



# PRS Capsule November 2019

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## Economy

### Chit Funds (Amendment) Bill, 2019

[Chit Funds \(Amendment\) Bill, 2019](#) has been passed by the Parliament. The Bill seeks to amend the Chit Funds Act, 1982. The Act regulates chit funds and prohibits a fund from being created without prior sanction of the state government.

#### Chit Fund

- Under a chit fund, people agree to pay a certain amount from time to time into a fund. Periodically, one of the subscribers is chosen by drawing a chit to receive the prize amount from the fund.

#### Key Features of the Bill

- **Names for a Chit Fund:** The Act specifies various names which may be used to refer to a chit fund.
  - These include chit, chit fund, and kuri.
  - It additionally inserts **'fraternity fund'** and **'rotating savings and credit institution'** to this list.

- **Presence of Subscribers through Video-Conferencing:** The Act specifies that a chit will be drawn in the presence of at least two subscribers.
  - The Bill seeks to allow these subscribers to join via video-conferencing.
- **Foreman's Commission:** The 'foreman' is responsible for managing the chit fund. He is entitled to a maximum commission of 5% of the chit amount.
  - The Bill seeks to increase the commission to 7%.
  - Further, the Bill allows the foreman a right to lien against the credit balance from subscribers.
- **Aggregate Amount of Chits:** Under the Act, chits may be conducted by firms, associations or individuals.
  - The Act specifies the maximum amount of chit funds which may be collected.
- **Application of the Act:** Currently, the Act does not apply to: (i) any chit started before it was enacted, and (ii) any chit (or multiple chits being managed by the same foreman) where the amount is less than Rs 100.
  - The Bill removes the limit of Rs 100 and allows the state governments to specify the base amount over which the provisions of the Act will apply.

## Lien

- A lien is a claim or legal right against assets that are typically used as collateral to satisfy a debt.
- If the underlying obligation is not satisfied, the creditor may be able to seize the asset that is the subject of the lien.

## International Financial Services Authority Bill

The Bill provides for the establishment of an Authority to develop and regulate the financial services market in the International Financial Services Centres in India.

### Key features of the Bill

- **Coverage:** The Bill will apply to all [International Financial Services Centres](#) (IFSCs) set up under the Special Economic Zones Act, 2005.
- **Constitution of the International Financial Services Centres Authority:** The Bill sets up the International Financial Services Centres Authority.
  - The Authority will consist of nine members (including a chairperson), appointed by the central government.
  - Members of the Authority will include representation from the RBI, SEBI, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory Development Authority, and the Ministry of Finance.
- **Functions of the Authority include:**
  - Regulating financial products (such as securities, deposits or contracts of insurance), financial services, and financial institutions in an IFSC which have been approved by any regulator (such as the RBI or SEBI), before the enactment of this Act.
  - Regulating any other financial products, financial services, or financial institutions in an IFSC, which may be notified by the central government.
  - Recommending to the central government, any other financial services, products, or financial institutions which may be permitted in an IFSC.
- **International Financial Services Centres Authority Fund:** The Bill sets up the International Financial Services Centres Authority Fund.
  - Grants, fees and charges received by the Authority and sums received by the Authority from various sources will be credited to the Fund.
- **Transaction in foreign currency:** As per the Bill, all transactions of financial services in IFSCs will be in such foreign currency as specified by the Authority, in consultation with the central government.

## 15<sup>th</sup> Finance Commission Gets One-year Extension

The President extended the period of the 15<sup>th</sup> Finance Commission (the period for which it is required to give its recommendations) by one year, from 2020-25 to 2020-26.

- Earlier, the Commission was required to submit its report by November 2019, consisting of recommendations for the period 2020-21 to 2024-25.
- This extension was given, due to the [change in the status of Jammu & Kashmir's statehood](#) as the Fifteenth Finance Commission will have to rework its calculations for interstate distribution of central resources among different states.

## Regulatory Sandbox

The [Reserve Bank of India \(RBI\)](#) had released the enabling framework for [regulatory sandbox](#) in August 2019.

