

THE NATIONAL IDENTIFICATION AUTHORITY OF INDIA BILL, 2010

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TO BE INTRODUCED IN THE RAJYA SABHA

Bill No. LXXV of 2010

THE NATIONAL IDENTIFICATION AUTHORITY OF INDIA
BILL, 2010

A

BILL

to provide for the establishment of the National Identification Authority of India for the purpose of issuing identification numbers to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access to benefits and services to such individuals to which they are entitled and for matters connected therewith or incidental thereto.

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

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the National Identification Authority of India Act, 2010.
 (2) It shall extend to the whole of India except the State of Jammu and Kashmir and
 save as otherwise provided in this Act, it applies also to any offence or contravention
 thereunder committed outside India by any person.

Short title,
extent and
commencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “aadhaar number” means the identification number issued to an individual under sub-section (2) of section 3;

(b) “aadhaar number holder” means an individual who has been issued an aadhaar number under this Act;

(c) “authentication” means the process wherein, aadhaar number along with other attributes (including biometrics) are submitted to the Central Identities Data Repository for its verification and such Repository verifies the correctness thereof on the basis of information or data or documents available with it;

(d) “Authority” means the National Identification Authority of India established under sub-section (1) of section 11;

(e) “biometric information” means a set of such biological attributes of an individual as may be specified by regulations;

(f) “Central Identities Data Repository” means a centralised database in one or more locations containing all aadhaar numbers issued to aadhaar number holders along with the corresponding demographic information and biometric information of such individuals and other information related thereto;

(g) “Chairperson” means the Chairperson of the Authority appointed under section 12;

(h) “demographic information” includes information relating to the name, age, gender and address of an individual (other than race, religion, caste, tribe, ethnicity, language, income or health), and such other information as may be specified in the regulations for the purpose of issuing an aadhaar number;

(i) “enrolling agency” means an agency appointed by the Authority or by the Registrars, as the case may be, for collecting information under this Act;

(j) “enrolment” means such process, as may be specified by regulations, to collect demographic information and biometric information from individuals by the enrolling agencies for the purpose of issuing of aadhaar number to such individuals under this Act;

(k) “identity information” in respect of an individual means biometric information, demographic information and aadhaar number of such individuals;

(l) “Member” includes the Chairperson and a part-time Member of the Authority appointed under section 12;

(m) “notification” means a notification published in the Official Gazette and the expression “notified” with its cognate meanings and grammatical variations shall be construed accordingly;

(n) “prescribed” means prescribed by rules made under this Act;

(o) “Registrar” means any entity authorised or recognised by the Authority for the purpose of enrolling the individuals under this Act;

(p) “regulations” means the regulations made by the Authority under this Act;

(q) “resident” means an individual usually residing in a village or rural area or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area in India;

(r) “Review Committee” means the Identification Review Committee constituted under sub-section (1) of section 28.

CHAPTER II

AADHAAR NUMBERS

3. (1) Every resident shall be entitled to obtain an aadhaar number on providing of his demographic information and biometric information to the Authority in such manner as may be specified by regulations:

Aadhaar number.

Provided that the Central Government may, from time to time, notify such other category of individuals who may be entitled to obtain an aadhaar number.

(2) On receipt of the demographic information and biometric information under subsection (1), the Authority shall, after verifying the information, in such manner as may be specified by regulations, issue an aadhaar number to such resident.

4. (1) An aadhaar number, issued to an individual shall not be re-assigned to any other individual.

Properties of aadhaar number.

(2) An aadhaar number shall be a random number and bear no attributes or identity data or part thereof, relating to the aadhaar number holder.

(3) An aadhaar number shall, subject to authentication, be accepted as proof of identity of the aadhaar number holder.

5. (1) The Authority shall perform authentication of the aadhaar number of a aadhaar number holder in relation to his biometric information and demographic information subject to such conditions and on payment of such fees and in such manner as may be specified by regulations.

Authentication of aadhaar number.

(2) The Authority shall respond to an authentication query with a positive or negative response or with any other appropriate response excluding any demographic information and biometric information.

6. The aadhaar number or the authentication thereof shall not, by itself, confer any right of or be proof of citizenship or domicile in respect of an aadhaar number holder.

Aadhaar number not evidence of citizenship or domicile, etc.

7. The Authority may engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as may be specified by regulations.

Central Identities Data Repository.

