
VAISH ASSOCIATES ADVOCATES

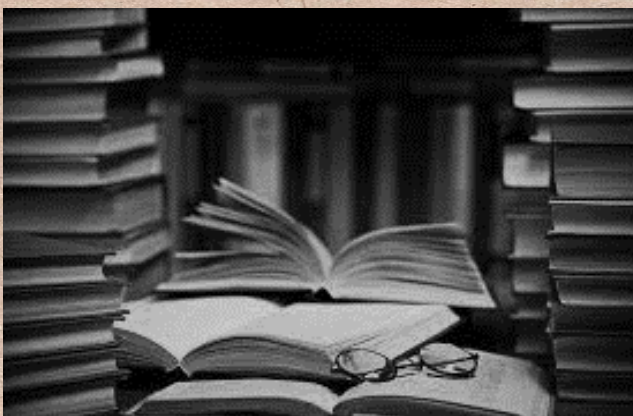
LEGALAXY

WWW.VAISHLAW.COM



LEGAL MAXIM

Audi alteram partem: 'May the other side also be heard'



VA VAISH
ASSOCIATES
ADVOCATES
ESTD. 1971

INDEX[🏠]

- Revolutionizing returns: SEBI introduces game-changing net distributable cash flow framework for REIT and InvIT, sets a new financial horizon
- SEBI outlines the process for dematerialisation/ crediting of units by AIFs where investors haven't provided demat account details
- SEBI amends guidelines for online resolution of disputes
- Nominate at ease: SEBI offers extension for providing choice of nomination
- RBI issues instructions on investments in AIFs to prevent evergreening of loans
- RBI notifies the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023
- RBI extends implementation of the Fair Lending Practice penal charges
- RBI notifies the Reserve Bank of India (Government Securities Lending) Directions, 2023
- Maharashtra Stamp Duty Amnesty Scheme-2023: remittance and reduction of stamp duties
- Ministry of External Affairs notifies new rules to regulate the Leasing of Offshore Areas
- Ministry of Commerce and Industry notifies the Special Economic Zones (Fifth Amendment) Rules, 2023
- The Telecom Act: a measure to regulate the telecommunication services
- Make in India - the Central Government replaces three colonial era Criminal Laws
- Ministry of Law and Justice notifies the Press and Registration of Periodicals Act, 2023 in substitution of the Press and Registration of Books Act, 1867
- Ministry of Power amends the Carbon Credit Trading Scheme, 2023
- MeitY issues advisory to all Intermediaries to comply with existing IT Rules

REVOLUTIONIZING RETURNS: SEBI INTRODUCES GAME-CHANGING NET DISTRIBUTABLE CASH FLOW FRAMEWORK FOR REIT AND INVIT, SETS A NEW FINANCIAL HORIZON

Securities Exchange Board of India ("SEBI"), *vide* its circulars dated December 6, 2023, has introduced new framework for calculating available Net Distributable Cash Flows ("NDCF") for Real Estate Investment Trust ("Circular no. 1") and Infrastructure Investment Trust ("Circular no. 2") at both trust as well as HoldCo/SPV levels.

Regulation 18(16) of SEBI (Real Estate Investment Trust) Regulations, 2014 ("REIT Regulations") and SEBI (Infrastructure Investment Trust) Regulations, 2014 ("InvIT Regulations") establishes framework for computing NDCF at both trust and HoldCo/SPV levels and emphasized that the minimum distribution is 90% of NDCF at both levels. To enhance the ease of doing business, a standardized framework for calculating available NDCF has been introduced, outlined in Annexure A of the revised regulations.

The circulars have also emphasized the method of distribution, retention of funds, treatment of sales investments and assets and provides guidance for temporarily parked funds. The effective date of the new framework introduced is April 1, 2024.

To read Circular no. 1 [click here](#) & to read Circular no. 2 [click here](#)



SEBI OUTLINES THE PROCESS FOR DEMATERIALISATION/ CREDITING OF UNITS BY AIFs WHERE INVESTORS HAVEN'T PROVIDED DEMAT ACCOUNT DETAILS

In June 2023, SEBI mandated all schemes of Alternative Investment Funds ("AIFs") to issue or convert their units in dematerialised form within a specified timeframe.

