

## Effect of The Repealing And Amending Act, 2015

1. On 13<sup>th</sup> May 2015 THE REPEALING AND AMENDING ACT, 2015 was passed and the Acts mentioned in its first schedule were repealed. The list of Acts which repealed are as below:-

1. The Indian Fisheries Act, 1897.
2. The Foreign Jurisdiction Act, 1947.
3. The Sugar Undertakings (Taking Over of Management) Act, 1978.
4. The Representation of the People (Amendment) Act, 1999.
5. The Indian Majority (Amendment) Act, 1999.
6. The Administrators-General (Amendment) Act, 1999.
7. The Notaries (Amendment) Act, 1999.
8. The Marriage Laws (Amendment) Act, 1999.
9. The Repealing and Amending Act, 2001.
10. The Marriage Laws (Amendment) Act, 2001.
11. The Indian Divorce (Amendment) Act, 2001.
12. The Indian Succession (Amendment) Act, 2002.
13. The Legal Services Authorities (Amendment ) Act, 2002.
14. The Representation of the People (Third Amendment) Act, 2002.
15. The Transfer of Property (Amendment) Act, 2002.
16. The Indian Evidence (Amendment) Act, 2002.
17. The Representation of the People (Second Amendment)Act, 2002.
18. The Representation of the People (Amendment) Act, 2002.
19. The Election Laws (Amendment) Act, 2003.
20. The Representation of the People (Amendment)Act, 2003.
21. The Election and Other Related Laws (Amendment)Act, 2003.
22. The Marriage Laws (Amendment) Act, 2003.
23. The Representation of the People (Second Amendment)Act, 2003.
24. The Delimitation (Amendment) Act, 2003.

25. The Delegated Legislation Provisions (Amendment) Act, 2004.
26. The Hindu Succession (Amendment) Act, 2005.
27. The Parliament (Prevention of Disqualification) Amendment Act, 2006.
28. The Delimitation (Amendment) Act, 2008.
29. The Representation of the People (Amendment) Act, 2008.
30. The Representation of the People (Amendment) Act, 2009.
31. The Personal Laws (Amendment) Act, 2010.
32. The Representation of the People (Amendment) Act, 2010.
33. The Anand Marriage (Amendment) Act, 2012.
34. The Administrators-General (Amendment) Act, 2012.
35. The Parliament (Prevention of Disqualification) Amendment Act, 2013.

2. Some of the Amendments have created new rights and is looked as a radical steps to curtail the gender discrimination. It will be worth to note here that The Indian Evidence (Amendment) Act, 2002 had in rape cases disallowed questions in the cross- examination of the prosecutrix as to her general immoral character. The other being The Hindu Succession (Amendment) Act, 2005 which has recognised females in the Hindu family as coparcener. But these two amendments Acts are included in the above list. Does it mean that now by this repealment Act those amendments are also repealed. What is the effect of such repealment and for what purpose such Act is passed ?

3. In Khuda Bux vs Manager, Caledonian Press, AIR 1954 Cal 484, probably for the first time the question came before The Hon'ble High Court of Calcutta as to what was the effect of The Repealment and Amending Act 1950 which repealed Section 120 of the Workman's Compensation Act of 1948, read with a table of enactments therein set out. While commenting on such repealment

Act the Hon'ble High Court observed,

*“ Such Acts have no legislative effect, but are designed for editorial revision, being intended only to excise dead matter from the statute book and to reduce its volume. Mostly, they expurgate amending Acts, because having imparted the amendments to the main Acts, those Acts have served their purpose and have no further reason for their existence. At times, inconsistencies are also removed by repealing and amending Acts. The only object of such Acts which in England, are called Statute Law Revision Acts, is legislative spring-cleaning and they are not intended to make any change in the law. Even so, they are guarded by saving clauses drawn with elaborate care, of which Section 3 of the Repealing and Amending Act of 1950 is itself an apt illustration. Besides providing for other savings, that section says that the Act shall not affect "any principle or rule of law \* \* notwithstanding that the same may have been \* \* \* derived by, in, or from any enactment hereby repealed."*

4. In *Jethanand Betab vs The State Of Delhi*, 1960 AIR 89, Jethanand was prosecuted along with another, in the Court of the Magistrate, First Class, Delhi, under s. 6(1-A) of the Act for possessing a wireless transmitter in contravention of the provisions of section 3 of the Act, and was sentenced to six months rigorous imprisonment. The conviction was upheld till the Hon'ble High Court of Delhi. Before the Hon'ble Supreme Court Learned Counsel raised contentions that section 6(1-A) of the Act was repealed, and, therefore, neither the conviction nor the sentence thereunder could be sustained. While dismissing the appeal the Hon'ble Supreme Court observed,

*“ The general object of a repealing and amending Act is stated in Halsbury's Laws of England, 2<sup>nd</sup> Edition, Vol. 31, at p. 563, thus:*

*"A statute Law Revision Act does not alter the law, but simply strikes out certain*

*enactments which have become unnecessary. It invariably contains elaborate provisos." In Khuda Bux v. Manager, Caledonian Press Chakravartti, C.J., neatly brings out the purpose and scope of such Acts."*

5. In K.K. Vasudeva Kurup vs Union Of India And Ors. AIR 2003 Bom 64, The public interest litigation was filed by an advocate before the Hon'ble High Court of Bombay. The case of the petitioner was that the Negotiable Instruments Act, 1881 was enacted and came into force in December, 1881. It deals with negotiable instruments, such as Promissory Notes, Bills of Exchange, Cheques, etc.. By the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988 , certain amendments were made by Parliament in the original Act. It, inter alia, inserted Chapter XVII ("Of Penalties in case of Dishonour of certain cheques for Insufficiency of Funds in the Accounts") contained in sections 138 to 142. The petitioner, however, contended that by the Repealing and Amending Act, 2001 (Act 30 of 2001), published in the Gazette of India, on September 3, 2001, certain statutes were repealed as shown in the First Schedule. Several statutes were mentioned in the said Schedule along with the extent of repeal. At serial No. 66, the Banking, Public Financial Institutions and Negotiable Instruments Laws (Amendment) Act, 1988, is referred to and it is stated that it is repealed as "the whole". Petitioner prayed for appropriate directions are required to be issued to not to take cognizance of any such offence alleged to have been committed under the aforesaid sections. The Hon'ble High Court took into consideration the ratio laid down In Khuda Bux v. Manager, Caledonian Press, and later on in case of Jethanand Betab v. State of Delhi (now Delhi Administration) and held,

*"In our opinion, the legal position is well settled. Since the Amending Act has already been enacted and implemented by making*

*necessary amendment and insertion in the original Act, the Amending Act has lost its utility as its purpose has already been served. Hence, the Amending Act was repealed 'as a whole'. We find no infirmity or illegality in such action. We see no reason to grant any relief to the petitioner. The petition deserves to be dismissed and is accordingly dismissed. No costs.”*

6. The clouds of doubts has been cleared by above guidance by Hon'ble Supreme Court, Hon'ble High Court of Calcutta and Hon'ble High Court of Bombay. Now it can be said that the THE REPEALING AND AMENDING ACT, 2015 has no effect on the amendments which has been incorporated in the Original Acts.

Date: 23.10.2015

(Mahesh S. Lone)

Civil Judge Senior Division, Bhandara.