

**Bill No. 2 of 2018**

THE NEW DELHI INTERNATIONAL ARBITRATION  
CENTRE BILL, 2018

ARRANGEMENT OF CLAUSES

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**Bill No. 2 of 2018**

THE NEW DELHI INTERNATIONAL ARBITRATION CENTRE  
BILL, 2018

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BILL

*to provide for the establishment and incorporation of New Delhi International Arbitration Centre for the purpose of creating an independent and autonomous regime for institutionalised arbitration and for acquisition and transfer of undertakings of the International Centre for Alternative Dispute Resolution and to vest such undertakings in the New Delhi International Arbitration Centre for the better management of arbitration so as to make it a hub for institutional arbitration and to declare the New Delhi International Arbitration Centre to be an institution of national importance and for matters connected therewith or incidental thereto.*

WHEREAS dispute resolution process has a huge impact on the Indian economy and global perception on doing business in our country and it has become necessary to inspire confidence and credibility among the litigants of commercial disputes;

AND WHEREAS rapidly changing economic activity demands expeditious settlement of disputes and creation and establishment of institutional arbitration;

AND WHEREAS the International Centre for Alternative Dispute Resolution was set-up in the year 1995, under the aegis of the Central Government and registered under the Societies Registration Act, 1860, with the objective of promoting alternative dispute resolution mechanism and providing facilities for the same;

AND WHEREAS the International Centre for Alternative Dispute Resolution has received land and substantial funding by way of grants and other benefits from the Central Government for constructing infrastructure and making other facilities;

AND WHEREAS the International Centre for Alternative Dispute Resolution has not been able to actively engage and embrace developments in the arbitration ecosystem and to create a reputation par excellence keeping pace with the dynamic nature of arbitration over more than two decades;

AND WHEREAS studies conducted by the High Powered Committee appointed by the Central Government indicate that the International Centre for Alternative Dispute Resolution has failed to address the growing needs of the institutional arbitration and also to bear optimum caseload and to become better choice to the parties for arbitration;

AND WHEREAS it has become expedient to take over the undertakings of the International Centre for Alternative Dispute Resolution including its regional offices without interfering with its activities and without adversely affecting its character as a Society but to utilise its existing infrastructure and other facilities which have been set-up by using the public funds provided by the Government and to incorporate a robust institution for domestic and international arbitration to be known as the New Delhi International Arbitration Centre;

AND WHEREAS it is considered necessary to declare the New Delhi International Arbitration Centre as an institution of national importance for its overall development as a major arbitration hub by promoting quick and efficient dispute resolution mechanism;

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

## CHAPTER I

### PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the New Delhi International Arbitration Centre Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint: 5

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. (1) In this Act, unless the context otherwise requires,— 10

(a) “Chairperson” means the Chairperson of the Centre referred to in clause (a) of section 5;

(b) “Chief Executive Officer” means the Chief Executive Officer appointed under section 21;

(c) “Committee” means relevant committee of the Centre referred to in section 19; 15

(d) “Centre” means the New Delhi International Arbitration Centre established and incorporated under section 3;

(e) “Custodian” means the person who is appointed as custodian under section 11 in respect of the undertakings;

(f) “Fund” means the Fund of the Centre to be maintained under section 25; 20

(g) “Member” means Full-time or Part-time Member of the Centre and includes the Chairperson;

(h) “notification” means a notification published in the Official Gazette;

(i) “prescribed” means prescribed by rules made by the Central Government under this Act; 25

(j) “regulations” means the regulations made by the Centre under this Act;

21 of 1860. (k) “Society” means the International Centre for Alternative Dispute Resolution, registered as such under the Societies Registration Act, 1860, and having its registered office at New Delhi;

5 (l) “specified date” means the date as may be specified by the Central Government by notification;

(m) “undertakings” means the undertakings of the Society which vests with the Central Government under section 7.

26 of 1996. (2) All other words and expressions used herein but not defined and defined in the Arbitration and Conciliation Act, 1996, shall have the same meanings as assigned to them in that Act.  
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## CHAPTER II

### ESTABLISHMENT AND INCORPORATION OF NEW DELHI INTERNATIONAL ARBITRATION CENTRE

15 **3.** (1) The Central Government shall by notification establish a body to be called the New Delhi International Arbitration Centre for the purposes of exercising the powers and discharging the functions under this Act.

Establishment and incorporation of New Delhi International Arbitration Centre.

(2) The Centre shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to enter into contract, and shall, by the said name, sue or be sued.

20 **4.** (1) Whereas, the objects of the New Delhi International Arbitration Centre are such as to make it as an institution of national importance, it is hereby declared that the New Delhi International Arbitration Centre is an institution of national importance.

Declaration of New Delhi International Arbitration Centre as an institution of national importance.

(2) The head office of the Centre shall be at New Delhi and it may with the previous approval of the Central Government, establish branches at other places in India and abroad.

25 **5.** The Centre shall consist of the following Members, namely:—

Composition of Centre.

(a) a person, who has been a Judge of the Supreme Court or a Judge of a High Court or an eminent person, having special knowledge and experience in the conduct or administration of arbitration, appointed by the Central Government in consultation with the Chief Justice of India—Chairperson;

30 (b) two eminent persons having substantial knowledge and experience in institutional arbitration, both domestic and international, appointed by the Central Government—full-time or part-time Members;

(c) one representative of a recognised body of commerce and industry, chosen on rotational basis by the Central Government—part-time Member;

35 (d) Secretary to the Government of India in the Ministry of Law and Justice or his representative, not below the rank of the Joint Secretary—Member, *ex officio*;

(e) one Financial Adviser nominated by the Ministry of Finance—Member, *ex officio*; and

(f) Chief Executive Officer—Member, *ex officio*.