SEBI, *vide* its circular dated December 11, 2023, has now laid down the process for dematerialising/crediting the units issued by AIFs, where investors are yet to provide demat account details to AIFs.

The said circular sets out that managers of AIFs shall continue to reach out to existing investors to obtain their demat account details and credit the units issued to them to their respective demat accounts. In this regard, the AIF industry and depositories have been directed to adopt implementation standards as formulated by the pilot Standard Setting Forum for AIFs (SFA) along with the 2 depositories, in consultation with SEBI.

Further, units already issued by schemes of AIFs to existing investors who have not provided their demat account details, shall be credited to a separate demat account named '*Aggregate Escrow Demat Account*'. New units to be issued in demat form shall be allotted to such investors and credited to the Aggregate Escrow Demat Account. As and when such investors provide their demat account details to AIFs, their units held in the Aggregate Escrow Demat Account shall be transferred to the respective investors' demat account within 5 working days.

The circular clarifies the following with respect to issuance and credit of units of AIFs in demat form:

Details	Schemes of AIFs with corpus \geq INR 500 crores as on October 31, 2023	Schemes of AIFs with corpus $<$ INR 500 crores as on October 31, 2023 and schemes launched after October 31, 2023 irrespective of corpus
<i>Investors who have provided their demat account details.</i>	Units issued after October 31, 2023, shall be in demat form and credited only to the investors demat accounts.	Units issued after April 30, 2024, shall be in demat form and credited only to the investors demat accounts.
<i>Investors who have not provided their demat account details.</i>	For investors on-boarded prior to November 1, 2023, units shall be credited in the Aggregate Escrow Demat Account temporarily, till investors provide their demat account details.	For investors on-boarded prior to May 1, 2024, units shall be credited in the Aggregate Escrow Demat Account temporarily, till investors provide their demat account details.
<i>Completion of credit of demat units to:</i> a) <i>demat accounts of investors who have provided demat account details; and</i> b) <i>Aggregate Escrow Demat Account, for those who have not provided demat account details.</i>	Latest by January 31, 2024.	Latest by May 10, 2024.

To read the circular [click here](#)



SEBI AMENDS GUIDELINES FOR ONLINE RESOLUTION OF DISPUTES

SEBI, *vide* its circular dated December 20, 2023, has made amendments to its circular dated July 31, 2023 ("**ODR Circular**"), which set out the guidelines for online dispute resolution in the Indian securities market, so as to provide clarity on certain aspects provided therein.

Key amendments, *inter alia*, include the following:

- Inclusion of institutional/corporate clients within the ambit of investors/ clients, whose disputes would be resolved in accordance with the ODR Circular;
- Inclusion of provisions clarifying that the seat and venue of mediation, conciliation and/or arbitration shall be in India and may be conducted online;
- Clarification on the details pertaining to fees, charges and costs for independent mediation institution or independent conciliation institution and/or independent arbitration institution (*and of the mediators/ conciliators/ arbitrators*);

- (d) Clarification on enrolment on the ODR portal, initiation, and fees for online arbitration;
- (e) Provision for applicable arbitration fees in case of arbitration claims of INR 1 crore and above (*previously the ODR Circular provided a slab wise arbitration fee with a flat fee for arbitration claims of INR 50 lakhs and above without any upper limit*); and
- (f) Addition of entities such as bankers to an issue, self-certified syndicate banks, merchant bankers, commodities clearing corporation and ESG ratings to the list of specified intermediaries and regulated entities set out in Schedules A and B of the ODR Circular.

To read the circular [click here](#)



NOMINATE AT EASE: SEBI OFFERS EXTENSION FOR PROVIDING CHOICE OF NOMINATION

SEBI, *vide* its circular dated December 27, 2023, has extended the deadline for appointing a nominee for the demat accounts and mutual fund folios to June 30, 2024. Further, the responsibility has been imposed on the Depository Participants (DPs), Asset Management Companies (AMCs) and Registrars to an Issue and Share Transfer Agents (RTAs) to encourage the demat account holders/ mutual fund unit holders to fulfil the requirement for nomination/opting out of nomination by sending a communication on fortnightly basis for better communication to various accountholders and to provide guidance to provide nomination or opt out of nomination.

