

The Legacy Outreach

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CHANDIGARH'S EV POLICY, 2022

INTRODUCTION

Industrialization is a significant step in a country's social and economic transformation, which helps it catapult from an underdog, growing economy to eventually an economic and international superpower. However, with all the rapid developments that came as a result of industrialization, it led to an increase in the number of industries set up to increase the number of pollutants being generated and exhausted out into the environment. Along with this came an increase in the number of vehicles being manufactured and driven on the road, use of pollutants for the creation of different oils, fuels and electricity etc. have contributed to enhancing comfort but have also impacted the environment negatively, which has subsequently led to climate change, an effect commonly known as global warming.

To deal with such an issue, countries all around the globe have undertaken various initiatives in the form of international treaties and conferences to prevent further deterioration of the environment by moving towards and adopting non-polluting alternatives.

India, statistically being the 4th most affected country by climate change, has endeavoured to undertake measures to reduce the amount of emissions generated. One such measure is the adoption of Electronic Vehicles (EVs). Vehicular pollution accounts for a large chunk of emissions that have led to climate change in India. Adopting EVs would drastically reduce pollution caused due to the burning of fossil fuels and reduce the country's financial burden on crude oil export.

EV POLICIES IN INDIA

To accelerate such adoption, the Central Government and various States like Delhi, Hyderabad, Gujarat, etc., have implemented multiple Policies to accelerate EV adoption.

To fulfil their commitment to clean energy and mobility in the coming decade, the Central Government, through policies like FAME-II (Faster Adoption and Manufacturing of Hybrid and Electric Vehicles) and PLI (Production Linked Incentive) Scheme for Advanced Battery Chemistries policy, have provided various financial and non-financial incentives.

However, the State Government policies are geared toward providing incentives to the consumers who are willing to adopt the EV ecosystem and businesses willing to facilitate such a transition by implementing easy access charging stations and overall enhancing the experience through innovative technology.

CHANDIGARH (A CASE STUDY)

Chandigarh is the most recent UT to have taken the initiative to promote the adoption of EVs through their Draft EV Policy, 2022 (hereafter referred to as "Policy") issued by the Chandigarh Administration Department of Science & Technology & Renewable Energy (hereafter referred to as "Department"), dated 10/02/2022. Through this policy, the Department aims to promote electronic modes of transport, be it public or private.

The policy outlines all the incentives provided to the consumers, businesses and even start-ups that help achieve the Department's goals of reaching near complete electrification. Consumers willing to adopt this ecosystem have been provided with various early-bird incentives to adopt any EV vehicle, be it a bicycle, car, commercial vehicle, cart, auto etc. Along with that, guidelines have also been outlined for setting up both private and public charging stations with the same is a mandatory requirement from now on for all petrol pumps to have. Furthermore, start-ups registering national and international patents will also be reimbursed up to 50% of the cost incurred by the start-up in fees and all other costs associated with the registration of IP (Intellectual Property).

EV policy for states like Delhi and Gujarat (amongst other states) has seen a degree of success and has set a good precedent as the implementation of their EV policies has seen a growth in the adoption of EVs. Moreover, all these already established policies have acted as the basis on which the Department has formulated and drafted this policy, therefore giving us a good idea of how successful the Department will be in achieving its objectives.



CONCLUSION

The adoption of this policy would not only lead to a better and much cleaner and pollution-free environment but would also have a positive impact on the economy as it would lead to job creation as skilled manpower would be required to revolutionize this sector and ensure a smooth transition to electric mobility.

Hence, through this policy, the Department has taken a step in the right direction by incentivizing the transition for everyone from fossil fuel-based transportation to an electric one. However, if the Department, through their yet to be finalized policy, is successful in facilitating and smoothening the transition, the same would still not be enough. India's primary source of electricity generation is the burning of coal, which is one of India's primary pollutants behind climate change. Adoption of EVs would reduce fossil fuel-induced pollution and increase the burning of coal for the heightened demand for electricity. Hence, even though this policy is a step in the right direction, the root of the problem is much deeper than meets the eye and needs to be tackled soon by implementing renewable and non-polluting sources of electricity generation to have a lasting effect truly.

