 crore allocated for the scheme in the 2020-21 Budget.
- **Income tax relief for real estate**: Under the Income Tax Act, 1961, a home buyer or a real estate developer (seller) has to pay tax on the difference between the circle rate of the house and the transaction value, if the difference exceeds 10%. This limit has been raised to 20%. The circle rate is the government determined value of a property used for calculating stamp duty.

UGC issues guidelines for reopening of universities and colleges

Anurag Vaishnav (anurag@prsindia.org)

The University Grants Commission (UGC) has issued guidelines for re-opening of universities and colleges, which provide safety and other institutional measures to be taken.[9] Universities and other educational institutions have been closed since March 16, 2020 on account of the COVID-19 pandemic.

The universities and colleges shall be allowed to open only if they are outside the containment zones. Further, students and staff living in containment zones will not be allowed to attend the colleges. For centrally funded higher education institutions outside containment zones, the head of the institution will decide the feasibility of restarting physical classes. For other institutes, the decision will be made by the respective state government. Other aspects of the guidelines include:

- **Phased reopening:** Universities may reopen in phases, by permitting certain categories of students to join first. These include: (i) students in research programmes, or post-graduates in science and technology programmes (as the number of students in such programmes is comparatively less), and (ii) final year students (for academic and placement purposes). For other programmes, online/distance learning should continue to be the preferred mode of teaching. Teaching hours may be extended and a six-day schedule may be followed to conduct classes in phases by breaking classes into multiple sections to ensure distancing.
- **Safety measures:** Students coming from different locations should remain in quarantine for 14 days before being allowed to attend classes. Symptomatic persons should not be permitted to enter the campus. Other safety measures include: (i) thermal scanners, sanitizers and face masks at entry/exit points, (ii) separate isolation and quarantine facilities, and (iii) avoiding all extracurricular activities where physical distancing is not possible, and (iv) sensitising students, teachers and staff regarding the pandemic.

Standing Committee on Health submits report on the COVID-19 pandemic

Anya Bharat Ram (anya@prsindia.org)

The Standing Committee on Health and Family Welfare submitted its report on the outbreak of the COVID-19 pandemic and its management.[10] COVID-19 was declared a pandemic by the World Health Organisation on March 11, 2020. The Committee noted that a downward trend in COVID-19 cases has begun, however the threat of a second wave is high. In this regard, it recommended the following:

- **Financing the health sector:** The Committee recommended that healthcare spending should be increased to 2.5% of the GDP (as compared to 1.6% of GDP in 2019-20) within two years.
- **Health infrastructure:** The Committee observed that the total number of government hospital beds were inadequate to deal with the rise in cases of COVID-19. Further, it noted that the cost and price set for COVID-19 treatment by the government was causing small private hospitals to shut down. It suggested that the government institute fair costing and pricing for COVID-19 treatment in private hospitals.
- **Healthcare workers:** The Committee observed a shortage of healthcare workers due to vacancies in state run hospitals. It recommended that these vacancies be filled at the earliest. Further, it recommended the creation of the Indian Health Service as a public health cadre similar to the Indian Administrative Service.
- **Testing and tracing:** The Committee noted that poor contact tracing and less testing could have been a factor in the growth of COVID-19 cases in the country. Further, it observed that the large-scale use of less reliable rapid antigen tests may adversely impact the containment strategy. It recommended that the number of testing facilities should be increased and accurate tests, such as the RT-PCR test, should be utilised.
- **Vaccines:** The Committee recommended that the whole population should be vaccinated. In this regard, it suggested that: (i) the cost of the vaccine should be subsidised for weaker sections of society, (ii) the cold-storage system across the country should be upgraded, and (iii) vaccines should be administered based on a risk-based approach (where high-risk individuals are vaccinated first).

For a PRS summary of the report, see here.

Order issued to allow states to reopen anganwadis outside containment zones

Prachi Kaur (prachi@prsindia.org)

The Ministry of Women and Child Development issued an order allowing states to reopen anganwadis outside containment zones.[11] States have been allowed to formulate their own Standard Operating Procedures, while adhering to COVID-19 directions given by the Ministry of Health and Family Welfare. The Ministry of Women and Child Development has provided some operational guidelines for the continuation of anganwadi services. These include:

- **Supplementary nutrition**: States may provide cooked food or take-home ration at anganwadis or deliver them at homes, based on the prevailing local situation.
- **Growth monitoring services**: Severely malnourished children, high-risk pregnancy, and lactating mothers should be monitored strictly and be provided home-based service delivery and take-home cooked food.
- **Counselling services**: Counselling on maternal, infant, and young child care and feeding practices may be carried out during home visits, or through video/ telephone calls, or WhatsApp messages.
- **Early childhood care and education**: Preschool education may be resumed in anganwadis in small groups of five to eight children per day. Children may visit the anganwadi once a week and follow up on the lessons at home, with their parent's help. Online preschool education should be encouraged, wherever possible.