8. The Authority may require the aadhaar number holders to update their demographic information and biometric information, from time to time, in such manner as may be specified by regulations so as to ensure continued accuracy of their information in the Central Identities Data Repository.

Updation of certain information.

9. The Authority shall not require any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health.

Prohibition on requiring certain information.

10. The Authority shall take special measures to issue aadhaar number to women, children, senior citizens, persons with disability, migrant unskilled and unorganised workers, nomadic tribes or to such other persons who do not have any permanent dwelling house and such other categories of individuals as may be specified by regulations.

Special measures for issuance of aadhaar number to certain categories of persons.

CHAPTER III

NATIONAL IDENTIFICATION AUTHORITY OF INDIA

11. (1) The Central Government shall, by notification, establish an Authority to be known as the National Identification Authority of India to exercise the powers conferred on it and to perform the functions assigned to it under this Act.

Establishment of Authority.

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

(3) **The head office of the Authority shall be in the National Capital Region referred to in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985.** 5
2 of 1985.

(4) **The Authority may, with the prior approval of the Central Government, establish its offices at other places in India.**

Composition of Authority. **12. The Authority shall consist of a Chairperson and two part-time Members to be appointed by the Central Government.** 10

Qualifications for appointment of Chairperson and Members of Authority. **13. The Chairperson and Members of the Authority shall be persons of ability, integrity and outstanding calibre having experience and knowledge in the matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration.**

Term of office and other conditions of service of Chairperson and Members. **14. (1) The Chairperson and the Members appointed under this Act shall hold office for a term of three years from the date on which they assume office and shall be eligible for reappointment:** 15

Provided that no person shall hold office as a Chairperson or Member after he has attained the age of sixty-five years:

Provided further that the Chairperson of the Unique Identification Authority of India appointed before the commencement of this Act by notification A-43011/02/2009-Admn.I (Vol.II) dated the 2nd July, 2009 shall continue as a Chairperson of the Authority under this Act for the term for which he had been appointed. 20

(2) The Chairperson and every Member shall, before entering upon their office, make and subscribe to, an oath of office and of secrecy, in such form and in such manner and before such Authority as may be prescribed. 25

(3) Notwithstanding anything contained in sub-section (1), the Chairperson or Member may—

(a) relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or 30

(b) be removed from his office in accordance with the provisions of section 15.

(4) The Chairperson shall not hold any other office during the period of holding his office in the Authority as such.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and allowances or remuneration payable to part-time Members shall be such as may be prescribed: 35

Provided that the salary, allowances and the other terms and conditions of service of the Chairperson shall not be varied to his disadvantage after his appointment.

Removal of Chairperson and Members. **15. (1) The Central Government may remove from office the Chairperson, or a Member, who—** 40

(a) is, or at any time has been adjudged as an insolvent;

(b) has become physically or mentally incapable of acting as the Chairperson or, as the case may be, a Member;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; 45

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or, as the case may be, a Member; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.

(2) The Chairperson, or a Member shall not be removed under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

16. The Chairperson or a Member, ceasing to hold office as such, shall not, without
5 previous approval of the Central Government,—

Restrictions on
Chairperson or
Members on
employment
after cessation
of office.

(a) accept any employment in, or connected with the management or administration of, any person which has been associated with any work under the Act, for a period of three years from the date on which they cease to hold office:

10 Provided that nothing contained in this clause shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined in section 617 of the Companies Act, 1956;

1 of 1956.

15 (b) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;

20 (c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public;

(d) enter, for a period of three years from his last day in office, into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.

25 17. The Chairperson shall have powers of general superintendence, direction in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, and without prejudice to any of the provisions of this Act, exercise and discharge such other powers and functions of the Authority as may be prescribed.

Functions of
Chairperson.

30 18. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be specified by regulations.

Meetings.

(2) The Chairperson, or, if for any reason, he is unable to attend a meeting of the Authority, the senior most Member shall preside over the meetings of the Authority.

35 (3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members present and voting and in the event of an equality of votes, the Chairperson or in his absence the Member presiding over shall have a second or casting vote.

40 (4) All decisions of the Authority shall be authenticated by the signature of the Chairperson or any other Member authorised by the Authority in this behalf.

45 (5) If any Member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

19. No act or proceeding of the Authority shall be invalid merely by reason of—

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

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

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

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

Officers and other employees of Authority.

20. (1) There shall be a chief executive officer of the Authority, not below the rank of the Additional Secretary to the Government of India, who shall be the Member-Secretary of the Authority, to be appointed by the Central Government. 5

(2) The Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required to the Authority in the discharge of its functions.