40 **6.** (1) The Chairperson and Members shall hold office for a term of three years from the date on which they enter upon their office and shall be eligible for reappointment:

Terms and conditions, etc., of Chairperson and Members.

Provided that no Chairperson or Member shall hold office as such after he has attained the age of seventy years in the case of Chairperson and sixty-seven years in the case of a Member.

45 (2) The terms and conditions, salary and allowances payable to the Chairperson and Full-time Member shall be such as may be prescribed.

(3) The term of office of a Member appointed to fill a casual vacancy shall be for the remainder of the term of the Member in whose place he has been appointed.

(4) The part-time Members shall be entitled to such travelling and other allowances as may be prescribed.

### CHAPTER III

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#### ACQUISITION AND TRANSFER OF UNDERTAKINGS OF SOCIETY

Transfer and vesting.

**7.** On and from the specified date, so much of the undertakings of the Society as form part of, or are relatable to the Society, and the right, title and interest of the Society in relation to such undertakings, shall, by virtue of this Act, stand transferred to, and vest in, the Central Government.

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General effect of vesting.

**8.** (1) The undertakings vested under section 7 shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges, and all property (movable and immovable), including lands, buildings, works, projects, instruments, automobiles and other vehicles, cash balances, Funds, including reserve Funds, investments and book debts of the Society as form part of, or are relatable to, the Society and all other rights and interest arising out of such properties as were immediately before the appointed day in the ownership, possession, power or control of the Society, and all books of account, registers and all other documents of whatever nature relating thereto.

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(2) All properties and assets as aforesaid which have vested in the Central Government under section 7 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other encumbrances affecting them or of any attachment, injunction, decree or order of any court or other authority restricting the use of such properties or assets in any manner or appointing any receiver in respect of the whole or any part of such properties or assets shall be deemed to have been withdrawn.

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(3) Any licence or other instrument granted to the Society in relation to any undertaking which has vested in the Central Government under section 7 at any time before the specified date and in force immediately before the specified date, shall continue to be in force on and after such day in accordance with its tenor in relation to and for the purpose of such undertaking or where the undertaking is directed under section 10, to vest in the Centre, the Centre shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to the Centre and the Centre shall hold it for the remainder of the period which the Society would have held it under the terms thereof.

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(4) If, on the specified date, any suit, appeal or other proceeding, of whatever nature, in relation to any property or asset which has vested in the Central Government under section 7, instituted or preferred by or against the Society is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the Society of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government or where the undertakings of the Society are directed under section 10, to vest in the Centre, by or against the Centre.

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Liability prior to specified date.

**9.** Every liability in relation to any undertaking in respect of any period prior to the specified date, shall be enforceable against the Society and not against the Central Government.

Power of Central Government to direct vesting of undertaking in Centre.

**10.** (1) Notwithstanding anything contained in sections 7 and 8, the Central Government shall, as soon as may be after the specified date, direct by notification, that the undertakings and the right, title and interest of the Society in relation to such undertakings which had vested in the Central Government under section 7, shall, vest in the Centre either on the date of publication of the notification or on such earlier or later date as may be specified in the notification.

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(2) Where the right, title and interest of the Society in relation to the undertakings vest, under sub-section (1), in the Centre, the Centre shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings and the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become, the rights and liabilities, respectively, of the Centre.

**11.** (1) The general superintendence, direction, control and management of affairs of the undertakings, the right, the interest in relation to which have vested in the Central Government under section 7, shall—

Management, etc., of undertakings.

(a) where a direction has been made by the Central Government under sub-section (1) of section 10, vest in the Centre; or

(b) where no such direction has been made by the Central Government, vest in the Custodian appointed by the Central Government under sub-section (2),

and, thereupon, the Centre or the Custodian so appointed, as the case may be, shall be entitled to exercise all such powers and do all such things as the Society, is authorised to exercise and do in relation to its undertakings.

(2) The Central Government may appoint any person as the Custodian of the undertakings in relation to which no direction has been made by it under sub-section (1) of section 10.

(3) The Custodian so appointed shall receive such remuneration as the Central Government may fix and shall hold office during the pleasure of the Central Government.

**12.** (1) On the vesting of the management of the undertakings in the Centre or on the appointment of a Custodian under sub-section (2) of section 11, all persons in charge of management of the undertakings immediately before such vesting or appointment shall be bound to deliver to the Centre or Custodian, as the case may be, all assets, books of account, registers and other documents in their custody relating to the undertakings.

Duties of persons in charge of management of undertakings to deliver all assets.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Custodian as to the powers and duties of the Custodian and such Custodian may also, if it is considered necessary so to do, apply to the Central Government at any time for instructions as to the manner in which the management of the undertaking shall be conducted or in relation to any other matter arising in the course of such management.

(3) Any person who on the specified date, has in his possession or under his control, any books, documents or other papers relating to the undertakings shall be liable to account for the said books, documents or other papers to the Central Government or the Custodian or the Centre, as the case may be, and shall deliver them to the Central Government or the Custodian or the Centre or to such person or body of persons as the Central Government or the Centre may specify in this behalf.

(4) The Central Government or the Centre may take or cause to be taken, all necessary steps for securing possession of all undertakings which have vested in the Central Government or the Centre under this Act.

(5) The Society shall, within such period as the Central Government may allow in this behalf, furnish to that Government a complete inventory of all its properties and assets, as on the appointed day pertaining to the undertaking and for this purpose, the Central Government or custodian or the Centre shall afford to the Society, or body all reasonable facilities.