- The sandbox provides an environment which allows market participants to test new products, services or business models with customers in a controlled environment.
- RBI has called for applications for the following products/services under the above theme:
  - Offline payment solutions
  - Contactless payments
  - Feature phone-based payment services

## RBI Revises Liquidity Risk Management Framework for NBFCs

RBI issued final guidelines on the [asset-liability management and liquidity coverage ratio framework](#) for Non-Banking Financial Companies (NBFCs).

### NBFC

- An NBFC is a company which engages in the acquisition of government securities and shares, and business of loans or advances.
- It does not accept demand deposits and cannot issue payment instruments.
- Further, more than half of its assets should comprise of financial assets (investment in equity shares, securities or loans).
- Category 1 NBFCs include all deposit-taking NBFCs and non-deposit taking with an asset size of Rs 10,000 crore and above.
- Category 2 NBFCs include non-deposit taking NBFCs with an asset size between Rs 5,000 crore and Rs 10,000 crore.

### Liquidity Risk management Framework

- It aims to ensure adequate liquidity (NBFCs capacity to meet unexpected cash and collateral obligations without incurring unacceptable losses).
- This is done through high-quality liquid assets (assets that can be readily sold or converted to cash, or used as collateral to obtain funds in the situation of stress).
- The revised guidelines have also introduced the Liquidity Coverage Ratio (LCR) as an added measure for liquidity risk management for certain categories of NBFCs.
- As per the guidelines, all public deposits taking NBFCs and non-deposit taking (with an asset size of Rs 5,000 crore and above) will have to maintain a minimum LCR, in order to sustain acute liquidity stress scenarios (stress lasting for 30 days).
  - LCR is the ratio of the stock of high-quality liquid assets to the total cash outflows of the NBFC, for a period of 30 days.
- These requirements would be binding on the NBFCs from December 1, 2020.

## The Industrial Relations Code, 2019

The Industrial Relations Code, 2019 was introduced in Lok Sabha. It seeks to replace three labour laws:

- The Industrial Disputes Act, 1947
- The Trade Unions Act, 1926
- The Industrial Employment (Standing Orders) Act, 1946.

Key features of the Bill include:

- **Trade unions:**
  - Under the Code, seven or more members of a trade union can apply to register it.
  - Trade unions that have a membership of at least 10% of the workers or 100 workers, whichever is less, will be registered.
  - Further, the central or state government may recognise a trade union or a federation of trade unions as Central or State Trade Unions respectively.
- **Negotiating unions:**
  - The Code provides for a negotiation union in an industrial establishment for negotiating with the employer.
  - If there is only one trade union in an industrial establishment, then the employer is required to recognise such trade union as the sole negotiating union of the workers.
  - In case of multiple trade unions, the trade union with the support of at least 75% of workers will be recognised as the negotiating union by the government.
- **Lay-off and retrenchment:**
  - The Code defines lay-off as the inability of an employer, due to shortage of coal, power, or breakdown of machinery, from giving employment to a worker. It also provides for employers to terminate the services of a worker, i.e., retrenchment.
  - Employers of industrial establishments with at least 100 workers are required to take prior permission of the central or state government before lay-off, retrenchment or closure of an establishment.
  - The central or state government can modify this threshold number of workers by notification. Any person who contravenes this provision is punishable with a fine between one lakh rupees and Rs 10 lakh.
- **Resolution of industrial disputes:**
  - The central or state governments may appoint conciliation officers to mediate and promote settlement of industrial disputes.
  - These officers will investigate the dispute and hold conciliation proceedings to arrive at a fair and amicable settlement of the dispute.
  - If no settlement is arrived at, then any party to the dispute can make an application to an Industrial Tribunal set up under the Code.

## Company Law Committee Releases Report

The [Company Law Committee](#) headed by Mr. Injeti Srinivas submitted its report to the Ministry of Corporate Affairs.

- The Committee made recommendations to the government about the re-categorisation of certain criminal offences in the Companies Act, 2013. It also suggested certain other changes to facilitate the ease of doing business.