To read the circular [click here](#)



RBI ISSUES INSTRUCTIONS ON INVESTMENTS IN AIFs TO PREVENT EVERGREENING OF LOANS

Reserve Bank of India ("RBI"), *vide* its notification dated December 19, 2023, has issued a circular with instructions on the procedure to be followed by the Regulated Entities ("REs") in order to make investments in units of AIFs, and to address concerns relating to possible evergreening through this route. REs make investments in units of AIFs as part of their regular investment operations. However, as per RBI, certain transactions of REs involving AIFs entail substitution of direct loan exposure of REs to borrowers, with indirect exposure through investments in units of AIFs.

In order to tackle these issues, RBI has issued the following instructions:

- (a) REs will not be allowed to invest in any scheme of AIFs which have downstream investments, either directly or indirectly, in a debtor company of the RE. The debtor company has been defined as any company to which the RE currently has or previously had given a loan or investment exposure in the preceding 12 months.
- (b) If an AIF scheme, in which an RE is already an investor, makes a downstream investment in a debtor company, then the RE is required to liquidate its investment in the AIF scheme within 30 days from the date of making such downstream investment. Further, in the event REs have already made investments in such AIF schemes, the 30-day period for liquidation shall initiate from the date of issuance of this circular.

- (c) REs will be entrusted with the responsibility of arranging to advise the AIFs suitably on this matter.
- (d) In the event, the REs are unable to liquidate their investments within the prescribed time limit, they will be required to make a 100% provision on such investments.
- (e) Any investment by REs in subordinated units of any AIF scheme with a 'priority distribution model' will be subject to a full deduction from REs' capital funds. The term 'priority distribution model' refers to a distribution waterfall structure of AIFs where one class of investors share loss more than pro rata to their holding in the AIFs with respect to the other classes of investors/unit holders.

To read the circular [click here](#)



RBI NOTIFIES THE FOREIGN EXCHANGE MANAGEMENT (MANNER OF RECEIPT AND PAYMENT) REGULATIONS, 2023

RBI, *vide* its notification dated December 20, 2023, has stipulated the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023 ("**2023 Regulations**"), in supersession of the Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2016. The 2023 Regulations shall come into force on the date of its publication in the official gazette.

In terms of the 2023 Regulations, save as otherwise in a manner as provided in Foreign Exchange Management Act, 1999 ("**FEMA**") or the rules or regulations made or directions issued under FEMA, no resident individual is allowed to make or receive payments from non-residents unless RBI, upon receiving an application to that effect, permits that resident individual to make or receive such payments under FEMA. Further, the receipt and payment between residents and non-residents must be made only through an authorised bank (*as defined in the Foreign Exchange Management (Deposit) Regulations, 2016*) or through an authorised person and in the manner as specified below:

- (a) For trade transactions, the receipt/ payment for export or import from the following countries, shall be made for –
 - (i) Nepal and Bhutan - in Indian Rupees, except in case of exports from India where the importer in Nepal has been permitted by the Nepal Rashtra Bank to make payment in foreign currency, such receipts towards the amount of the export may be in foreign currency;
 - (ii) Member countries of the Asian Clearing Union ("**ACU**"), other than Nepal and Bhutan - through ACU mechanism or as per the directions issued by RBI to authorised dealers. To clarify further, the 2023 Regulations also provide that for imports where the goods are shipped to India from a member country of the ACU (*other than Nepal and Bhutan*) but the supplier is resident of a country other than a member country of the ACU, the payment may be made in Indian Rupees or in any foreign currency; and
 - (iii) Countries other than member countries of ACU - In Indian Rupees or in any foreign currency.

For trade transactions, receipts and payments can also be made in accordance with the extant Foreign Trade Policy framed by the Central Government.

- (b) For transactions other than trade, the receipt/payment shall be made for –
- (i) Nepal and Bhutan - In Indian Rupees, except that in case of overseas investment in Bhutan, payment may also be made in foreign currency; and
 - (ii) Other countries – In Indian Rupees or any foreign currency.

Additionally, the payment and receipt in India for any current account transaction, other than a trade transaction, between residents and non-residents (*who are on a visit to India*) can be made only in Indian Rupees or by debit/credit to a bank account maintained in terms of the rules, regulations or directions issued under FEMA.