**13.** The Central Government or custodian or the Centre shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Society in relation to its undertakings which have vested in the Central Government or Custodian or the Centre as the case may be, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

Certain powers of Central Government or Centre.

Objects of  
Centre.

**14.** The objects of the Centre shall be—

(a) to bring targeted reforms to develop itself as a flagship institution for conducting international and domestic arbitration;

(b) to promote research and study, providing teaching and training, and organising conferences and seminars in arbitration, conciliation, mediation and other alternative dispute resolution matters;

(c) to provide facilities and administrative assistance for conciliation, mediation and arbitral proceedings;

(d) to maintain panels of accredited arbitrators, conciliators and mediators both at national and international level or specialists such as surveyors and investigators;

(e) to collaborate with other national and international institutions and organisations for ensuring credibility of the Centre as a specialised institution in arbitration and conciliation;

(f) to set-up facilities in India and abroad to promote the activities of the Centre;

(g) to lay down parameters for different modes of alternative dispute resolution mechanisms being adopted by the Centre; and

(h) such other objectives as it may deem fit with the approval of the Central Government.

Functions of  
Centre.

**15.** Without prejudice to the provisions contained in section 14, the Centre shall strive,—

(a) to facilitate for conducting international and domestic arbitration and conciliation in the most professional manner;

(b) to provide cost effective and timely services for the conduct of arbitration and conciliation at national and international level;

(c) to promote studies in the field of alternative dispute resolution and related matters, and to promote reforms in the system of settlement of disputes;

(d) to undertake teaching and to provide for diffusion of knowledge of law and procedures on alternative dispute resolution and related matters and to award certificates and other academic or professional distinction;

(e) to impart training in alternative dispute resolution and related matters to those who are handling arbitration, conciliation and mediation;

(f) to cooperate with other Societies, institutions and organisations, national or international for promoting alternative dispute resolution; and

(g) to perform such other functions as may be entrusted to it by the Central Government for promoting alternative dispute resolution.

Vacancies, etc.,  
not to  
invalidate  
proceedings of  
Centre.

**16.** No act or proceeding of the Centre shall be invalid merely by reason of—

(a) any vacancy or any defect in the constitution of the Centre;

(b) any defect in the appointment of a person acting as a Member of the Centre; or

(c) any irregularity in the procedure of the Centre not affecting the merits of the case.

Resignation of  
Members.

**17.** The Chairperson or the Full-time or Part-time Member may, by notice in writing, under his hand addressed to the Central Government, resign his office:

Provided that the Chairperson or the Full-time Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

**18.** (1) The Central Government may, remove a Member from his office if he— Removal of Members.

(a) is an undischarged insolvent; or

(b) has engaged at any time (except Part-time Member), during his term of office, in any paid employment; or

5 (c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

10 (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has become physically or mentally incapable of acting as a Member.

(2) Notwithstanding anything contained in sub-section (1), no Member shall be removed from his office on the grounds specified in clauses (d) and (e) of that sub-section unless the Supreme Court, on a reference being made to it in this behalf by the Central Government, has, on an inquiry, held by it in accordance with such procedure as may be prescribed in this behalf by the Supreme Court, reported that the Member, ought on such ground or grounds to be removed.

**19.** (1) The Centre may constitute such committees as may be considered necessary to administer various aspects of its functions. Committees of Centre.

20 (2) The composition and functions of the committees referred to in sub-section (1) shall be such as may be prescribed.

(3) The Committee shall meet at such time and at such places and shall observe such rules of procedure in regard to the transaction of business at its meetings including the quorum as may be specified by regulations.

25 **20.** (1) The Chairperson shall ordinarily preside at the meetings of the Centre: Meetings of Centre.

Provided that, in his absence, the Member chosen by the other Members present amongst themselves shall preside at the meetings.

(2) It shall be the duty of the Chairperson to ensure that the decisions taken by the Centre are implemented.

30 (3) The Chairperson shall exercise such other powers and perform such other duties as are assigned to him under this Act.

(4) The Centre shall meet at least four times a year and follow such procedure in its meetings including quorum at such meetings in such manner as may be specified by regulations.

35 (5) All questions which come up before any meeting of the Centre shall be—

(a) decided by a majority of votes by the Members present and voting, and in the event of an inequality of votes, the Chairperson or in his absence, the person presiding, shall have a casting vote;

40 (b) dealt with as expeditiously as possible and the Centre shall dispose of the same within a period of sixty days from the date of receipt of the application:

Provided that where any such application could not be disposed of within the said period of sixty days, the Centre shall record its reasons in writing for not disposing of the application within that period.

45 (6) The Chairperson may invite any expert, not being a Member, to attend the meetings of the Centre, but such invitee shall not be entitled to vote at the meeting.