Also, to facilitate such a transition, the Central Government needs to lead the charge towards electrification as it can help the State Governments draft their EV policies. The Central Government can also help by securing a supply chain of raw materials for EVs like REE (Rare Earth Elements), which is crucial for manufacturing batteries. There is also a need for an agency or organization that ensures that the battery and charging technologies are standardized so that every EV can use any station. Ideally, the Central Government should set up a dedicated department that oversees all aspects of EVs in the country and can make relevant recommendations to other relevant ministries and state departments.

LIMITED LIABILITY PARTNERSHIP (AMENDMENT ACT), 2021

The Limited Liability Partnership (Amendment) Act, 2021 ("Amendment Act"), notified by the Ministry of Corporate Affairs on February 11, 2022, amends the Limited Liability Partnership Act, 2008 ("Act"), which will take effect on April 1, 2022.

The Amendment Act aligns with the slew of changes announced by the Union Minister of Finance and Corporate Affairs. Smt. Nirmala Sitharaman, in Budget 2021, stated as a positive step toward further promoting ease of doing business in India and decriminalising offences under the Act to encourage budding entrepreneurs in the country.

The Amendment Act makes several changes to the Act concerning limited liability partnerships ("LLPs"). First, the Amendment Act introduced the concept of a small LLP. The following is a quick rundown of the modifications made possible by the Amendment Act:

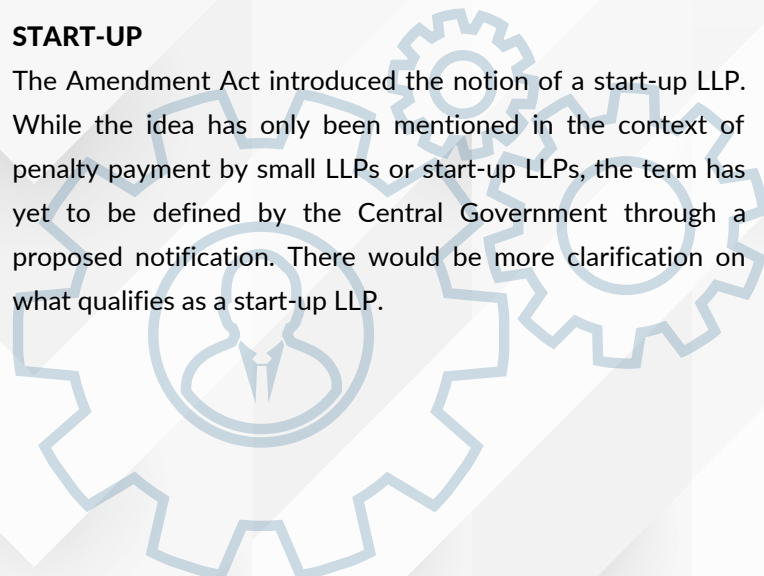
The following are the main changes made by the Amendment Act:

Small limited liability partnerships (LLPs) are being introduced if:

1. Its total contribution is up to INR 25,00,000 (Twenty-Five Lakhs Rupees) or such higher amount as may be prescribed but not more than INR 5,00,00,000 (Five Crores Rupees).
2. Its turnover is up to INR 40,00,000 (Forty Lakhs Rupees) or such higher amount as may be prescribed but not more than INR 50,00,00,000 (Fifty Crore Rupees).

START-UP

The Amendment Act introduced the notion of a start-up LLP. While the idea has only been mentioned in the context of penalty payment by small LLPs or start-up LLPs, the term has yet to be defined by the Central Government through a proposed notification. There would be more clarification on what qualifies as a start-up LLP.



PARTNER

According to the Act, at least one of an LLP's chosen partners must be a resident of India. Prior to the Amendment Act, a person who was a "resident in India" was someone who had spent at least 182 (one hundred eighty-two) days in the country in the previous year. However, according to the Amendment Act, it refers to a person who has spent at least 120 (one hundred twenty) days in India during the financial year.