### Key observations and recommendations include:

- **Rationale for re-categorisation:** The Committee observed that a balance must be struck between civil and criminal sanctions when dealing with corporate conduct.
- Serious violations of the law, especially wrongful conduct involving fraudulent elements, should be dealt with under criminal law. However, procedural, technical, and minor non-compliance may be dealt with through civil jurisdiction.
- **Offences to be omitted or dealt with under alternative frameworks:** The Committee believed that certain offences could be dealt with through other laws or alternative mechanisms. It recommended that seven offences be omitted.
  - These offences may be omitted from the Act. These include those relating to



noncompliance with National Company Law Tribunal orders regarding failure to redeem debentures.

- The Committee also recommended that five offences be dealt with under alternative frameworks such as the Insolvency and Banking Code.
- These offences included those relating to noncooperation of promoters or directors with the company liquidator.
- **Offences restricted to fine only:** The Committee noted that certain offences were severe enough to warrant criminal liability but not necessitate incarceration.
  - The imposition of a penalty as punishment would suffice. These offences included those relating to non-compliance of companies with charitable objects (such as the promotion of social welfare) with the requirements imposed on them.
- **Ease of living related changes:** The Committee suggested certain changes relating to improving the ease of living in the country for corporates.
  - These include enabling the centre to enhance limits on Corporate Social Responsibility obligation thresholds to help improve CSR compliance.

## TRAI releases recommendations on platform services by DTH operators

TRAI has released recommendations on platform services offered by Direct to Home (DTH) operators. There are different types of distribution service providers of TV channels based on the technology used for distribution including [DTH services](#), local cable operators, and Internet Protocol Television Services.

- All distribution service providers offer certain programs which are specific to each platform and are not obtained from satellite-based broadcasters. These programs are referred to as platform services. Platform services provide the operators with an additional source of revenue through subscription of such services as well as advertisements on these services.

### Key recommendations are as follows:

- **Definition of platform services:** Platform services have been defined as the programs transmitted by operators exclusively to their own subscribers. They do not include Doordarshan channels, registered satellite TV channels, or foreign TV channels not registered in India.
- **Registration:** The DTH operator will be required to register the platform service channel with the appropriate authority, and pay Rs 10,000 for every such channel.
- **Sharing of platform services:** The platform services provided by one operator will be exclusive to itself, and will not be shared with another operator.
- Violation of this provision may lead to cancellation of registration of the platform service channel which was shared.
- **Cap on number of platform services:** The total number of platform services that an operator can offer will be 3% of total channel carrying capacity of the operator platform, or 15, whichever is higher.

## Steel Scrap Recycling Policy

The Ministry of Steel released the [Steel Scrap Recycling Policy](#). The policy seeks to provide a framework to **promote the establishment of metal scrapping centres for processing and recycling of steel scrap** generated from various sources such as appliances and vehicles. The policy provides guidelines for collection, dismantling and shredding activities in an organised, safe, and environment-friendly manner. It describes the roles and responsibilities of collection centres, dismantling centres, scrap processing centres, and the government as follows:

- **Collection centres:** Collection centres include individuals, local scrap dealers, and distributors engaged in the collection of scrap.
  - The collection centres may also assist the processing centres in initial segregation and sorting of scraps.
  - The collection centres may work closely with processing centres for compliance to the scrap specifications and codes prescribed by the Bureau of Indian Standards (BIS).
- **Dismantling and processing centres:** The dismantling and scrap processing centres will be

required to adhere to the existing rules related to factories and other industrial norms.

- These centres will be required to comply with various regulations related to environment, pollution control, occupational safety, and management of waste including hazardous waste, among others.
- The Ministry of Steel will work towards promoting:
  - Ease of doing business in setting up scrapping centres.
  - Research and development
  - Skill development
  - Development of quality standards
  - Creation of a competitive market in the steel scrap sector.
- An Inter-Ministerial Coordination Committee will be set up with representation from various Ministries and Departments including: (i) steel, (ii) road transport and highways, (iii) heavy industry, (iv) environment, and (v) Labour. The Committee will monitor the operationalization of the policy and enforcement of related regulations.