(3) The salaries and allowances payable to, and the other terms and conditions of service of, the chief executive officer and other officers and other employees of the Authority shall be such as may be specified by regulations with the approval of the Central Government. 10

Functions of chief executive officer of Authority.

21. (1) The chief executive officer shall be the legal representative of the Authority and shall be responsible for—

- (a) the day-to-day administration of the Authority;
- (b) implementing the work programmes and decisions adopted by the Authority; 15
- (c) drawing up of proposal for the Authority's work programmes;
- (d) the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority.

(2) Every year, the chief executive officer shall submit to the Authority for approval—

- (a) a general report covering all the activities of the Authority in the previous year; 20
- (b) programmes of work;
- (c) the annual accounts for the previous year; and
- (d) the budget for the coming year.

(3) The chief executive officer shall have administrative control over the officers and other employees of the Authority. 25

Transfer of assets, liabilities of Authority.

22. On and from the establishment of the Authority —

(1) all the assets and liabilities of the Unique Identification Authority of India, established *vide* notification of the Government of India in the Planning Commission number A-43011/02/2009-Admin.I, dated the 28th January, 2009, shall stand transferred to, and vested in, the Authority. 30

Explanation.— The assets of such Unique Identification Authority of India shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of such Unique Identification Authority of India and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind; 35

(2) without prejudice to the provisions of sub-section (1), all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Unique Identification Authority of India immediately before that day, for or in connection with the purpose of the said Unique Identification Authority of India, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority; 40 45

(3) all sums of money due to the Unique Identification Authority of India immediately before that day shall be deemed to be due to the Authority; and

(4) all suits and other legal proceedings instituted or which could have been instituted by or against such Unique Identification Authority of India immediately before that day may be continued or may be instituted by or against the Authority.

23. (1) The Authority shall develop the policy, procedure and systems for issuing aadhaar numbers to residents and perform authentication thereof under this Act.

Powers and functions of Authority.

(2) Without prejudice to the provisions contained in sub-section (1), the powers and functions of the Authority may, *inter alia*, include all or any of the following matters, namely:—

(a) specifying, by regulation, demographic information and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof;

(b) collecting demographic information and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations;

(c) appointing of one or more entities to operate the Central Identities Data Repository;

(d) generating and assigning aadhaar numbers to individuals;

(e) performing authentication of the aadhaar numbers;

(f) maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations;

(g) omitting and deactivating of an aadhaar number and information relating thereto in such manner as may be specified by regulations;

(h) specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations;

(i) specifying, by regulation, the terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation of appointments thereof;

(j) establishing, operating and maintaining of the Central Identities Data Repository;

(k) sharing, in such manner as may be specified by regulations, the information of aadhaar number holders, with their written consent, with such agencies engaged in delivery of public benefits and public services as the Authority may by order direct;

(l) calling for information and records, conducting inspections, inquiries and audit of the operations for the purposes of this Act of the Central Identities Data Repository, Registrars, enrolling agencies and other agencies appointed under this Act;

(m) specifying, by regulation, various processes relating to data management, security protocols and other technology safeguards under this Act;

(n) specifying, by regulation, the conditions and procedures for issuance of new aadhaar number to existing aadhaar number holder;

(o) levy and collect the fees or authorise the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under this Act in such manner as may be specified by regulations;

(p) appoint such committees as may be necessary to assist the Authority in discharge of its functions for the purposes of this Act;

(q) promote research and development for advancement in biometrics and related areas, including usage and applications of aadhaar numbers through appropriate mechanisms;

(r) specifying, by regulation, the policies and practices for Registrars, enrolling agencies and other service providers;

(s) setting up facilitation centres and grievance redressal mechanisms for redressal of grievances of residents, Registrars, enrolling agencies and other service providers;

(t) such other powers and functions as may be prescribed.

(3) The Authority may,—

(a) enter into a Memorandum of Understanding or agreement, as the case may be, with Central Government or State Governments or Union territories or other agencies for the purpose of performing any of the functions in relation to collecting, storing, securing or processing of information or performing authentication; 5

(b) by notification, appoint such number of Registrars, engage and authorise such agencies to collect, store, secure, process information or do authentication or perform such other functions in relation thereto, 10

as may be necessary for the purposes of this Act.