Aarogya Setu Data Access and Knowledge Sharing Protocol, 2020 extended up to May 2021

Saket Surya (saket@prsindia.org)

In May 2020, the Ministry of Electronics and Information Technology had released the Aarogya Setu Data Access and Knowledge Sharing Protocol, 2020 in reference to the Aarogya Setu mobile application (app).[12] The protocol was originally applicable up to November 10, 2020 (six months from the date of notification). It has now been extended for another six months, i.e., up to May 10, 2021.[13] The Aarogya Setu app was launched by the central government in April 2020 to enable contact tracing (identification and monitoring of persons who are at a higher risk of being infected by COVID-19) and for users to assess their own risk of getting infected. The protocol aims to ensure secure and efficient collection and sharing of data by the application to protect the personal data of individuals.

For more details on the protocol, please see here.

The Ministry has released the backend code of the Aarogya Setu app.[14] In May 2020, the decision to make Aarogya Setu app open source was announced.[15] Source code of an open source software is freely available for possible modification and redistribution. The source code of the android and iOS applications were released earlier.[15]

Macroeconomic Development

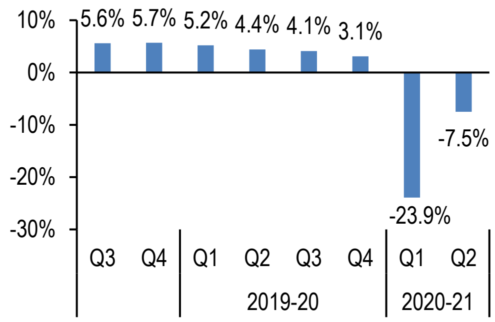
Madhunika Iyer (madhunika@prsindia.org)

GDP contracted by 7.5% in the second quarter of 2020-21

Gross Domestic Product (GDP) (at constant 2011-12 prices) contracted by 7.5% in the second quarter (July-September) of 2020-21 over the corresponding period in 2019-20.[16] This is the second consecutive quarter of contraction in GDP after the contraction of 23.9% in the first quarter of 2020-21. In comparison, GDP growth was 4.4% in the second quarter of 2019-20 and 5.2% in the first quarter of 2019-20.

Cumulatively, GDP contracted by 15.7% in the first half of 2020-21 (April- September) over the corresponding period in 2019-20.

Figure 1: Growth in GDP (%, year-on-year)



Sources: Ministry of Statistics and Programme Implementation; PRS.

GDP across economic sectors is measured in terms of Gross Value Added (GVA). The four sectors with the largest contraction in the first quarter of 2020-21 (construction, trade, manufacturing, and mining) improved their performance in the second quarter. While construction, trade, and mining continued to contract, manufacturing grew by 0.6%. The other sectors recording a growth in the second quarter of 2020-21 were agriculture and electricity. Table 1 provides details on sectoral growth in GVA.

Table 1: Growth in Gross Value Added across sectors in Q2 of 2020-21 (%, year-on-year)

Sector	Q2 2019-20	Q1 2020-21	Q2 2020-21
Agriculture	3.5%	3.4%	3.4%
Mining	-1.1%	-23.3%	-9.1%
Manufacturing	-0.6%	-39.3%	0.6%
Electricity	3.9%	-7.0%	4.4%
Construction	2.6%	-50.3%	-8.6%
Trade	4.1%	-47.0%	-15.6%
Financial services	6.0%	-5.3%	-8.1%
Public services	10.9%	-10.3%	-12.2%
GVA	**4.3%**	**-22.8%**	**-7.0%**
GDP	**4.4%**	**-23.9%**	**-7.5%**

Note: GVA is GDP without taxes and subsidies, at constant prices (2011-12 base year).
Sources: Ministry of Statistics and Programme Implementation; PRS.

Finance

Working Group reviewing ownership and corporate structure in private banks submits report

Madhunika Iyer (madhunika@prsindia.org)

The Internal Working Group to Review Extant Ownership Guidelines and Corporate Structure for Indian Private Sector Banks submitted its report to the Reserve Bank of India.[17] The Terms of Reference of the Group included review of: (i) regulations regarding ownership and control in private banks, (ii) eligibility criteria for entities to apply for banking license, and (iii) norms for promoter shareholding. Key recommendations of the Group include:

- **Promoter shareholding**: The existing guidelines require promoters' shareholding to be at least 40% in the first five years of operations of a new bank. Thereafter, promoter shareholding must be reduced to a maximum of 30 % within 10 years of commencement of operations of the bank, and to 15% within 15 years. The Group recommended retaining the original lock-in of 40%, raising the ceiling on the 15-year promoter shareholding from 15% to 26%, and removing the intermediate targets.
- **Non-promoter shareholding**: The existing guidelines impose different ceilings on long-run shareholding for different kinds of investors in private banks. For instance, while individuals and non-financial institutions can hold up to 10% shares in

private banks, well diversified government financial institutions can hold up to 40% of the shares. The Group recommended a uniform 15% ceiling on long-run, non-promoter shareholding.

- **Ownership of banks by business houses**: The Group recommended that large business houses may be permitted to be promoters of banks. However, it was noted that this would require a legal framework to address lending by the bank to other companies promoted by the same business house. Ownership by large business houses would also require a framework for consolidated supervision.
- **Conversion to banks**: Well-run non-banking financial companies (NBFCs), with asset size of over Rs 50,000 crore, including those owned by large business houses may be converted to a bank. This may be allowed for those NBFCs that have been in operation for over 10 years, and would be subject to suitable safeguards (as may be specified) to manage potential conflict of interest.
- **Licensing new banks**: The Group recommended increasing the minimum initial capital requirement for licensing new banks: (i) for universal banks, from Rs 500 crore to Rs 1,000 crore, (ii) for small finance banks, from Rs 100 crore to Rs 300 crore.