Chief Executive Officer.	<p><b>21.</b> (1) There shall be a Chief Executive Officer of the Centre who shall be responsible for day-to-day administration of the Centre and for this purpose, he shall maintain liaison with the Centre and the Secretariat.</p> <p>(2) The appointment, qualifications and the terms and conditions of services of the Chief Executive Officer shall be such as may be specified by regulations.</p> <p>(3) The Chief Executive Officer shall exercise such powers and discharge such functions as may be specified by regulations or as may be delegated to him by the Centre.</p>	5
Delegation of powers.	<p><b>22.</b> The Centre may, for the purpose of discharging of its powers, functions and duties, by general or special order in writing, specify the powers and duties conferred or imposed upon the Centre by or under this Act (except the power to make regulation) which may also be exercised or performed by the Chief Executive Officer or any officer or officers of the Centre and the conditions and restrictions, if any, subject to which the powers and duties may be exercised and performed.</p>	10
Secretariat.	<p><b>23.</b> (1) There shall be a Secretariat to the Centre consisting of—</p> <p>(a) Registrar, who shall supervise the activities of the Centre;</p> <p>(b) Counsel, dealing with the matters relating to domestic and international arbitration; and</p> <p>(c) such number of other officers and employees as may be prescribed.</p> <p>(2) The qualifications, experience, method of selection and the functions of the Registrar, Counsel and other officers and employees shall be such as may be prescribed.</p>	15 20
<p><b>CHAPTER IV</b></p> <p><b>FINANCE, ACCOUNTS AND AUDIT</b></p>		
Grants by Central Government.	<p><b>24.</b> The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Centre in each financial year such sums of money and in such manner as it may think fit for being utilised for the purposes of this Act.</p>	25
Fund of Centre.	<p><b>25.</b> (1) The Centre shall maintain a Fund to which shall be credited—</p> <p>(a) all monies provided by the Central Government;</p> <p>(b) all fees and other charges received during or in connection with the arbitration, conciliation, mediation or other proceedings;</p> <p>(c) all monies received by the Centre for the facilities provided by it to the parties;</p> <p>(d) all monies received by the Centre in the form of donations, grants, contributions and income from other sources; and</p> <p>(e) the amount received from the investment income.</p> <p>(2) All monies credited to the Fund shall be deposited in such banks or invested in such manner as may be decided by the Centre.</p> <p>(3) The Fund shall be applied towards meeting the salary and other allowances of Members and the expenses of the Centre including expenses incurred in the exercise of its powers and discharge of its duties under this Act.</p>	30 35
Accounts and audit.	<p><b>26.</b> (1) The Centre shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet, in such form and manner as may be prescribed in consultation with the Comptroller and Auditor-General of India.</p> <p>(2) The accounts of the Centre shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Centre to the Comptroller and Auditor-General of India.</p>	40 45

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

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

27. The assets and liabilities in relation to any undertaking under this Act shall be caused to be assessed by any agency authorised by the Comptroller and Auditor-General of India in such manner as may be specified by him and any payment on a claim to be made in relation thereto shall be settled by him between the Society and the Central Government and shall be paid by the Society or the Central Government, as the case may be, in the manner as may be specified by the Comptroller and Auditor-General of India.

Assessment of assets and liabilities of undertaking.

## CHAPTER V

### CHAMBER OF ARBITRATION AND ARBITRATION ACADEMY

28. (1) The Centre shall, establish a Chamber of Arbitration which shall empanel the Arbitrators and also scrutinise the applications for admission in the panel of reputed arbitrators to maintain a permanent panel of arbitration.

Chamber of Arbitration.

(2) The Chamber of Arbitration shall consist of experienced arbitration practitioners of repute, at national and international level and persons having wide experience in the area of alternative dispute resolution and conciliation.

(3) The Centre shall by regulations lay down the criteria for admission to the panel of the cadre so as to maintain a pool of reputed arbitrators having expertise in international commercial arbitration and arbitration other than international commercial arbitration.

(4) The Registrar to the Secretariat of the Centre shall act as the Member-Secretary to the Chamber of Arbitration.

29. (1) The Centre may establish an Arbitration Academy—

Arbitration Academy.

(a) to train the arbitrators, particularly in the area of international commercial arbitration to compete on par with the reputed international arbitral institutions;

(b) to conduct research in the area of alternative dispute resolution and allied areas; and

(c) to give suggestions for achieving the objectives of the Act.

(2) For the purposes of sub-section (1), there may be constituted a permanent three member committee in order to suggest and to submit a report to the Centre with respect to the amendments, if any, necessary to the rules and regulations pertaining to the Act.

## CHAPTER VI

### MISCELLANEOUS

30. (1) The Central Government may, by notification make rules to carry out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may make provision for—

(a) the terms and conditions and the salary and allowances payable to the Chairperson under sub-section (2) of section 6;

(b) the travelling and other allowances payable to the part-time Members under sub-section (4) of section 6;

(c) the composition and functions of the committees referred to in sub-section (2) of section 19;

(d) the number of officers and employees of the Secretariat of the Centre under clause (c) of sub-section (1) of section 23;

(e) the qualifications, experience, method of selection and the functions of the Registrar, Counsel and other officers and employees of the Centre under sub-section (2) of section 23; 5

(f) annual statement of accounts, including the balance sheet under sub-section (1) of section 26; and

(g) any other matter in respect of which provision is to be made or may be made under this Act. 10

Power to make regulations.

**31.** (1) The Centre may, with the previous approval of the Central Government, by notification, make regulations consistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the purposes of this Act. 15

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may make provision for—

(a) the time and place and the rules of procedure to be observed in regard to the transaction of business of the Committee at the meeting including the quorum under sub-section (3) of section 19; 20

(b) the time and place and rules of procedure in regard to the transaction of business of the Centre or any Committee including the quorum at the meeting under sub-section (4) of section 20;

(c) the appointment, qualifications and the terms and conditions of service of the Chief Executive Officer under sub-section (2) of section 21; 25

(d) the powers and functions of the Chief Executive Officer under sub-section (3) of section 21;

(e) the criteria for admission to the power of arbitration under sub-section (3) of section 28; and

(f) any other matter in respect of which provision, in the opinion of the Centre, is necessary for the performance of its functions under this Act. 30

Laying of rules and regulations.

**32.** Every rule and regulation 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 regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation. 40

Protection of action taken in good faith.