RECTIFICATION

Prior to the Amendment Act, the Central Government had the authority to order an LLP to change its name if the Central Government was satisfied that it was undesirable, identical, or too closely resembled the name of any other partnership firm or other entity, including a registered trademark, or a trademark that is the subject of an application for registration by any other person under the Trade Marks Act, 1999, as to be likely to be mistaken for it.

According to the Amendment Act, if an LLP's name is too similar, the Central Government cannot order the LLP to change its name unless it is satisfied.

However, if the name of an LLP or other entity bears any resemblance to the name of another LLP or other entity, the Central Government may direct that such LLP change its name within three months of the date of the issue of such direction, but only upon the application of such other LLP or other entity.

AUDIT & ACCOUNTING STANDARD

The Amendment Act states that the Central Government, in conjunction with the National Financial Reporting Authority, may prescribe the accounting and auditing standards recommended by the Institute of Chartered Accountants of India for a class or classes of LLPs.

There were no such standards before the Amendment Act.

COMPOUNDING

The Central Government has the right to compound any crime under the Act solely punished by a fine under the Act.

The Regional Director or any other officer not below the Regional Director is entitled to compound such offences under the Amendment Act. Compounding is also not permitted if the LLP or its partner or designated partner commits the same or similar offences within three years of the date on which a similar offence committed by it or him was compounded under the Act. The Amendment Act further specifies the format and method for submitting and disposing of compounding applications.

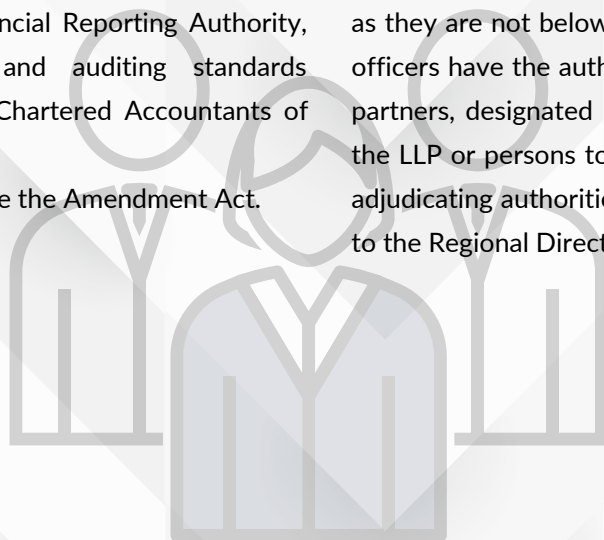
SPECIAL COURTS

According to the Amendment Act, the Central Government may, by notification, establish or designate as many special courts as may be necessary for such area or areas to ensure speedy trial of offences under this Act. The special court will be made up of a single judge serving as a sessions judge or additional sessions judge, who will have the authority to try crimes involving a sentence of 3 (three) years or more in prison, and a metropolitan magistrate or a judicial magistrate of the first class for all other crimes. Furthermore, any offence under the Act punishable by imprisonment for a duration of not more than 3 (three) years may be tried in a summary manner by the special court.

APPOINTMENT OF ADJUDICATING OFFICERS

The Companies Act of 2013 and the National Company Law Tribunal could impose fines on LLPs under the Act.

According to the Amendment Act, the Central Government may appoint as many adjudicating officers as it wants, as long as they are not below the rank of Registrar. Such adjudicating officers have the authority to impose a penalty on the LLP, its partners, designated partners, or any other person and order the LLP or persons to correct the default. The decision of the adjudicating authorities, on the other hand, might be appealed to the Regional Director of the relevant jurisdiction.



JOINT DECLARATION ON PRIVACY AND THE PROTECTION OF PERSONAL DATA

INTRODUCTION

Technology has now impacted every corner of the globe, and it has made the collection of all kinds of data easier for individuals, public and private bodies. The way data has been scrutinized, managed, utilized and shared, soon it will transform the future of mobility.