(4) The Authority may engage such consultants, advisors and other persons as may be required for efficient discharge of its functions under this Act on such allowances or remuneration and terms and conditions as may be specified by regulations. 15

CHAPTER IV

GRANTS, ACCOUNTS AND AUDIT AND ANNUAL REPORT

Grants by
Central
Government.

24. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority, grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act. 20

Other fees and
revenue.

25. The fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India and the entire amount so credited be transferred to the Authority.

Accounts and
audit.

26. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India. 25

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts, and in particular, shall have the right to demand production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority. 35

(4) The accounts of the Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament. 40

Returns and
annual report,
etc.

27. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time require.

(2) The Authority shall prepare, once in every year, and in such form and manner and at such time as may be prescribed, an annual report giving— 45

(a) a description of all the activities of the Authority for the previous years;

(b) the annual accounts for the previous year; and

(c) the programmes of work for coming year.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER V

IDENTITY REVIEW COMMITTEE

5 **28.** (1) The Central Government may, by notification, constitute the Identity Review Committee to discharge functions specified under sub-section (1) of section 29 in respect of any matter connected with the usage of the aadhaar numbers. Review Committee.

(2) The Review Committee shall consist of three members (one of whom shall be chairperson designated as such by the Central Government) who are persons of eminence, ability, integrity and standing in public life having knowledge and experience in the fields of technology, law, administration and governance, social service, journalism, management or social sciences.

(3) The members of the Review Committee shall be appointed by the Central Government on the recommendations of a committee consisting of—

- 15 (a) the Prime Minister, who shall be the Chairperson of the committee;
 (b) the Leader of Opposition in the Lok Sabha; and
 (c) a Union Cabinet Minister to be nominated by the Prime Minister.

Explanation.— For the removal of doubts, it is hereby declared that where the Leader of the Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in Opposition of the Government in the House of the People shall be deemed to be the Leader of the Opposition.

(4) The member of the Review Committee shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or a member of any political party.

25 (5) The members of the Review Committee shall hold office for a term of three years from the date on which they enter upon office and shall not be eligible for reappointment.

(6) The Central Government may by order remove from office any member of the Review Committee, who —

- 30 (a) is, or at any time has been adjudged as an insolvent;
 (b) has become physically or mentally incapable of acting as a member;
 (c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;
 (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or
 35 (e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest:

Provided that a Member shall not be removed under clause (d) or clause (e) unless he has been given a reasonable opportunity of being heard in the matter.

40 **29.** (1) The Review Committee shall ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government. Functions of Review Committee.

(2) The manner of preparation of the report referred to in sub-section (1) shall be such as may be determined by the Review Committee.

45 (3) A copy of the report along with the recommendations of the Review Committee shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER VI

PROTECTION OF INFORMATION

- Security and confidentiality of information. **30.** (1) The Authority shall ensure the security and confidentiality of identity information and authentication records of individuals.
- (2) The Authority shall take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the Central Identities Data Repository) is secured and protected against any loss or unauthorised access or use or unauthorised disclosure thereof. 5
- (3) Notwithstanding anything contained in any other law and save as otherwise provided in this Act, the Authority or any of its officer or other employee or any agency who maintains the Central Identities Data Repository shall not, whether during his service as such or thereafter, reveal any information stored in the Central Identities Data Repository to any person: 10
- Provided that an aadhaar number holder may request the Authority to provide access to his identity information in such manner as may be specified by regulations. 15
- Alteration of demographic information or biometric information. **31.** (1) In case any demographic information relating to an aadhaar number holder is found incorrect or changes subsequently, the aadhaar number holder shall request the Authority to alter such demographic information in his record in the Central Identities Data Repository in such manner as may be specified by regulations.
- (2) In case any biometric information of aadhaar number holder is lost or changes subsequently for any reason, the aadhaar number holder shall request the Authority to make necessary alteration in his record in the Central Identities Data Repository in such manner as may be specified by regulations. 20
- (3) On receipt of any request under sub-section (1) or sub-section (2), the Authority may, if it is satisfied, make such alteration as may be required in the record relating to such aadhaar number holder and intimate such alteration to the concerned aadhaar number holder. 25
- Access to own information and records of requests for authentication. **32.** (1) The Authority shall maintain details of every request for authentication of the identity of every aadhaar number holder and the response provided thereon by it in such manner and for such time as may be specified by regulations. 30
- (2) Every aadhaar number holder shall be entitled to obtain details of request for authentication of his aadhaar number and the response provided thereon by the Authority in such manner as may be specified by regulations.
- Disclosure of information in certain cases. **33.** Nothing contained in sub-section (3) of section 30 shall apply in respect of—
- (a) any disclosure of information (including identity information or details of authentication) made pursuant to an order of a competent court; or 35
- (b) any disclosure of information (including identity information) made in the interests of national security in pursuance of a direction to that effect issued by an officer or officers not below the rank of Joint Secretary or equivalent in the Central Government specifically authorised in this behalf by an order of the Central Government. 40