To read the notification [click here](#)



RBI EXTENDS IMPLEMENTATION OF THE FAIR LENDING PRACTICE PENAL CHARGES

RBI, *vide* its notification dated December 29, 2023, has extended the timeline for implementation of the fair lending practice penal charges by 3 months (*the said notification has been covered in the [earlier edition of Legalaxy](#)*). The extension has been granted in light of requests for clarifications and additional time sought from some REs to reconfigure their internal systems and operationalize the circular. REs shall be responsible for ensuring that the instructions are implemented to all new loans obtained from April 1, 2024, onwards. For existing loans, the transition to the new penal charges regime shall be implemented on the next review or renewal date occurring on or after April 1, 2024, but no later than June 30, 2024.

To read the notification [click here](#)



RBI NOTIFIES THE RESERVE BANK OF INDIA (GOVERNMENT SECURITIES LENDING) DIRECTIONS, 2023

RBI, *vide* its notification dated December 27, 2023, notified the Reserve Bank of India (Government Securities Lending) Directions, 2023, to enable dealing in Government Securities to strengthen the government securities market in India. Government Securities Lending ("GSL") transaction refers to dealing in Government securities involving lending of eligible Government securities, for a fee, by the owner of those securities (*the lender*) to a borrower, on the collateral of other Government securities, for a specified period of time, with an agreement that the borrower shall return to the lender the security borrowed and the latter shall return the security received as collateral to the former at the end of the agreed period. Following are the eligible participants: any regulated entity, listed corporate, unlisted company (*which has been issued special securities by the Government of India*), all India Financial Institutions, that is, EXIM Bank, National Bank for Agriculture and Rural

Development, National Housing Bank, Small Industries Development Bank of India and any other entity approved by RBI. The minimum tenor of a GSL transaction shall be 1 day and the maximum tenor shall be the maximum period prescribed to cover short sales under the 'Secondary Market Transactions in Government Securities – Short Selling'. Parties in a GSL transaction may mutually agree on trading platform/ process, including bilateral or multilateral, quote driven or order driven process, anonymous or otherwise. The GSL transactions are required to be settled on a delivery versus delivery basis, with the first leg being settled on either on a T+0 or T+1.

To read the notification [click here](#)



MAHARASHTRA STAMP DUTY AMNESTY SCHEME-2023: REMITTANCE AND REDUCTION OF STAMP DUTIES

The Revenue and Forests Department of Maharashtra, *vide* its order dated December 7, 2023, has introduced the Maharashtra Stamp Duty Amnesty Scheme-2023 ("Amnesty Scheme") for the purpose of remitting or reducing stamp duty and penalties on certain instruments as specified under the Maharashtra Stamp Act, 1958 which are executed between January 1, 1980 and December 31, 2020. There are certain conditions specified under the Amnesty Scheme for the instruments. The Amnesty Scheme would be implemented in 2 phases.

The types of instruments on which the Amnesty Scheme is applicable are enlisted under the annexure to the Amnesty Scheme which includes:

- (a) any type of instrument related to conveyance or agreement to sale or lease or sale certificate or gift or agreement relating to deposit of title deeds, pawn, pledge, or hypothecation of immovable property used for the purpose of residential/ non-residential/ industrial use;
- (b) agreement or its records or memorandum of agreement if relating to transfer of tenancy of immovable property for the purpose of residential use, conveyance of allotment of residential or non-residential units or houses from the MHADA and its divisional boards, CIDCO and SRA to a slum dweller for the purposes of rehabilitation under approved Slum Rehabilitation Scheme and also conveyance of allotment of residential or non-residential units or houses in registered Co-operative Housing Societies or any apartments whose deemed conveyance is pending;
- (c) any type of development agreement or conveyance or agreement to sale or instrument of transaction of assignment of the rights to the developer regarding the redevelopment of any dilapidated old buildings or any building or immovable property whose redevelopment is necessary;
- (d) any type of instrument in respect of the amalgamation, merger, demerger, arrangement or reconstruction of companies;
- (e) any type of instrument executed by MHADA and its divisional boards, CIDCO and the Municipal Corporation, Municipal Council, Nagar Panchayat, by the various Development or Planning Authorities approved or constituted by the Government under the prescribed regulations, MIDC, SRA, etc., authorities; and
- (f) the first allotment letter or share certificate issued or executed regarding residential or non-residential units by the registered co-operative housing society on the Government land or by

the MHADA and its divisional boards or by the city and CIDCO or by the Municipal Corporation, Municipal Council, Nagar Panchayat or by the Development or Planning Authorities approved or constituted by the Government under the prescribed regulations.