Cabinet approves revised Viability Gap Funding norms for social infrastructure

Suyash Tiwari (suyash@prsindia.org)

The Union Cabinet approved a revised Viability Gap Funding (VGF) scheme for providing financial support to Public Private Partnerships (PPPs) for infrastructure projects.[18] The scheme was started in 2006 to support infrastructure projects that are economically justified, but commercially unviable due to: (i) high capital investment requirements, (ii) long gestation period, and (iii) the inability to increase user charges to commercial levels. Under the existing scheme, the central government provides VGF to cover up to 20% of the project cost. The public partner in the PPP project (e.g. the concerned Ministry, state government, or statutory authority) may additionally cover up to 20% of the project cost. Under the revised scheme, a higher VGF has been approved for the following kinds of social infrastructure projects:

- **Social sectors:** The central government will provide a higher VGF of up to 30% of the project cost to infrastructure projects in social sectors (such as education, health, water supply, waste water treatment, and solid waste management). The public partner in the project may additionally cover up to 30% of the project cost.
- **Pilot projects:** The central and state governments will provide a total VGF of up to 80% of the project cost to pilot projects in education and health sectors. Additionally, they may provide up to 50% of the project's operational cost for the first five years of its commercial operation. Share of the central government will be capped at 40% of the project cost and 25% of the operational cost.

An outlay of Rs 8,100 crore has been approved for the revised scheme for the period 2020-21 to 2024-25. An estimated Rs 2,100 crore will be provided as support to social infrastructure projects, with the remaining Rs 6,000 crore earmarked for economic infrastructure projects.

Committee on retail business development in the IFSC submits report

Madhunika Iyer (madhunika@prsindia.org)

The International Financial Services Centre (IFSC) International Retail Business Development Committee (Chairman: Mr. Injeti Srinivas) submitted its report to the International Financial Services Centre Authority (IFSCA).[19] The Committee made recommendations to develop retail participation in the banking, insurance, and capital markets segments in the IFSC. Key recommendations include:[20]

- **Banking**: Banking units in the IFSC should be allowed to provide banking services to resident Indian retail clients. Clients must also be permitted to open current, savings, and term deposit accounts in any currency of their choice. The Reserve Bank of India (RBI) circular regulating banks operating in the IFSC, allow them to serve non-retail clients.[21] The Committee also recommended that resident Indians be allowed to use the Liberalised Remittance Scheme (LRS) to remit money to an account in the IFSC. LRS allows resident individuals to remit foreign currency for permitted transactions.[22]
- IFSCA notified the Banking Regulations, 2020 for operating banking units in the IFSC, in supersession of RBI's circular.[23] The Regulations outline the regulatory norms, and the set of permitted activities for banking units. Implementing certain recommendations of the Committee, it allows Indian and non-Indian residents, with net worth not less than USD one million, to open foreign currency accounts. It allows Indian residents to undertake permissible transactions using LRS.

- **Insurance**: Non-resident Indians (NRIs) and Persons of Indian Origin (PIOs) should be allowed to buy insurance policies for themselves and family members who are based in India and abroad from insurers in the IFSC. The insurance premium should be payable in any currency and portable (to later permit a change in the currency of payment). Currently, insurers operating in the IFSC are allowed to only transact in foreign currency.[24] The Committee also recommended that resident Indians should be allowed to buy overseas health insurance for medical treatment anywhere in the world. Currently, insurers operating in the IFSC are permitted to transact within the IFSC, with other Special Economic Zones in India, or with entities outside India.
- **Capital markets**: Resident Indians should be allowed to invest in (i) companies listed on the IFSC stock exchanges, (ii) alternative investment funds, and mutual funds in the IFSC (through the LRS route). Currently, resident Indians may invest in entities in the IFSC provided their net worth is at least USD one million and are eligible under Foreign Exchange Management Act (FEMA) to invest funds offshore.[25]

Law and Justice

Arbitration and Conciliation (Amendment) Ordinance issued

Roshni Sinha (roshni@prsindia.org)

The Arbitration and Conciliation (Amendment) Ordinance, 2020 was promulgated.[26] It amends the Arbitration and Conciliation Act, 1996. The Act contains provisions to deal with domestic and international arbitration and defines the law for conducting conciliation proceedings. Key features of the Ordinance include the following:

- **Automatic stay on awards**: The 1996 Act allowed a party to file an application to set aside an arbitral award (i.e., the order given in an arbitration proceeding). Courts had interpreted this provision to mean that an automatic stay on an arbitral award was granted the moment an application for setting aside an arbitral award was made before a court. In 2015, the Act was amended to state that an arbitral award would not be automatically stayed merely because an application is made to a court to set aside the arbitral award.
- The Ordinance specifies that a stay on arbitral award can be provided (even during the pendency of the setting aside application) if the court is satisfied that: (i) the relevant arbitration agreement, or (ii) the making of the award, was induced or effected by fraud or corruption. This change will be effective from October 23, 2015.
- **Qualification of arbitrators**: The Act specified certain qualifications, experience and accreditation norms for arbitrators in a separate schedule. The requirements under this schedule included that the arbitrator must be: (i) an advocate under the Advocates Act, 1962 with 10 years of experience, or (ii) an officer of the Indian Legal Service. Further, the general norms applicable to arbitrators required them to be familiar with the Constitution of India.
- The Ordinance omits the Schedule for arbitrators and states that the qualifications, experience and norms for accreditation of arbitrations will be specified by regulations.