In the past years' issue of data protection has been rising drastically due to its inappropriate usage by entities. The lack of trust in data sharing can also be witnessed due to data mishandling, which leads to economic loss. Given the increase in data misuse and declining trust in data sharing, the European External Action Service (EEAS) joined hands with nine other countries to encourage data sharing for economic gains and building better relationships. On 23rd Feb, 2022 the European External Action Service (EEAS) announced a Joint Declaration by the EU, Australia, Comoros, India, Japan, Mauritius, New Zealand, South Korea, Singapore, and Sri Lanka on Privacy and Protection of Personal data. This Union is all about strengthening the trust in the digital environment among the countries.

This Union aims to foster free flow of data with trust which is key to harness the opportunities of the digital economy. Also to achieve the goal of international cooperation to promote high data protection and privacy standards on certain core elements increasingly shared across Indo – Pacific region, Europe and beyond. The G20 Rome Leaders' Declaration also acknowledges the issue of free flow of data.

A lot of recent amendments can be witnessed in India touching the outlines of Data protection. Recently, the Lower House of the Parliament of India passed the Criminal procedure (Identification) Bill, 2022 which allows Investigating officers to collect, store and analyze the physical and biological samples, including retina and iris scan of the convicted, arrested and detained persons. The Bill aims to equip the Police Officers with necessary resources as per the changing times and at the same time secure the data for future references. On one hand, India has signed this declaration internationally for the promotion of Data protection while on the other hand, there is a lack of proper implementation of Data protection laws internally in India. On the top of it, the primary question that arose on the Identification bill was about protecting data collected by the officers. However, the Central Government on the question of Data protection raised in the House, assured that the data collection will be done through a Technology driven foolproof mechanism in order to prevent any data leak or misuse.

Now only future will tell whether this Bill would be implemented in proper ways or not, but one thing is sure that India still has a long way to go for the adequate establishment of Data protection laws within the country.

NEED

Protection of personal data is need of the hour. Legal framework of countries lays down provision for the security and protection of an individual and its privacy as a fundamental freedom. It has been clearly stated in the countries' legal frameworks that how Privacy of an individual should be respected as it is a fundamental freedom for any human being. Therefore, it is imperative to ensure the respect for individual's privacy and protection of personal data is practically guaranteed by the legal frameworks. With the lack of trust among the countries it is difficult for them to fully embrace and realize the benefits of digital revolution which is the key for future development.

FRAMEWORK

The Union intend to achieve International Cooperation in order to promote high data protection and privacy standards based on following core elements rapidly shared across the borders of countries,

- Comprehensive legal frameworks of the countries and policies covering both private and public sector.
- Principles such as transparency, fairness, lawfulness, data minimization, data security, limited data retention, accountability.
- Oversight by an independent and dedicated supervisory authority and effective redress.
- In order to establish cross border data flow among the International borders laying down safeguards to ensure that the data travels with protection.
- Enforceable rights of individuals, such as access, rectification, deletion, and safeguards with respect to automated decision-making such as transparency and the possibility to challenge the outcome.

This Joint Declaration aims to foster and develop International policy discussions and cooperation regarding data protection and cross border data flows with trust both bilaterally and multilaterally. In order to have free flow of data across the world, close cooperation of the countries are required which comes with trust and faith. If the countries will restrain themselves from sharing the data, the development of society in all aspects would automatically be hampered.

PPP: THE KEY DRIVER OF PM GATI SHAKTI YOJANA

Infrastructure development will be the pivotal aspect for the government as it proposed a robust increase in capital expenditure for the next financial year, striving to revive the economy ravaged by the pandemic.

Finance Minister Ms. Nirmala Sitharaman described the Gati Shakti Yojana as a transformative approach for massive infrastructure development to encompass the seven 'engines' of growth, namely roads, railways, airports, ports, mass transport, waterways and logistic infrastructure. In order to achieve such targets, the scheme for financial assistance to the states has been increased from ₹10,000 crores to ₹15,000 crores.