**33.** No suit, prosecution or other legal proceedings shall lie against the Centre, the Chairperson or Members or its employees and arbitrators for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Power to remove difficulty.

**34.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty: 45

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament. 50

## STATEMENT OF OBJECTS AND REASONS

The dispute resolution process has a huge impact on the economy and doing business in our country. The rapidly changing economic activity demands expeditious settlement of disputes, creation and establishment of mechanism such as institutional arbitration. This is necessary to inspire confidence and credibility among the litigants of commercial disputes. The huge pendency of cases in courts further underlines the need for strengthening the Alternative Dispute Resolution mechanism.

2. With a view to promote institutional arbitration and to make India a hub of international arbitration, a High Level Committee headed by Mr. Justice B. N. Srikrishna former Judge, Supreme Court of India was constituted, *inter alia*, to identify the roadblocks in the development of institutional arbitration, examine specific issues affecting the Indian arbitration landscape and prepare a roadmap for making India a robust centre for international and domestic arbitration.

3. The Committee, *inter alia*, recommended that the International Centre for Alternative Dispute Resolution (ICADR), which was set up in the year 1995, with the Government funds to promote alternative dispute resolution mechanism has however not been able to achieve the objectives for which it had been set up. The Committee further recommended that ICADR should be taken over with complete revamp of its governance structure to include only experts of repute who can lend credibility and respectability to the institution and be re-branded as a centre of national importance to highlight its character as a flagship arbitral institution.

4. In view of the above, it has been decided to establish a new institution to be called the New Delhi International Arbitration Centre (NDIAC) for better management of arbitration in the country and to declare it an institution of national importance. Further, the undertakings of the International Centre for Alternative Dispute Resolution (ICADR) needs to be taken over without interfering with the activities and without adversely affecting the character of ICADR as a Society, so that the existing infrastructure and other facilities which have been set up by the public funds provided by the Government may be appropriately utilised for the overall development of institutional mechanism in arbitration.

5. The Bill envisages appointment of persons of repute and having knowledge and expertise in institutional arbitration as Chairperson and Members of the NDIAC. The objects of the NDIAC would be to bring targeted reforms to develop it as a flagship institution for domestic and international arbitration. It will conduct arbitration in a professional manner in the most cost effective way. The Bill also proposes to set up an Arbitration Chamber, which would empanel professional arbitrators at national and international level. An Arbitration Academy is also proposed to be set up by NDIAC to train arbitrators in India, so as to empower them to compete on par with reputed arbitral institutions.

6. The Bill seeks to achieve the above objectives.

RAVI SHANKAR PRASAD.

NEW DELHI;  
The 26th December, 2017.

### *Notes on clauses*

*Clause 2* defines various expressions used in the Bill.

*Clause 3* provides for the establishment of a body corporate by the name the New Delhi International Arbitration Centre, with perpetual succession, a common seal, power to acquire, hold or dispose of property, power to enter into contract and the power to sue and be sued in its own name.

*Clause 4* provides for the declaration of New Delhi International Arbitration Centre as an institution of national importance with head office at New Delhi and branches at other places in India and abroad.

*Clause 5* seeks to provide for the composition of the Centre. The Centre shall consist of one chairperson who is a person, who has been a judge of the Supreme Court or a Judge of a High Court or an eminent person, having special knowledge and experience in the conduct or administration of arbitration, two eminent persons having substantial knowledge and experience in institutional arbitration, both domestic and international as full-time or part-time Member, one representative of a recognised body of commerce and industry as part-time Member and one Member each from the Ministry of Law and Justice and Ministry of Finance and the Chief Executive officer of the Centre as Members *ex officio*.

*Clause 6* seeks to provide for the term of office of Chairperson and Members of the Centre, their terms and conditions, salary and allowances of the Chairperson and full-time Members and travelling and other allowances payable to the part-time Members.

*Clause 7* provides for the transfer and vesting of the undertakings of the International Centre for Alternative Dispute Resolution (Society) with right, title and interest in the Central Government on and from the specified date.

*Clause 8* seeks to provide that the vesting in the Central Government shall be deemed to include all assets, rights, leaseholds, powers, authorities and privileges, and all property (movable and immovable) including lands, buildings, works, projects instruments, automobiles and other vehicles, cash balances, funds, including reserve funds, investments and book debts of the society. It also provides that properties vested in Central Government shall be freed and discharged from any trust obligation, mortgage, charge, lien and other encumbrances and also any attachment, injunction, decree or order of the court or authority restricting the use of such properties or assets in any manner or appointing any receiver in respect of the whole or any part of such properties or assets shall be deemed to have been withdrawn. It further provides that any licence or other instrument granted to the Society in relation to any undertaking which has vested in the Central Government shall continue to be in force on and after the specified date and the Centre shall be deemed to be substituted in such licence or other instrument as if such licence or other instrument had been granted to the Centre and the Centre shall hold it for the remainder of the period. It further provides that any suit, appeal or other proceeding of whatever nature instituted or preferred by or against the society in relation to any property or asset which has vested in the Central Government, shall not abate and the suit, appeal or other proceeding may be continued, prosecuted or enforced against the Central Government or the Centre.

*Clause 9* seeks to provide that every liability in relation to any undertaking in respect of any period prior to the specified date shall be enforceable against the Society and not against the Central Government.

*Clause 10* provides that the Central Government shall, as soon as may be after the specified date, direct by notification that the undertakings and the right, title and interest of the Society in relation to such undertakings which had vested in the Central Government

shall vest in the Centre either on the date of publication of the notification or on such earlier or later date as may be specified in the notification. It further provides that the Centre shall on and from the date of such vesting shall be deemed to have become the owner in relation to such undertakings and the rights and liabilities to the Central Government in relation to such undertakings shall be deemed to have become the rights and liabilities of the Centre.