For a PRS Summary of the Ordinance, see here.

Supreme Court passes judgement on the 2020 tribunal rules

Aditya Kumar (aditya@prsindia.org)

The Supreme Court passed a judgement on several aspects of the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020.[27] These Rules set out the qualification, conditions of service and term of members of 19 tribunals.[28]

In 2019, the Supreme Court had struck down an earlier version of the Rules notified in 2017.[29] The Court had then held that these Rules conflicted with various principles of the Constitution which stressed on the need to preserve the independence of the judiciary. The government was asked to re-formulate the rules to align them with the previous judgements of the Court, following which the 2020 Rules were notified.

Key highlights of the recent judgement include:

- **Independent body:** The Court directed the central government to constitute an independent body called the National Tribunals Commission to supervise appointments, as well as functioning and administration of the tribunals. A separate wing under the Ministry of Finance may be set up to supervise the needs of the tribunals till the Commission is constituted.

- **Selection committee:** The Court noted that the selection committees did not give primacy to judicial members in decision making. It specified that the committee should consist of: (i) Chief Justice of India or his nominee (with a casting vote), (ii) the presiding officer of the tribunal OR a retired Supreme Court judge or Chief Justice of High Court in case the presiding officer is not a judicial member or if he is seeking re-appointment, (iii) Secretary to the Ministry of Law and Justice, (iv) Secretary to central government from non-parent Ministry, and (v) Secretary from parent Ministry (without a vote).
- **Qualification of advocates:** Advocates with experience of 10 years will be eligible for appointment as judicial members in tribunals (instead of the current requirement of 25 years in some tribunals).
- **Term:** Tribunal members will have a term of five years instead of four years. Further, the vice-chairman, vice-president and other members will be allowed to hold office till they reach 67 years of age (instead of 65).
- **Effect of the 2020 Rules:** The 2020 Rules will have prospective effect and will be applicable from the date of its notification (February 12, 2020). Further, all appointments made till date of the judgement under the Rules will be valid.
- **Appointments**: Central government must make all tribunal appointments within three months of the recommendations made by the Selection Committee.

Home

Anurag Vaishnav (anurag@prsindia.org)

MHA notifies amendment to Foreign Contribution Regulation Rules

The Ministry of Home Affairs notified amendments to the Foreign Contribution (Regulation) Rules, 2011.[30] These amendments have been notified under the Foreign Contribution Regulation Act, 2010.[31] Key changes made by the 2020 Rules include:

- **Conditions for obtaining registration or prior permission:** Under the Act, a person may accept foreign contribution if they have: (i) a certificate of registration, or (ii) prior permission from the government to accept foreign contribution. Further, they should have undertaken activities in its chosen field for the benefit of society by utilising the foreign contribution. The Rules specify the conditions for utilisation of foreign contribution. For obtaining registration, the applicant should have spent a minimum of Rs 15 lakh for the benefit of society during the last three financial years, among other conditions.
- For obtaining prior permission, the applicant should submit a commitment letter from the donor indicating the amount of foreign contribution and the purpose for which it is given. Further, if the donor organisation and the recipient have common members, the permission will be subjected to certain conditions such as: (i) the chief functionary of the recipient should not be part of the donor organisation, and (ii) 75% of its governing body members should not be part of the foreign donor organisation.
- **Organisations of political nature:** Under the Act, organisations of political nature are prohibited from accepting foreign contribution. The 2011 Rules specify guidelines for the government to declare an organisation to be of political nature. This includes organisations such as: (a) trade unions which aim to promote political goals, (b) organisations of farmers, workers, students or youth with objectives to advance political interests of certain groups, and (c) organisations which employs political actions such as 'bandh' or 'hartal'. For organisations of farmers, workers or students, and for organisations which employs political actions such as 'bandh', the 2020 Rules specify that they will be considered to be of political nature if they participate in active politics.
- **Increase in application fee:** The Rules have increased the application fee: (i) for seeking registration from Rs 3,000 to Rs 5,000, (ii) for seeking prior permission from Rs 5,000 to Rs 10,000, and (iii) for renewal of registration from Rs 1,500 to Rs 5,000.