The PM Gati Shakti Yojana was announced last year with an aim to break departmental silos and bring in more holistic and integrated planning and execution of projects with a view to address the issues of multi-modal and last-mile connectivities. A PM Gati Shakti Master Plan exclusively for expressways will be formulated in 2022-23 to facilitate faster movement of people and goods. The national highways network will be expanded by 25,000km in 2022-23. In the attempt of achieving this, the government will mobilize ₹20,000 crores through innovative ways of financing to complement the public resources.

Observing that Public-Private Partnership has given a push to the growth of various infrastructure projects, India's Prime Minister, Mr. Narendra Modi, recently called on the private sector to partner with the public sector in infrastructure development under the PM Gati Shakti Yojana, which aims to create a synergy between infrastructure and logistics using modern technology. This announcement of making Public-Private Partnership (PPP) the key driver of this Rs. 100 lakh crore initiative would reduce not only the logistic cost but also boost the Indian Economy.

The Prime Minister also noted that the Gati Shakti programme would lead to optimum utilization of resources through complete information on infrastructure projects available to stakeholders.

Public procurement in India has a share of almost 30 per cent of the economy; as a result, improving efficiency is of immense importance. The government has taken several steps to improve efficiency, including the Government e-Marketplace (GeM), promoting Make in India initiative to offer better opportunities to the domestic players in the country to improve efficiency.



NATIONAL LAND MONETISATION CORPORATION – A STEP IN THE RIGHT DIRECTION

The Union Cabinet recently approved the setting up of National Land Monetization Corporation (NLMC) through which the government plans to monetise the surplus land holdings and unused and under-used non-core assets of the Central Public Sector Enterprises (CPSEs). It was about a decade back that a study by India Development Foundation came out with a paper titled, “India’s Public Lands: Responsive, Transparent, and Fiscally Responsible Asset Management” where it was observed that India’s public land holdings are vast and valuable with the 13 Major Port Trusts holding around 100,000 hectares of land, the Airports Authority of India controlling 20,400 hectares of high-value land surrounding major airports and the Indian Railways having 43,000 hectares of landholding which was unnecessary for railway service, with an estimated value of this excess land amounting to about US\$ 40 billion, a vast amount by any standards. To top it all, the Ministry of Defence the largest landowner in the country has a landholding amounting to over 700,000 acres of land. (Source: Edited by Patricia Clarke Annez and Shubhashis Gangopadhyay, “India’s Public Lands: Responsive, Transparent, and Fiscally Responsible Asset Management”, India Development Foundation, 2013)

The asset monetisation programme and the National Monetisation Pipeline has been in the works for sometime and some public sector undertakings have already taken steps in this direction. Public sector companies including Bharat Sanchar Nigam Limited (BSNL) has already started the process of asset monetization in a decentralized and circle based way through identifying unused land parcels and buildings. The centre’s recent approval of setting up NLMC is expected to speed up the process and bring in a structured format through a centralized agency in charge of and overseeing the entire end to end mechanism with a clear valuation, revenue generation and monitoring system and bringing in beneficial partnerships with the participation of the private sector in the process.

NLMC as an agency of the central government will undertake surplus land asset and real estate monetisation and assist and provide technical advice to the centre in this regard. The governments stated position of creating NLMC as a lean organization with specialized professionals hired for the purpose is a step in the right direction and highlights the intent to reduce bureaucracy. With a huge land asset now to be handled by NLMC it should also have a clear understanding with its clients for offering a certain portion of the land asset for social housing and infrastructure which in effect will certainly raise the Ease of Living Index including not only of housing and shelter but also safety, security and recreation of a sizeable population in the country.

Some challenges are however expected which may be monetization of remote land parcels, lack of clear title and litigations which may act as deterrents. NLMC as a central agency with a clear mandate is however expected to perform and execute the government’s ambitious scheme of land monetization in a transparent and efficient manner and way better than ever before.

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