## Recycling of Ships Bill, 2019

[The Recycling of Ships Bill, 2019](#) was introduced in Lok Sabha. The Bill restricts the use of hazardous material on ships and regulates the recycling of ships.

### Key features include:

- **Applicability of the Bill:** The Bill will apply to:
  - Any new or existing ship which is registered in India
  - Ships entering a port or terminal in India, or the territorial waters of India,
  - Any warship, or other ship owned and operated by an administration and used on government noncommercial service.
  - Ship recycling facilities operating in India.
- **Ship recycling:** The Bill defines ship recycling as the dismantling of a ship at a facility to recover the components and materials for reuse, and taking care of the hazardous material so produced.
- **Requirements for ships:** Ships should not use prohibited hazardous materials as notified. The central government may exempt certain categories of ships from this requirement.
- The National Authority will carry out periodic surveys to verify the prescribed requirements. This Authority will be notified by the central government to administer, supervise and monitor all activities related to ship recycling.

## Polity

### The Transgender Persons (Protection of Rights) Bill, 2019

- **Definition of a transgender person:** [The Bill](#) defines a transgender person as one whose gender does not match the gender assigned at birth.
  - It includes transmen and trans-women, persons with intersex variations, gender-queers, and persons with socio-cultural identities, such as kinnar and hijra.
  - Intersex variations is defined to mean a person who at birth shows the variation in his or her primary sexual characteristics, external genitalia, chromosomes, or hormones from the normative standard of the male or female body.
- **Prohibition against discrimination:** The Bill prohibits discrimination against a transgender person, including denial of service or unfair treatment in relation to:
  - Education
  - Employment
  - Healthcare
  - Access to, or enjoyment of goods, facilities, opportunities available to the public
  - Right to movement
  - Right to reside, rent, or otherwise occupy the property
  - Opportunity to hold public or private office
  - Access to a government or private establishment in whose care or custody a transgender person is.

- **Health care:** The government must take steps to provide health facilities to transgender persons including separate HIV surveillance centres, and sex reassignment surgeries.
  - The government shall review the medical curriculum to address health issues of transgender persons, and provide comprehensive medical insurance schemes for them.
- **Certificate of identity:** A transgender person may make an application to the District Magistrate for a certificate of identity, indicating the gender as 'transgender'.
  - A revised certificate may be obtained only if the individual undergoes surgery to change their gender either as a male or a female.
- **National Council for Transgender persons (NCT)** will advise the central government as well as monitor the impact of policies, legislation and projects with respect to transgender persons. It will also redress the grievances of transgender persons.

## Restructuring of Tribunals

The Supreme Court passed a [judgement regarding various provisions of the Finance Act, 2017](#) that pertained to the restructuring of Tribunals.

The issues before the Supreme Court included:

- Whether the Finance Act, 2017 satisfies the requirements of a Money Bill under the Constitution.
  - Certain provisions of the Finance Act, 2017 provide for the conditions of service of chairpersons and other members of Tribunals, and amend certain Acts to merge Tribunals.
  - The Court did not decide on whether such provisions could be passed in a Money Bill and referred the issue to a seven judge bench.
  - In particular, the reference was to interpret Article 110 of the Constitution, and to decide whether the word "only" in the definition of Money Bill means that any item other than those related to taxation or expenditure could be included.
- Whether the Rules on Tribunals notified under the Act amount to excessive delegation.
  - Section 184 of the Finance Act, 2017 allows the central government to make rules regarding qualifications, appointment, terms of services, and salary of chairperson, and other members of Tribunals and other authorities.
  - The Court said that this does not amount to excessive delegation, and upheld the section.
- Whether the Rules are compatible with the Constitution and various decisions of the Supreme Court.
  - The Court struck down the Tribunal, Appellate Tribunal and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017.
  - It held that these Rules were in conflict with the principles of the Constitution which have been settled through various judgements of the Supreme Court.
  - Therefore, the Court held that these Rules amount to excessive interference of the executive in appointment of members of Tribunals and would be detrimental to the independence of the judiciary.
  - It would undermine the principle of separation of powers between the executive and the judiciary.
  - The Court directed the central government to reframe these rules in accordance with previous judgements of the Supreme Court related to working of Tribunals.
  - The Court also passed an interim order that appointments to the Tribunals shall be in terms of the respective Acts before the enactment of the Finance Act, 2017.