Labour and Employment

Draft Rules under the Occupational Safety and Health Code released for public comments

Madhunika Iyer (madhunika@prsindia.org)

The Ministry of Labour and Employment released the draft central rules under the

Occupational Safety, Health and Working Conditions Code, 2020.[32,33] The draft Rules will apply to establishments which are under the control of the central government and will replace 13 previous central rules on these matters. Key features of the draft Rules include:

- **Work hours**: The Code provides that no worker shall be allowed to work for more than eight hours a day. It requires the Rules to notify intervals and spread over to meet the eight hours maximum work limit. The draft Rules specify that the work day should not spread over more than 12 hours including intervals for rest. Further, no worker will be allowed to work for more than 48 hours every week.
- **Overtime work**: The Code provides that if a worker exceeds eight hours of work per day, he is entitled to overtime wages at twice the ordinary wage rate. The draft Rules provide that no worker can exceed 125 hours of overtime work in a quarter.
- **Free health examination**: The Code provides that employers will arrange for free annual health examinations for such class of employees, and in such class of establishments as may be prescribed by the appropriate government. The Rules provide that employers of factory, dock, mine, and building or other construction work, must arrange for free medical examination for every worker, above the age of 45 years.
- **Safety Committee**: The Code provides for the constitution of a Safety Committee in such class of establishments as may be prescribed. The draft Rules provide that every establishment employing 500 or more workers shall constitute a Safety Committee.

Comments on the draft Rules are invited until January 3, 2021.

Draft Rules under Code on Social Security released for comments

Roshni Sinha (roshni@prsindia.org)

The Ministry of Labour and Employment released the draft central rules under the Code on Social Security, 2020.[34,35] The Draft Rules will apply to establishments which are under the control of the central government and will replace previous central rules on these matters. Key features of the Draft Rules include:

- **Organised sector schemes**: Under the Code, the central government may notify various social security schemes for the benefit of workers, including provident fund (PF) and employees' insurance (ESI) benefits, as well as maternity benefits and gratuity. The Rules specify detailed procedures for payment of these benefits and provide for the registration of establishments required to pay PF and ESI benefits for workers.
- **Construction workers**: The Code provides for the payment of a cess for the welfare of construction workers and registration to avail of these benefits. The Rules provide for Aadhaar-based registration of construction workers on the portal of the central or state government or the state welfare boards. Cess will be payable on the basis of self-assessment certified by a chartered engineer. When a construction worker migrates from one state to another, he will be entitled to benefits in the state where he is working, and it will be the responsibility of that state's welfare board to provide benefits to such a worker.
- **Unorganised workers, and gig and platform workers**: The Code makes provisions for registration of unorganised, gig and platform workers, and for notification of social security schemes for their benefits. Gig workers refer to workers outside of the traditional employer-employee relationship (e.g., freelancers). Platform workers are workers who access other organisations or individuals using online platforms and earn money by providing them with specific services. Unorganised workers include home-based and self-employed workers.
- The Rules provide for Aadhaar-based registration including self-registration by unorganised, gig and platform workers on a portal of the central government. An unorganised, gig or platform worker must be registered on the portal to avail benefits under social security schemes framed under the Code.
- Gig and platform workers will be eligible to register if they are between 16 and 60 years of age. Further, every aggregator is required to make an annual provisional contribution by June 30 of the year for social security contributions payable to such gig and platform workers.

Comments are invited within 45 days of notification (from November 13, 2020).

AYUSH

Anya Bharat Ram (anya@prsindia.org*)*

Regulations on post graduate Ayurveda education notified

The Central Council of Indian Medicine notified the Indian Medicine Central Council (Post Graduate Ayurveda Education) Amendment Regulations, 2020.[36] It amends the 2016 Regulations issued to regulate post graduate education in Ayurveda.

The 2020 Regulations specify that a post graduate student of Shalya (general surgeries), and Shalakya (diseases of the eye, nose, throat, head, and oro-dentistry) must be practically trained to independently perform certain surgeries. For Shalya students, these surgeries include: (i) drainage of abscesses, (ii) skin grafting, and (iii) amputation of gangrene. For Shalakya students, these surgeries include: (i) tonsillectomy, (ii) deviated septum, (iii) cataract, and (iv) root canal treatment.

Information and Broadcasting

43 mobile apps banned on the grounds of national security and public order

Saket Surya (saket@prsindia.org)

The Ministry of Electronics and Information Technology banned 43 apps on the grounds that these pose a threat to the sovereignty, integrity, defence and security of the state, and public order.[37] These apps include AliExpress, Lalamove, and Snack Video. Use of these apps has been disallowed in both mobile and non-mobile internet-enabled devices. The Ministry had banned 59 mobile apps in June 2020 and 118 mobile apps in September 2020 on similar grounds. The earlier banned apps include TikTok, Shareit, UC Browser, and PUBG Mobile Lite.[38,39]

Committee constituted to review guidelines on television rating agencies

Anurag Vaishnav (anurag@prsindia.org)

The Ministry of Information and Broadcasting has constituted a Committee to review the existing guidelines on television rating agencies.[40] The guidelines specify the eligibility criteria and registration process for television rating agencies. It also specifies the methodology for audience measurement.

For measurement of television ratings, the existing guidelines (2014) prescribed a panel selection from a pool of households where the audience measurement device is placed (sample size for measurement of ratings).[41] It prescribed a sample size of 20,000 households, which was to be increased by 10,000 every year till it reaches 50,000 households.

The Ministry stated that there is a need to review the guidelines keeping in view the technological advancements, and certain recommendations made by the Telecom Regulatory Authority of India (TRAI) in this regard. For this purpose, it has constituted a Committee (Chairperson: Shashi S. Vempati, CEO, Prasar Bharti) to recommend changes in the existing guidelines. The terms and reference of the Committee include: (i) studying past recommendations made on the subject, (ii) making recommendations for a transparent and accountable rating system, and (iii) suggesting steps to enhance competition in the sector.