*Clause 11* seeks to provide for the general superintendence, direction, control and management of the affairs of the undertakings by the Centre on issuing direction by the Central Government and also to appoint Custodian of the undertakings by the Central Government on such remuneration as may be fixed and who shall hold office during the pleasure of the Central Government.

*Clause 12* seeks to provide that on the vesting of the management of the undertakings in the Centre or on the appointment of a Custodian, all persons in charge of management of the undertakings immediately before such vesting or appointment shall be bound to deliver to the Centre or Custodian, as the case may be, all assets, books of account, registers and other documents in their custody relating to the undertaking. It further provides that the Central Government may issue such directions regarding powers and duties of the Custodian and the Custodian may also seek instructions from the Central Government as to the manner in which the management of the undertaking shall be conducted or in relation to any other matter arising in the course of such management. It also provides that any person who on the specified date, has in his possession or under his control, any books, documents or other papers relating to the undertakings shall be liable to account for such books, documents and other papers and shall deliver such documents to the Central Government or the Custodian or the Centre, as the case may be. It also provides that the Central Government or the Centre may take or cause to be taken all necessary steps for securing possession of all undertakings which have vested in the Central Government or the Centre. It also provides that the Society shall within such period as the Central Government may allow, furnish a complete inventory of all its properties and assets, as on the appointed day pertaining to the undertakings.

*Clause 13* seeks to provide that the Central Government or Custodian or the Centre shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Society in relation to its undertakings which have vested in the Central Government or Custodian or the Centre as the case may be, and realised after the appointed day, notwithstanding that the realisation pertains to a period prior to the appointed day.

*Clause 14* seeks to provide for the objects of the Centre i.e., to bring targeted reforms to develop itself as a flagship institution for conducting international and domestic arbitration; to promote research and study, providing teaching and training, organising conferences and seminars in arbitration, conciliation, mediation and other alternative dispute resolution matters; to provide facilities and administrative assistance for conciliation, mediation and arbitral proceedings; to maintain panels of accredited arbitrators, conciliators and mediators both at national and international level or specialists such as surveyors and investigators; to collaborate with other national and international institutions and organisations for ensuring credibility of the Centre as a specialised institution in arbitration and conciliation; to set up facilities in India and abroad to promote the activities of the Centre; to lay down parameters for different modes of alternative dispute resolution mechanisms being adopted by the Centre; and such other objectives as it may deem fit with the approval of the Central Government.

*Clause 15* seeks to provide the functions of the Centre including the function to facilitate for conducting international and domestic arbitration and conciliation in the most professional manner; to provide cost effective and timely services for the conduct of the arbitration and conciliation at national and international levels; to promote studies in the field of alternative dispute resolution and related matters and to promote reforms in the system of settlement of disputes; to undertake teaching and to provide for diffusion of knowledge of law and procedures on alternative dispute resolution and related matters and to award certificates and other academic or professional distinction; to impart training in alternative dispute resolution and related matters to those who are handling arbitration, conciliation and

mediation; to cooperate with other societies, institutions and organisations, national or international for promoting alternative dispute resolution; and to perform such other functions as may be entrusted to it by the Central Government for promoting alternative dispute resolution.

*Clause 16* seeks to provide that any vacancy, defect in the appointment or any irregularity in procedure shall not invalidate the proceedings of the Centre.

*Clause 17* seeks to provide for the procedure for resignation of Chairperson, full-time and part-time Members by notice in writing, addressed to the Central Government. It also provides that the Chairperson and full-time Members shall be permitted to relinquish their office sooner, or continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor or until the expiry of his term of office, whichever is earlier.

*Clause 18* seeks to specify the circumstances in which the Central Government may remove the Member of the Centre including that if he-(a) is an undischarged insolvent; or (b) has engaged at any time (except part-time Member), during his term of office, in any paid employment; or (c) has been convicted of an offence which, involves moral turpitude; or (d) has acquired such financial or other interests as is likely to affect prejudicially his functions as a Member; or (e) has so abused the position which renders the continuation in office detrimental to the public interest; or (f) has become physically or mentally incapable of acting as a Member. It also provides that no Member shall be removed from his office on the grounds specified in clauses (d) and (e) above, unless the Supreme court, on a reference being made to it has, on an inquiry, held by it in accordance with such procedure as may be prescribed in this behalf by the Supreme Court, reported that the Member, ought on such ground or grounds to be removed.

*Clause 19* of the Bill seeks to provide for the constitution of various Committees by the Centre for administering the various aspects of its functioning. It further provides that the composition and functions of the Committee shall be such as may be prescribed. It also provides that the Committee shall meet at such time and at such places and shall observe such rules of procedure regarding the transaction of business at its meetings including the quorum as may be specified by the regulations.

*Clause 20* of the Bill seeks to provide that the meetings of the Centre shall be presided over by the Chairperson and in his absence the Member chosen by other Members shall preside over the meeting. It further provides that the Chairperson shall exercise such other powers and perform such other duties as are assigned to him under the Act and also to ensure the implementations of decisions taken by the Centre. It also provides that the Centre shall meet atleast four times in a year and follow the procedure in its meetings as may be specified by regulations. It also provides that all questions which come up before any meeting of the Centre shall be decided by a majority of votes of the Members present and voting and in the event of inequality of votes, the Chairperson or in his absence the person presiding, shall have a casting vote. The Centre shall deal with all questions that come up before any meeting expeditiously and shall dispose of the same within a period of 60 days from the receipt of the application and where such application could not be disposed of within the said period, the Centre shall record its reasons in writing. It provides that the Chairperson may invite any expert, not being a Member to attend the meeting of the Centre, but such invitee shall not be entitled to vote at the meeting.