## Chief Justice of India under the Right to Information Act, 2005

In the last decade, some pleas had been filed in the Delhi High Court and the Supreme Court's Central Public Information Officer (CPIO) seeking details of judges' appointments, assets and correspondences.

- In 2010, the Delhi High Court held that the office of Chief Justice of India will come under the Right to Information Act, 2005 (RTI Act, 2005).
- Consequently, CPIO, Supreme Court filed an appeal against the decision of the Delhi High Court.
- The questions before the Supreme Court included:
  - Whether the office of Chief Justice of India would come under the RTI Act, 2005.
  - Whether sharing such information would undermine judicial independence, and

- whether there are any exceptions to the sharing of information.
- The Supreme Court upheld the [2010 judgement of the Delhi High Court](#) and held that the office of the CJI comes under the definition of “public authority” under the RTI Act, 2005.
- The Court further noted that while the independence of the judiciary forms part of the basic structure of the Constitution, bringing the office of the CJI under the RTI Act would not undermine the independence of the judiciary.
- However, the Court stressed that when public interest demands the disclosure of information, judicial independence must be kept in mind.

## Supreme Court upholds disqualification of 17 Karnataka MLAs

The Supreme Court upheld the decision of former [Karnataka Speaker for disqualification of 17 MLAs](#). However, it allowed them to contest in re-elections.

In July 2019, the then Karnataka Speaker disqualified 17 MLAs till the end of the Assembly term, under the anti-defection law. 15 of these MLAs had submitted their resignations before the decision of their disqualification.

- These MLAs argued that they have the right to resign and the Speaker should accept their resignations immediately as they personally informed him that the resignation is voluntary and genuine.

### The questions before the Supreme Court

- What is the role of the Speaker in deciding whether to accept or reject a resignation.
- Whether the order of the Speaker rejecting the resignation and disqualifying the MLAs is valid.
- Whether the Speaker can disqualify the MLAs till the end of the term of the Assembly.

### Observations held the Supreme Court

- The Court held that the Speaker’s role with regard to acceptance or rejection of a resignation is limited to examining whether such a resignation is voluntary or genuine.
- Further, it held that disqualification proceedings can be continued even if members have submitted resignations, when the act resulting in disqualification has arisen prior to the resignation.
- It upheld the order of the Speaker to the extent of disqualification of the 17 MLAs. However, it held that the Speaker has no power to disqualify the members till the end of the Assembly term.
- The Court noted that the Constitution provides for certain sanctions for disqualified members.
- These include a bar from being appointed as a Minister or holding any remunerative political post from the date of disqualification till the date of expiry of office, or re-election to the legislature, whichever is earlier.

## The Surrogacy (Regulation) Bill, 2019

The Surrogacy (Regulation) Bill, 2019 was referred to a Rajya Sabha Select Committee after being passed by Lok Sabha in August 2019.

- The Bill defines surrogacy as a practice where a woman gives birth to a child for an intending couple and agrees to hand over the child to them after the birth.

### Key features of the Bill include, as passed by Lok Sabha, include:

- **Regulation of surrogacy:** The Bill prohibits commercial surrogacy, but allows altruistic surrogacy.
  - **Altruistic surrogacy** involves no monetary compensation to the surrogate mother other than the medical expenses and insurance coverage.
  - **Commercial surrogacy** includes surrogacy or its related procedures undertaken for a monetary benefit or reward (in cash or kind) exceeding the basic medical expenses and insurance coverage.



- The intending couple should have a 'certificate of essentiality' and a 'certificate of eligibility' issued by the appropriate authority.
- Apart from this, a surrogate mother is needed to obtain a certificate of eligibility.
- The surrogate mother has to be:
  - A close relative of the intending couple; 25 to 35 years old.
  - A married woman having a child of her own
  - Possess a certificate of medical and psychological fitness for surrogacy.