The 2 phases of implementation of the Amnesty Scheme are:

Phase I: for the time period of December 1, 2023, to January 31, 2024

Execution date of the instruments	Value of the stamp duty	Reduction in stamp duty	Reduction in the penalty
January 1, 1980- December 31, 2000	INR 1- INR 1,00,000	100% reduction	100% reduction
	More than INR 1,00,000	50% reduction	100% reduction
January 1, 2001- December 31, 2020	INR 1- INR 25,00,00,000	25% reduction	<ul style="list-style-type: none"> • If the penalty to be charged on whole stamp duty is less than INR 25,00,000: 90% reduction. • If the penalty to be charged on whole stamp duty is more than INR 25,00,000: only INR 25,00,000 to be accepted as a penalty and remaining balance penalty to be remitted.
	More than INR 25,00,00,000	20% reduction	Fixed penalty of INR 1,00,00,000 to be accepted as a penalty and remaining/balance penalty to be remitted.

Phase II: for the time period of February 1, 2024, to March 31, 2024

Execution date	Value of the stamp duty	Reduction in stamp duty	Reduction in the penalty
January 1, 1980- December 31, 2000	INR 1- INR 1,00,000	80% reduction	80% reduction
	More than INR 1,00,000	40% reduction	70% reduction
January 1, 2001- December 31, 2020	INR 1- INR 25,00,00,000	20% reduction	<ul style="list-style-type: none"> • If the penalty to be charged on whole stamp duty is less than INR 50,00,000: 80% reduction. • If the penalty to be charged on whole stamp duty is more than INR 50,00,000:

			only INR 50,00,000 to be accepted as a penalty and remaining balance penalty to be remitted.
	More than INR 25,00,00,000	10% reduction	Fixed penalty of INR 2,00,00,000 to be accepted as a penalty and remaining/balance penalty to be remitted.

To read the order [click here](#)



MINISTRY OF EXTERNAL AFFAIRS NOTIFIES NEW RULES TO REGULATE THE LEASING OF OFFSHORE AREAS

Ministry of External Affairs, *vide* its notification dated December 19, 2023, has notified the Offshore Wind Energy Lease Rules, 2023 ("**Wind Energy Lease Rules**") in order to regulate the leasing, operation and maintenance of offshore areas towards development of offshore wind energy projects ensuring environmental sustainability and national security.

The key provisions of the Wind Energy Lease Rules are as follows:

- (a) the Wind Energy Lease Rules empower the Central Government to lease out offshore areas within the exclusive economic zone for offshore wind energy and transmission projects, wherein:
 - (i) the offshore area for the lease shall be identified by the Central Government based on wind resource assessment followed by marine spatial planning;
 - (ii) the selection process for lessee will adhere to the national offshore wind energy policy;
 - (iii) with clearances required from various ministries, including Ministry of Defence, Ministry of Home Affairs, Ministry of Environment, Forest and Climate Change and other relevant ministries;
- (b) lessees have been granted exclusive rights within the lease area to carry out activities related to offshore wind energy and offshore wind transmission;
- (c) leases covering resource measurement or related study/survey activities will be valid for 3 years, which shall be extendable for reasons by an additional 2 more years, and leases for construction and operation purposes can be extended for up to 35 years which can be extended further on a case to case basis, subject to functional viability and safety;
- (d) the applicants shall deposit a refundable security deposit within 3 months from the lessee receiving the letter of demand for the same and pay an annual lease fee at a rate of INR 1 lakh per square kilometre in advance for the lease area which is to be deposited within 1 month from the letter of demand for the same;
- (e) the Wind Energy Lease Rules also address the concepts of relinquishment of lease areas, security deposit refunds, and penalties for non-compliance;
- (f) the Wind Energy Lease Rules impose obligations on lessees to maintain equipment, adhere to security protocols, and share real-time surveillance information with relevant authorities;

- (g) in the event of disputes, a committee chaired by the secretary of Ministry of New and Renewable Energy, is required to attempt an amicable resolution for the dispute before arbitration;
- (h) the Wind Energy Lease Rules outline conditions for lease cancellation, including violations, environmental damage, or failure to produce requisite project documents;
- (i) lessees are required to decommission all installations and clear the seabed from obstructions within 2 years of lease termination, responsibly disposing of materials; and
- (j) the Wind Energy Lease Rules also mandate the delivery of the lease area to the Central Government after termination.