*Clause 21* of the Bill seeks to provide for appointment of a Chief Executive Officer to the Centre, who shall be responsible for day to day administration of the Centre and he shall liaison with the Centre and the Secretariat and shall exercise such powers and discharge such functions as may be specified by the regulations or as may be delegated to him by the Centre. It further provides that the appointment, qualifications and terms and conditions of services of the Chief Executive Officer, shall be such as may be specified by regulations.

*Clause 22* of the Bill seeks to provide for delegation of the powers, functions and duties of the Centre, by general or special order, in writing, specifying the powers and duties conferred or imposed upon the Centre under this Act (except the power to make regulation) and the conditions and restrictions, if any, subject to which the powers and duties may be exercised and performed by the Chief Executive Officer or any officer or officers of the Centre.

*Clause 23* of the Bill seeks to provide for a Secretariat to the Centre consisting of Registrar, Counsel and such number of other officers and employees and the qualifications, experience, method of selection and functions shall be such, as may be prescribed.

*Clause 24* of the Bill seeks to provide that the Central Government may after due appropriation made by the Parliament by law, pay to the Centre in each financial year such sums of money and in such manner as it may think fit for being utilised for the purposes of the Act.

*Clause 25* of the Bill seeks to provide that the Centre shall maintain a Fund in which all the monies provided by the Central Government; all fees and other charges received during or in connection with the arbitration, conciliation, mediation or other proceedings; all monies received by the Centre for the facilities provided by it to the parties; all monies received by the Centre in the form of donations, grants, contributions and income from other sources; and the amounts received from the investment income, shall be credited. It further provides that all monies credited to the Fund shall be deposited in such banks or invested in such manner as may be decided by the Centre and the Fund shall be applied towards meeting the salary and other allowances of Members and the expenses of the Centre including expenses incurred in the exercise of its powers and discharge of its duties under the Act.

*Clause 26* of the Bill seeks to provide that the Centre shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance sheet in such form and manner as may be prescribed in consultation with the Comptroller and Auditor-General of India. It further provides that the accounts of the Centre shall be audited by the Comptroller and Auditor-General of India or any other person appointed by him and any expenditure incurred in that connection shall be payable by the Centre. It also provides that the Comptroller and Auditor-General of India or any person appointed by him in connection with the audit of the accounts of the Centre shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India. It also provides that the accounts of the Centre as certified by the Comptroller and Auditor-General of India or any other person appointed by him together with audit report thereon shall be forwarded annually to the Central Government which shall be caused to be laid before each House of Parliament.

*Clause 27* of the Bill seeks to provide that the assets and liabilities in relation to any undertaking under the Act shall be caused to be assessed by any agency authorised by the Comptroller and Auditor-General of India, in such manner as may be specified by him and any payment on a claim to be made in relation thereto, shall be settled by him between the Society and the Central Government and shall be paid by the Society or the Central Government as the case may be, in the manner as may be specified by the Comptroller and Auditor-General of India.

*Clause 28* of the Bill seeks to provide for establishment of a Chamber of Arbitration, which shall empanel the arbitrators and also scrutinize the applications for admission in the panel of reputed arbitrators. It further provides that the Chamber of Arbitrators shall consist of experienced arbitration practitioners of repute, at national and international level and persons having wide experience in the area of alternative dispute resolution and conciliation. It also provides that the Centre shall lay down the criteria by regulations, for admission to the panel of the cadre to maintain a pool of reputed arbitrators having expertise in international commercial arbitration and arbitration other than international commercial arbitration and the Registrar of the Centre shall be the Member-Secretary of the Chamber of Arbitration.

*Clause 29* of the Bill seeks to provide that the Centre may establish an Arbitration Academy to train the arbitrators particularly in the area of international commercial arbitration to compete on par with the reputed international arbitral institutions; to conduct research in the area of alternative dispute resolution and allied areas; and to give suggestions for achieving the objectives of the Act. It further provides for constitution of a permanent three member Committee, which may suggest amendments, if any, necessary to the rules and regulations issued under the Act.

*Clause 30* of the Bill seeks to empower the Central Government to make rules to carry out the provisions of this Act.

*Clause 31* of the Bill seeks to empower the Centre to make regulations, by notification, with the previous approval of the Central Government. It further provides that the regulations shall be consistent with the provisions of the Act and the rules made thereunder.

*Clause 32* of the Bill seeks to provide for laying of every rule made by the Central Government and every regulation made by the Centre, as soon as may be, after it is made, before each House of the Parliament.

*Clause 33* of the Bill seeks to provide that no suit, prosecution or other legal proceedings shall lie against the Chairperson or Members or the Centre or its employees and arbitrators for anything which is in good faith done or intended to be done under the Act or the rules or regulations made thereunder.

*Clause 34* of the Bill seeks to provide that if any difficulty arises in giving effect to the provision of the Act, the Central Government may by order published in the Official Gazette, make such provisions not inconsistent with the provisions of the Act, as may appear to it to be necessary for removing the difficulty. It further provides that no such order shall be made after the expiry of two years from the date of the commencement of this Act. It also provides that every order made under this section shall be laid before each House of Parliament.

## FINANCIAL MEMORANDUM

Sub-clause (1) of clause 3 of the Bill provides for establishment of the New Delhi International Arbitration Centre and sub-clause (2) provides that the Centre shall hold, acquire and dispose of property, both movable and immovable.