Note that in April 2020, the TRAI released recommendations on the television rating system in India.[42] It observed that currently, there is only one company registered with the Ministry for providing television rating agencies in the country (Broadcast Audience Research Council, or BARC, an industry-led body). It had recommended changes in the composition of BARC to mitigate the potential risk of conflict of interest. Further, it had recommended that the panel size should be increased from the existing 44,000 to 60,000 by the end of 2020, and to one lakh by the end of 2022. TRAI observed that a larger sample size improves the robustness of measurement rating.

Content provided by digital media and online platforms brought under the Ministry of I&B

Anurag Vaishnav (anurag@prsindia.org)

The government has amended the Allocation of Business Rules, 1961 to bring certain content provided by online platforms under the ambit of Ministry of Information and Broadcasting.[43] The Ministry's business will now include: (i) films and audio-visual programmes made available by online content providers, and (ii) news and current affairs content on online platforms.

The Allocation of Business Rules are made by the President of India under Article 77 of the Constitution which provides for the conduct of business by the different ministries of the government.[44] Note that, under the Rules, policy matters related to internet, cyber-laws and other

IT laws are under the purview of the Ministry of Electronics and Information Technology.

Comments invited on the Draft Data Centre Policy

Saket Surya (saket@prsindia.org)

The Ministry of Electronics and Information Technology (MEITY) invited comments on the Draft Data Centre Policy 2020.[45] The Policy seeks to promote the data centre sector in the country. Data Centres are centralised locations where computing and networking equipment is concentrated for the purpose of collecting, storing, processing, distributing, or allowing access to large amounts of data. The Ministry observed that the advent of the digital economy around the world presents an opportunity for India to become a global data centre hub. It also noted that the need for data centre infrastructure within the boundaries of the country is further necessitated due to the data localisation provisions under various data protection regulations. Key features of the Draft Policy include the following:

- **Infrastructure status**: The central government will work towards providing infrastructure status for the data centre sector, at par with other infrastructure sectors such as Railways and Power. This will enable the data centre operators to avail long-term credit and thus, provide a boost to investments in the sector. Data centre will also be declared as an essential service under the Essential Services Maintenance Act, 1968. The Act empowers the central government to prohibit strikes by employees engaged in rendering essential services.
- **Data centre economic zones and parks**: The central government will set up at least four data centre economic zones in the country as a central sector scheme. States will be encouraged to demarcate land parcels with necessary infrastructures such as road, power, and high capacity internet connectivity for setting up data centre parks.
- **Data Centre Incentivisation Scheme:** A scheme will be formulated by the central government to provide fiscal and non-fiscal incentives for promotion of data centres. Incentives will also be provided for usage of hardware and other equipment manufactured in India.
- **Institutional mechanism**: An Inter-Ministerial Empowered Committee will be set up under the chairmanship of the secretary of the MEITY. The committee will be the key decision-making body for the effective implementation of the policy. A Data Centre Facilitation Unit will be set up within the Ministry as the nodal agency to work under the Committee and support the implementation of its decisions.

Communications

Saket Surya (saket@prsindia.org)

New guidelines for other service providers released

The Department of Telecommunications (DoT) released new guidelines for Other Service Providers (OSPs).[46] The new guidelines seek to reduce the compliance burden for the Business Process Outsourcing (BPO) and IT-enabled services industry.[47] It replaces the guidelines issued in August 2008.[48] Key features of the new guidelines are:

- **Definition of OSPs**: Earlier, the OSPs were defined as companies providing application services including tele-banking, telecommerce, call centre, and other IT-enabled services, by using telecom resources provided by authorised telecom service providers.[48,49] The new guidelines define OSPs as companies providing voice-based business process outsourcing (BPO) services. Hence, as per the new guidelines, BPOs engaged in data-related work will be out of the ambit of OSP regulations.
- **Registration of OSPs**: As per the earlier guidelines, OSPs were required to register with the DoT for offering services in the country. The new guidelines remove the requirement for registration.
- **Work from home facility**: OSPs may employ persons who work from home. Earlier, OSPs were required to seek permission from DoT and provide a bank guarantee for extending the work from home facility. The new guidelines remove these requirements for extending work from home facility.
- **Sharing of infrastructure**: Earlier, sharing of infrastructure between domestic and international OSPs was permitted with prior approval from DoT. The sharing was allowed only between entities of the same company. The OSPs were required to provide a bank guarantee for this purpose. The new guidelines allow the sharing of infrastructure between domestic and

international OSPs. No bank guarantee will be required for this purpose.

Road Transport

Prachee Mishra (prachee@prsindia.org)

Guidelines for taxi aggregators released

The Ministry of Road Transport and Highways released the Vehicle Aggregator Guidelines 2020 as per the Motor Vehicles (Amendment) Act, 2019.[50,51] The Act defines aggregators as digital intermediaries or market places which can be used by passengers to connect with a driver for transportation purposes (taxi services). Aggregators must obtain licenses from the state government to operate. State governments may regulate aggregators based on the guidelines issued by the central government.