To read the notification [click here](#)



MINISTRY OF COMMERCE AND INDUSTRY NOTIFIES THE SPECIAL ECONOMIC ZONES (FIFTH AMENDMENT) RULES, 2023

Ministry of Commerce and Industry, *vide* its notification dated December 6, 2023, has notified the Special Economic Zones (Fifth Amendment) Rules, 2023. The said amendment has inserted a new Rule 11B which introduces the concept of non-processing areas in Information Technology ("IT") and Information Technology Enabled Services ("ITES") Special Economic Zones ("SEZs"), to further enhance development in the said areas.

The key amendments are as follows:

- (a) developers of an IT or ITES SEZ can request for a demarcation of a non-processing area within the IT or ITES SEZ, where such approval may be granted by the board of approval;
- (b) a non-processing area may be used for setting up and operation of businesses engaged in the IT or ITES, and at such terms and conditions as may be specified by the board of approval;
- (c) such non-processing areas shall consist of a complete floor and not just a part of a floor area, with appropriate access control mechanisms;
- (d) the board of approval will permit demarcation of a non-processing area only after repayment by the developer, of certain tax benefits attributable to that non-processing area;
- (e) the amount of tax benefits to be repaid will be determined based on a certificate issued by a chartered engineer;
- (f) the demarcation of a non-processing area cannot result in decreasing the processing area to less than 50% of the total area or less than the areas specified in the notification; and
- (g) businesses engaged in the non-processing areas of IT or ITES SEZ cannot avail any rights or facilities that are available to the SEZ units.

To read the notification [click here](#)



THE TELECOM ACT: A MEASURE TO REGULATE THE TELECOMMUNICATION SERVICES

Ministry of Law and Justice ("MLJ"), *vide* its notification dated December 24, 2023, has published the Telecommunications Act, 2023 ("Telecom Act") which aims to replace the existing laws governing telecommunication in India, namely the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933. The Telecom Act has been introduced to amend and consolidate the law relating to development, expansion and operation of telecommunication services and telecommunication networks; assignment of spectrum; and for matters connected therewith or incidental thereto. The Telecom Act shall come into force from such dates as the Central Government may, by notification in the official gazette, appoint. The Telecom Act governs and regulates the telecommunication services.

The Telecom Act will have an extra-territorial application of the law in respect to any offence committed or contravention made outside India by any person involved in a telecommunication service provided in India, or telecommunication equipment or telecommunication network located in India.

The Telecom Act empowers the Central Government to grant authorisation to any person who is intending to provide telecommunication services, establishing, operating, maintaining, or expanding telecommunication networks, or possessing radio equipment. The Telecom Act provides for assignment of spectrum for telecommunication by Central Government by auction or by the way of administrative process for the entries listed in the First Schedule. The Central Government may *via* rules provide for: (a) the measures to grant protection and ensure cyber security of telecommunication networks and telecommunication services; and (b) the standards, security practices, upgradation requirements and procedures to be implemented for critical telecommunication infrastructure. The Telecom Act also provides for biometric verification of the person to whom the telecommunication services are provided. Amongst other things, the Telecom Act has also provided a detailed procedure for the right of way for establishing, maintaining, or expanding the telecommunication network from public entities and private individuals in a non-discriminatory manner and on a non-exclusive basis.

To read the Telecom Act [click here](#)



MAKE IN INDIA – THE CENTRAL GOVERNMENT REPLACES THREE COLONIAL ERA CRIMINAL LAWS


MLJ, *vide* its various notifications dated December 25, 2023, has replaced 3 colonial era criminal laws, namely the Indian Penal Code, 1860 with the Bharatiya Nyaya Sanhita, 2023, the Indian Evidence Act, 1872 with the Bharatiya Sakshya Adhinyam, 2023, and the Code of Criminal Procedure, 1973 with the Bhartiya Nagarik Suraksha Sanhita, 2023.