## Arms (Amendment) Bill, 2019

The Arms (Amendment) Bill, 2019 was introduced in Lok Sabha by the Minister of Home Affairs. The Bill amends the Arms Act, 1959.

- It seeks to decrease the number of licensed firearms allowed per person and increases penalties for certain offences under the Act.

### Key features include:

- **License for acquiring firearms:** The Bill reduces the number of permitted firearms from three to one. This includes licenses given on inheritance or heirloom basis.
  - The Bill provides a time period of one year to deposit excess firearms.
  - The Bill also increases the duration of a firearm license from three years to five years.
- **Increase in punishment:** The Bill enhances the punishment for various offences. For example, the Act specifies the punishment for:
  - Dealing in unlicensed firearms.
  - Shortening or converting a firearm without a licence.
  - Importing or exporting banned firearms.
  - The punishment for these offences is between three years and seven years, along with a fine.
  - The Bill increases the punishment to between seven years and life imprisonment, along with a fine.
- **New offences:** The Bill adds new offences. These include:
  - Forcefully taking a firearm from police or armed forces, punishable with imprisonment between 10 years and life imprisonment, and a fine.
  - Using firearms in a celebratory gunfire which endangers human life or personal safety of others, punishable with imprisonment of up to two years or a fine of up to one lakh rupees, or both.
  - The Bill also defines offences committed by organised crime syndicates and illicit trafficking. Possession of firearms or ammunition by a member of a syndicate, in violation of the Act, will be punishable with imprisonment between 10 years and life, along with a fine.

## Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Bill, 2019

[Dadra and Nagar Haveli and Daman and Diu \(Merger of Union Territories\) Bill, 2019](#) was passed by Lok Sabha.

- The Bill provides for the merger of the Union Territories (UTs) of Dadra and Nagar Haveli, and Daman and Diu into a single UT.
  - The Bill makes consequential amendments including retaining the representation in Lok Sabha, the jurisdiction of the High Court of Bombay, and provisionally allotting all officials of the two UTs to the merged UT.

## Culture

### The Jallianwala Bagh National Memorial (Amendment) Bill, 2019

The [Jallianwala Bagh National Memorial \(Amendment\) Bill, 2019](#) was passed by Parliament. It amends the Jallianwala Bagh National Memorial Act, 1951.

- The Act provides for the erection of a National Memorial in memory of those killed or wounded on April 13, 1919, in Jallianwala Bagh, Amritsar. It creates a Trust to manage the National Memorial.
- The Bill amends this provision to remove the President of the Indian National Congress as a Trustee.

## External Affairs

### 11<sup>th</sup> BRICS summit

Brasilia Declaration released after the [11<sup>th</sup> BRICS summit](#) India participated in the 11<sup>th</sup> BRICS summit held on November 14, 2019.

#### Key features of the Declaration include:

- **Strengthening multilateral systems:** The Declaration addressed the need for inclusivity in the multilateral system, including the United Nations, its Security Council, the International Monetary Fund, and the World Trade Organisation.
  - Further, observing the importance of sustainable development goals and the Paris agreement on climate change, it addressed the need for developed countries to provide resources and other assistance to developing countries.
- **Economic cooperation:** The Declaration highlighted the importance of trade between BRICS nations.
  - Further, it observed the need for investment and infrastructure to improve trade. It condemned unilateral and protectionist measures, and recommended open markets and fair business and trade environment.
- **Regional conflicts:** The Declaration observed regional conflicts in Syria, Yemen, Israel-Palestine, the Gulf region, Libya, and Afghanistan.
  - It recognised the need for collective efforts for peaceful settlement of disputes, and the role of the UN Security Council as bearing the primary responsibility for maintaining international peace and security.
- **Intra-BRICS cooperation:** The Declaration acknowledged cooperation among BRICS nations on various subjects such as security, science, technology, industrial growth, environment, energy, finance, trade, and fighting corruption.

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