The guidelines seek to regulate shared mobility, reduce traffic congestion and pollution, and provide ease of doing business, customer safety, and driver welfare. Key features of the guidelines include:

- **Eligibility:** An applicant must be registered as a company under the Companies Act, 2013, or a co-operative society under the Co-operative Societies Act, 1912. They must also have an office registered in India.
- **Licensing:** License issued to aggregators will be valid for five years after which they will be renewed by the Competent Authority. Licenses may be cancelled by the Authority if the aggregator does not comply with these guidelines. The Authority will update the list of licenses on the state transport authority's portal.
- **Driver guidelines:** Applicants will also have to comply with various guidelines with regard to the drivers including: (i) testing their driving ability as per prescribed guidelines (such as familiarity with the Motor Vehicles Act, 1988, gender sensitisation), (ii) ensuring a valid ID proof and driver's license, (iii) police verification, and (iv) ensuring a health and term insurance for each driver as specified.
- **Vehicle compliance:** Applicants will have to ensure compliances with regard to the vehicles such as: (i) valid registration, permits and fitness certificate, (ii) valid third-party insurance, (iii) compliance with fuel norms, (iv) payment of applicable taxes, and (iv) enabled manual override of central locking system.
- **Fare regulation:** The base fare will be the city taxi fare indexed by WPI for the current year. The aggregator will be allowed to charge a fare 50% lower than the base fare and maximum surge pricing of 1.5 times the base fare. A driver must receive at least 80% of the fare charged on a ride.

FASTags made mandatory for vehicles sold before 2017

The Ministry of Road Transport and Highways notified that from January 1, 2021, FASTag will be mandatory for vehicles that were sold before 2017.[52] Further, a valid FASTag will be mandatory when getting a new third-party insurance. FASTag is an electronic toll collection system operated by the National Highway Authority of India. It was made mandatory for registration of new four-wheeler vehicles in 2017.

Ministry of Road Transport releases several draft rules

The Ministry of Road Transport and Highways released several draft rules amending the Central Motor Vehicles Rules, 1989. Key features of these draft rules include:

Vintage motor vehicles: Currently there are no rules to regulate the registration process of vehicles of heritage value. The draft Rules define vintage motor vehicles as all those vehicles (two-wheelers and four-wheelers used for non-commercial/personal use), and are more than 50 years old from the date of their first registration (including imported vehicles). The vehicle should not have undergone any substantial overhaul.[53]

The state government will appoint a Vintage Motor Vehicles State/ Union Territory Committee which will finalise all decisions regarding approval or rejection of vintage motor vehicles. The state will appoint a nodal officer to process all applications for registration of such vehicles. Sale and purchase of such registered vehicles will be permitted if the buyer and seller inform respective State Transport Authority and registration under the new owner's name would be recorded. A vintage motor vehicle will be allowed to run on Indian roads only for certain things such as display, technical research, taking part in a vintage car rally, and refueling and maintenance.

Registering nominees of motor vehicle owners: The draft Rules provide for the motor vehicle owner to nominate a person when registering a vehicle. This seeks to help the motor vehicle to be registered or transferred in the name of the nominee, in case of the death of the owner of the vehicle.[54]

Housing and Urban Affairs

Prachee Mishra (prachee@prsindia.org)

Report of revenue neutral approach to lower Stamp Duty and Registration Charges for affordable housing released

The Ministry of Housing and Urban Affairs released a report on the impact of changes in stamp duty and registration charges on registration property.[55] This report seeks to provide a rationale for states to lower their stamp duty and registration charges especially for low value housing without compromising their overall revenues from these taxes. Key findings in the report include:

- **Housing for All:** The policy aims to provide housing to all citizens by 2022. Under this policy, the government seeks to increase housing supply by incentivising private developers. However, the policy does not address the issue of high real estate prices directly. One of the key reasons for high housing prices is the high stamp duty and registration charges levied by state governments at the time of a transaction.
- **Stamp duty and registration:** While these tax rates have declines over the past few years, they are still high, and range from 5-13% of the property value. However, since these taxes generate significant revenue for the state governments (around 7%), they are reluctant to lower these taxes which would lower the effective cost of buying a house. In comparison other countries (UK, Japan, Germany) have lower stamp duty rates.
- **Issues:** High stamp duty incentivises under-reporting of transactions and tax evasion. Under-reporting has several consequences such as: (i) inability to fully collateralise land and property, (ii) loss in government revenue, (iii) growth in black money transactions, and (iv) market becoming susceptible to price bubbles. Circle rates or Guidance Values were instituted to curb such under-reporting however they have not been successful.
- **Revenue neutral approach:** The report suggests that states could remain revenue neutral (or even increase revenues) if they lower stamp duties for low value housing. Any revenue lost by lowering taxes would be compensated by additional tax revenues that the new housing stock created under Housing for All would yield. Lowering taxes could spur demand that would bring in additional supply even without the housing policy. It proposes that stamp duties for low value housing are either reduced or removed completely, while duties for higher value housing remain as before.