The above laws received the assent of the President on December 25, 2023, which shall come into force from such dates as the Central Government may, by notification in the official gazette, appoint.

The provisions of Bharatiya Nyaya Sanhita, 2023 shall apply not only to an offence committed in India, but also any offence by any person in any place without and beyond India, including committing offence targeting a computer resource located in India.

The provisions of Bharatiya Sakshya Adhiniyam, 2023 shall apply to all judicial proceedings in or before any Court, including court-martial, but not to affidavits presented to any Court or officer, nor to proceedings before an arbitrator.

The provisions of Bhartiya Nagarik Suraksha Sanhita, 2023, other than those relating to Chapter IX (*Security for keeping the peace and for good behaviour*), Chapter XI (*Maintenance of public orders and tranquillity*), Chapter XII (*Preventive action of the police*), shall not apply to the State of Nagaland and to the tribal areas as specified in the said notification, unless the concerned State Governments apply such provisions by notification.

To read the Bharatiya Nyaya Sanhita, 2023 [click here](#), to read the Bharatiya Sakshya Adhiniyam, 2023 [click here](#) & to read the Bhartiya Nagarik Suraksha Sanhita, 2023 [click here](#) 

MINISTRY OF LAW AND JUSTICE NOTIFIES THE PRESS AND REGISTRATION OF PERIODICALS ACT, 2023 IN SUBSTITUTION OF THE PRESS AND REGISTRATION OF BOOKS ACT, 1867

MLJ, *vide* its notification dated December 29, 2023, has notified the Press and Registration of Periodicals Act, 2023 ("**Press Act**") thereby repealing the Press and Registration of Books Act, 1867 ("**Erstwhile Act**"). The Press Act has been notified in order to provide for an ease of doing business, and removing the unnecessary procedural obstacles in the Erstwhile Act.

The Press Act provides for the following:

- (a) mandatory registration of newspapers, periodicals, and books;
- (b) every printer/ publisher of a periodical furnishing an intimation in online portal to the Press Registrar General (*defined to mean the Press Registrar General of India, appointed by the Central Government*) and the specified authority to bring out a periodical;
- (c) appointment of the Press Registrar General who would be responsible, *inter alia*, for: (i) issuing certificates of registration to a periodical; (ii) maintaining a register of periodicals; (iii) making guidelines for the admissibility of title of periodicals; (iv) verifying circulation figures of prescribed periodicals; and (v) revising, suspending, or cancelling registration;
- (d) specific process for title verification, registration of periodicals by the Press Registrar General and transfer of ownership of periodicals;
- (e) prior approval of the Central Government for publication of facsimile edition of foreign periodicals in India;
- (f) suspension or cancellation of the certificate of registration of periodicals by the Press Registrar General under specified circumstances;

- (g) substantive decriminalisation of the provisions relating to violation of various provisions and imposition of financial penalties by the Press Registrar General; and
- (h) establishment of the Press and Registration Appellate Board to prefer an appeal against any order for refusal to issue the certificate of registration, cancellation or suspension of registration, or imposition of penalty.

To read the notification [click here](#)



MINISTRY OF POWER AMENDS THE CARBON CREDIT TRADING SCHEME, 2023

Ministry of Power, *vide* its notification dated December 19, 2023, has amended the Carbon Credit Trading Scheme, 2023 ("**Principal Scheme**"). The Principal Scheme was introduced under the Energy Conservation Act, 2001, by the Central Government for the purpose of developing a carbon market in India by setting up of the greenhouse gas emissions trajectory.