2. Sub-clauses (2) and (4) of clause 6 of the Bill provides for terms and conditions, salary and allowances payable to the Chairperson and full-time Members and travelling and other allowances payable to part-time Members.

3. Clause 7 of the Bill provides that on and from the specified date, the undertakings of the International Centre for Alternative Dispute Resolution (hereinafter referred to as Society) shall stand transferred to and vest in the Central Government.

4. Clause 10 of the Bill provides that the rights and liabilities of the Central Government in relation to the undertakings of the Society shall on and from the specified date shall vest in the New Delhi International Arbitration Centre (hereinafter referred to as Centre) and the Centre shall be deemed to have become owner in respect of such properties, etc.

5. Sub-clauses (2) and (3) of clause 11 empowers the Central Government to appoint a custodian of the undertakings on such remuneration as may be fixed by the Central Government.

6. Clause 14 of the Bill provides to promote research and study, providing teaching and training and organising conferences and seminars in arbitration, conciliation, mediation and other alternative dispute resolution matters and to set up facilities in India and abroad to promote the activities of the Centre.

7. Clause 19 of the Bill provides for constitution of various committees by the Centre for handling the specific aspects relating to the functions of the Centre.

8. Sub-clause (1) of clause 21 of the Bill provides for appointment of a Chief Executive Officer, who shall be responsible for day to day administration of the affairs of the Centre. Sub-clause (2) provides for specifying the terms and conditions of service of the Chief Executive Officer.

9. Sub-clause (1) of clause 23 of the Bill provides for the establishment of a Secretariat of the Centre. Sub-clause (2) provides for qualifications, etc., of the other officers and employees of the Secretariat.

10. Clause 24 of the Bill provides for Grants by the Central Government to the Centre.

11. Clause 25 of the Bill provides for maintenance of a fund for crediting all monies provided by the Central Government; all fees and other charges received during or in connection with the arbitration, conciliation, mediation or other proceedings; all monies received by the Centre for the facilities provided by it to the parties; all monies received by the Centre in the form of donations, grants, contributions and income from other sources; and the amount received from the investment income and the same shall be deposited in such banks or invested in such manner as may be decided by the Centre. The Fund shall be applied towards meeting the salary and other allowances of Members and the expenses of the Centre including expenses incurred in the exercise of its powers and discharge of its duties.

12. Clause 28 of the Bill provides for establishment of Chamber of the Arbitration for empanelment of Arbitrators, scrutinise the applications for admission in the panel of reputed arbitrators.

13. Clause 29 of the Bill provides for the establishment of an Arbitration Academy to train the arbitrators, particularly in the area of international commercial arbitration to compete on par with the reputed international arbitral institutions; to conduct research in the area of alternative dispute resolution and allied areas, etc.

14. It is estimated that there would be an expenditure of approximately six crore, thirty-two lakhs, forty-four thousand and four hundred rupees in the first year, six crore, twenty-eight lakhs, twenty-seven thousand, eight hundred and forty rupees in second year and six crore, ninety-three lakhs, thirty-five thousand, three hundred and twenty-four rupees in the third year of establishment of the Centre as initial establishment expenses, including salaries and allowances and other remuneration of Chairperson and Members (other than *ex officio* Members) and Custodian and of its officers and other employees. It is expected that major recurring expenses of the Centre would be funded out of the fees and charges as may be received by the Centre.

15. The Bill, if enacted and brought into operation, would not involve any other expenditure of a recurring or non-recurring nature from the Consolidated Fund of India.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (3) of clause 11 of the Bill empowers the Central Government to fix the remuneration of the Custodian appointed under sub-clause (2) of clause 11.

2. Sub-clause (2) of clause 18 of the Bill empowers the Supreme Court to prescribe procedure for removal of a Member on a reference being made by the Central Government.

3. Clause 30 of the Bill empowers the Central Government to make rules with respect to the matter specified under sub-clause (2) which, *inter alia*, relate to the terms and condition and the salary payable to Chairperson and full-time Members; the travelling and other allowances payable to part-time Members; composition and functions of the Committees; the number of officers and employees of the Secretariat of the Centre; the qualifications, experience, method of selection and the functions of the Registrar, Counsel and other officers and employees of the Centre; annual statement of accounts including balance sheet of the Centre.

4. Clause 31 of the Bill empowers the New Delhi International Arbitration Centre to make regulations with the previous approval of the Central Government, in respect of the matters specified under sub-clause (2) which, *inter alia*, relate to the time and place and the rules of procedure to be observed in regard to the transaction of business of the Committee at the meeting including the quorum; the time and place and rules of procedure in regard to the transaction of business of the Centre or any Committee including the quorum in the meeting; the appointment, qualifications and the terms and conditions of service of the Chief Executive Officer; the powers and functions of the Chief Executive Officer; and the criteria for admission to the panel of the arbitrators.

5. The matters in respect of which rules or regulations may be made are matters of procedure and administrative details and it is not practical to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

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to provide for the establishment and incorporation of New Delhi International Arbitration Centre for the purpose of creating an independent and autonomous regime for institutionalised arbitration and for acquisition and transfer of undertakings of the International Centre for Alternative Dispute Resolution and to vest such undertakings in the New Delhi International Arbitration Centre for the better management of arbitration so as to make it a hub for institutional arbitration and to declare the New Delhi International Arbitration Centre to be an institution of national importance and for matters connected therewith or incidental thereto.

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*(Shri Ravi Shankar Prasad, Minister of Law and Justice)*