Civil Aviation

Aditya Kumar (aditya@prsindia.org)

Operation of air transport services from certain defence aerodromes re-authorised

The Ministry of Civil Aviation re-authorised the operation of air transport services from certain defence aerodromes till June 30, 2021.[56] These aerodromes are defence aerodromes which have not been approved by Director General of Civil Aviation (DGCA) as a regular place of landing and departure for any passenger or cargo aircraft. Earlier, air transport services from such aerodromes were allowed till June 30, 2020.[57]

Comments invited on draft national unmanned aircraft system traffic management policy

The Ministry of Civil Aviation released the draft national unmanned aircraft system traffic management (UTM) policy.[58] The policy is aimed at creating a separate safe ecosystem for unmanned aircraft operations in low-level airspace (within 1,000 feet above ground level). The policy identifies 11 UTM operational scenarios. These scenarios include: (i) testing or recreational purposes, (ii) flying within and beyond visual line of sight, (iii) flying in no-fly zones, and (iv) night operations. The policy also provides for a framework to subsequently integrate UTM with existing aircraft traffic.

Airports Authority of India (AAI) will be the nodal agency for regulating the operations on behalf of Director General of Civil Aviation (DGCA). AAI will be responsible to ensure compliance of operations to various standards acceptable by DGCA.

Data security and privacy of unmanned aircraft systems will be governed by the proposed Personal Data Protection Act. The policy recommends all software and hardware systems to be hosted in India.

Further, the policy provides for details on several aspects of the ecosystem including: (i) safety risk management, (ii) hazard risk management,

(iii) operational risk management, and (iv) real-time identification and tracking.

Power

Aditya Kumar (aditya@prsindia.org)

Guidelines for a competitive bidding process for procurement of round the clock power from mixed sources amended

The Ministry of Power amended the guidelines for the tariff-based competitive bidding process for procurement of round-the-clock (RTC) power from renewable energy (RE) sources, complemented with power from coal-based thermal power sources.[59] The guidelines were released in July 2020 to facilitate bundling of renewable energy with thermal sources of energy to address the intermittent nature of renewable energy.[60] The amendments enable bundling of renewable energy with any source of energy. This will facilitate availability of cheap energy for RTC procurement. The key amendments include the following:

- **Bidding parameter:** As per earlier provisions, the composite tariff (tariff for renewable energy complimented with any other source of energy) was the parameter for bid evaluation. The amendments specify weighted average levelized tariff per unit supply of RTC power as the parameter for bid evaluation. The weighted average levelized tariff is the tariff determined by considering the proportion of energy from RE sources and non-RE sources as specified in the power purchase agreement (PPA). It will include: (i) fixed component of RE power and non-RE power (such as investment on equipment and infrastructure). The fixed component of tariff is required to be quoted in each year of the duration of PPA. The variable component is required to be quoted as on the scheduled date of commissioning.
- **Penalty for shortfall in power availability:** The guidelines released in July 2020 specified that:(i) annually at least 51% of power must come from renewable sources, and (ii) the renewable power generator is required to ensure at least 85% availability of power annually and during the peak hours. In case these targets are not achieved, the power generators were subject to a penalty of 25% of the cost of this shortfall in energy terms (calculated at the maximum composite tariff payable during the year). The amendments increase the penalty to 400% of the cost of this shortfall in energy terms, calculated at the applicable tariff payable during the year.
- **Peak hours:** Currently, peak hours are defined as four hours a day during either evening or morning as mentioned in the bidding documents by the procurer. As per the amendments, the peak hours will be four hours a day as defined by the regional load despatch centres.

Equity lock-in period for selection of transmission service provider for interstate transmission system amended

The Ministry of Power amended the equity lock in period specified in the standard bidding documents for selecting transmission service provider through tariff-based competitive bidding process to establish inter-state transmission system.[61]

As per earlier provision, the selected bidder was required to hold at least 51% paid up equity share capital for two years after the commercial operation date and 26% for a period of three years thereafter. The amendments specify that the selected bidder is required to hold at least 51% paid up equity share capital only for one year after the commercial operation date.

In case of a consortium of bidders for Request for Proposals, the consortium was required to hold an aggregate equity share capital of 51% for two years after commercial operating date with lead member having 26% of shareholding for five years after commercial operation date. The amendments now require the consortium to hold aggregate equity share capital of 51% for one year after commercial operating date with the lead member having 26% of shareholding for one year after the commercial operation date of the project.

PM-KUSUM scheme targets revised

The Ministry of New and Renewable Energy revised the targets of Pradhan Mantri Kisan Urja Suraksha evam Utthaan Mahaabhiyaan (PM-KUSUM) scheme.[62] The scheme was launched in March 2019 for solarisation of agriculture pumps. The scheme planned to add solar and other renewable capacity of 25.8 GW by 2022 with total financial support of Rs 34,422 crore.[63] The scheme is being expanded to achieve 30.8 GW of enhanced solar capacity by 2022 with revised financial support of Rs 34,035 crore from the central government.

The scheme is divided into three components – A, B, and C. As per earlier target, component A was aimed at achieving 10,000 MW of decentralised ground mounted grid-connected solar power plants of individual plant size of 2 MW. Component B was aimed at installation of 17.5 lakh standalone solar powered agricultural pumps of individual capacity up to 7.5 HP. Component C was aimed at solarisation of 10 lakh grid-connected agricultural pumps of individual pump capacity up to 7.5 HP.[63] While there is no change in the target under Component A, under the revised scheme,: (i) the installation target under Component B has been increased from 17.5 lakh pumps to 20 lakh pumps, and (ii) solarisation target under Component C has been increased from 10 lakh pumps to 15 lakh pumps.

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