The key amendments include: (a) inserting of the words "validation or" after the words "carry out" under the clause (b) of sub-paragraph 1 of the paragraph 2 of the Principal Scheme for the definition of Accredited Carbon Verification Agency ("**Agency**"). This has resulted in an increase of the powers of the Agency which are accredited by the Bureau of Energy Efficiency ("**Bureau**") as it has brought the authority to validate the carbon credits within the ambit of the powers of the Agency which was earlier only responsible for verification of the carbon credits; (b) a new definition of "offset mechanism" has been inserted as a clause (1a) in the sub-paragraph 1 of paragraph 4 of the Principal Scheme for the purpose of enching the power of non-obligated entities in credit generation. Under the offset mechanism, the non-obligated entities can register their projects for accounting greenhouse gases emission, reduction or removal, or avoidance for issuance of carbon credit certificates; and (c) insertion of the paragraph 11A after the paragraph 11 of the Principal Scheme, which includes these provisions: (i) the Bureau would be responsible for the identification of the sectoral scope and development of methodologies to be used under the offset mechanism with support from respective technical committees; (ii) the Bureau (*on the recommendation of national steering committee for Indian carbon market and after approval of the Central Government*), shall publish sectoral scope and methodologies from time to time; and (iii) the non-obligated entities can register their projects as per the published sectoral methodologies for greenhouse gases emission, reduction or removal, or avoidance for seeking issuance of carbon credit certificates.

To read the notification [click here](#)



MEITY ISSUES ADVISORY TO ALL INTERMEDIARIES TO COMPLY WITH EXISTING IT RULES

Ministry of Electronics and Information Technology ("**MeitY**"), *vide* its press release dated December 26, 2023, has issued an advisory to all intermediaries to ensure their compliance with the existing IT

rules. The advisory is in line with the mission of the Central Government, i.e., ensuring that internet is as safe as well as trusted for its every user/digital nagrik and intermediaries are accountable under law in respect to the contents being published on their platforms for the safety and trust of the digital nagriks that use the Indian Internet.

The advisory states that: (a) it specifically targets the growing misinformation powered by artificial intelligence and deepfakes; (b) the content which is not permitted under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (“IT Rules”), specifically the ones which are listed under Rule 3(1)(b) of the IT Rules must be communicated by the intermediaries to the users in clear and precise language which includes through its terms of service and user agreements and which must be expressly informed to the user at the time of first-registration as well as in the form of regular reminders at every instance of login and while uploading/sharing information onto the said platform; (c) the digital intermediaries must ensure users are aware and are informed about the penal provisions contained in the Indian Penal Code, 1860, the Information Technology Act, 2000, as well as any other such penal laws which may be attracted in case of violation of Rule 3(1)(b) of the IT Rules; (d) the terms of service and user agreements should clearly highlight that there exist an obligation on the part of the intermediaries/platforms of reporting any legal violations to the law enforcement agencies under the relevant Indian laws applicable to the context; and (e) MeitY will have a close observation in respect to the compliances of the intermediaries in the coming weeks and it may follow it up by further amendments to the IT laws and/or the IT Rules, if and when required.

To read the press release [click here](#)



Contributors:

Krishna Kishore Partner	Yatin Narang Associate Partner	Navya Shukla Associate	Saksham Kumar Associate	Neel Mehta Associate
Sakshi Solanki Associate	Regan D'Mello Associate	Pritika Shetty Associate	Ishita Jha Associate	

Disclaimer:

This newsletter is intended for informational purposes only and should not be construed as a professional advice. The readers of this newsletter are advised to not to act upon the matters discussed above without seeking prior legal advice. While every care has been taken in the preparation of this newsletter to ensure its accuracy at the time of publication, Vaish Associates Advocates assume no responsibility for any errors which may inadvertently appear and shall not be responsible for any loss and shall assume no liability whatsoever in connection with its use.

We hope you like our publication. We look forward to your suggestions. Please feel free to contact us at mumbai@vaishlaw.com.

NEW DELHI

1st, 9th and 11th Floor, Mohan Dev Bldg., 13 Tolstoy Marg, New Delhi - 110001, India.

Phone: +91-11-42492525

Fax: +91-11-23320484

delhi@vaishlaw.com

MUMBAI

106, Peninsula Centre, Dr. S.S. Rao Road, Parel, Mumbai - 400012, India.

Phone: +91-22-42134101

Fax: +91-22-42134102

mumbai@vaishlaw.com

BENGALURU

105-106, Raheja Chambers, #12, Museum Road, Bengaluru - 560001, India.

Phone: +91-80-40903584

Fax: +91-80-40903584

bangalore@vaishlaw.com