CHAPTER VII

OFFENCES AND PENALTIES

- Penalty for impersonation at time of enrolment. **34.** Whoever impersonates or attempts to impersonate another person, whether dead or alive, real or imaginary, by providing any false demographic information or biometric information shall be punishable with imprisonment for a term which may extend to three years and with a fine which may extend to ten thousand rupees. 45

35. Whoever, with the intention of causing harm or mischief to a aadhaar number holder, or with the intention of appropriating the identity of a aadhaar number holder changes or attempts to change any demographic information or biometric information of a aadhaar number holder by impersonating or attempting to impersonate another person, 5 dead or alive, real or imaginary, shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

Penalty for impersonation of aadhaar number holder by changing demographic information or biometric information.

36. Whoever, not being authorised to collect identity information under the provisions of this Act, by words, conduct or demeanour pretends that he is authorised to do so, shall be punishable with imprisonment for a term which may extend to three years or with a fine 10 which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Penalty for impersonation.

37. Whoever, intentionally discloses, transmits, copies or otherwise disseminates any identity information collected in the course of enrolment or authentication to any person not authorised under this Act shall be punishable with imprisonment for a term 15 which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Penalty for disclosing identity information.

38. Whoever, not being authorised by the Authority, intentionally,—

Penalty for unauthorised access to the Central Identities Data Repository.

(a) accesses or secures access to the Central Identities Data Repository; or
(b) downloads, copies or extracts any data from the Central Identities Data 20 Repository or stored in any removable storage medium; or

(c) introduces or causes to be introduced any virus or other computer contaminant in the Central Identities Data Repository; or

(d) damages or causes to be damaged the data in the Central Identities Data Repository; or

(e) disrupts or causes disruption of the access to the Central Identities Data Repository; or

(f) denies or causes a denial of access to any person who is authorised to access the Central Identities Data Repository; or

(g) provides any assistance to any person to do any of the acts aforementioned; 30 or

(h) destroys, deletes or alters any information stored in any removable storage media or in the Central Identities Data Repository or diminishes its value or utility or effects it injuriously by any means; or

(i) steals, conceals, destroys or alters or causes any person to steal, conceal, 35 destroy or alter any computer source code used by the Authority with an intention to cause damage,

shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which shall not be less than one crore rupees.

40 *Explanation.*— For the purposes of this section, the expressions “computer contaminant”, “computer virus” and “damage” shall have the meanings respectively assigned to them in the *Explanation* to section 43 of the Information Technology Act, 2000. 21 of 2000.

39. Whoever, not being authorised by the Authority, uses or tampers with the data in the Central Identities Data Repository or in any removable storage medium with the intent of modifying information relating to aadhaar number holder or discovering any information 45 thereof shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

Penalty for tampering with data in Central Identities Data Repository.

40. Whoever gives or attempts to give any biometric information which does not pertain to him for the purpose of getting an aadhaar number or authentication or updating his information, shall be punishable with imprisonment for a term which may extend to three 50 years or with a fine which may extend to ten thousand rupees or with both.

Penalty for manipulating biometric information.

General
penalty.

41. Whoever, commits an offence under this Act for which no penalty is provided elsewhere than in this section, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to twenty-five thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Offences by
companies.

42. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Act to apply
for offence or
contravention
committed
outside India.

43. (1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person, irrespective of his nationality.

(2) For the purposes of sub-section (1), the provisions of this Act shall apply to any offence or contravention committed outside India by any person, if the act or conduct constituting the offence or contravention involves the Central Identities Data Repository.

Power to
investigate
offences.

44. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any offence under this Act.

Penalties not
to interfere
with other
punishments.

45. No penalty imposed under this Act shall prevent the imposition of any other penalty or punishment under any other law for the time being in force.

Cognizance of
offences.

46. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Authority or any officer or person authorised by it.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under this Act.

CHAPTER VIII

MISCELLANEOUS

Power of
Central
Government
to supersede
Authority.

47. (1) If, at any time, the Central Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

45 of 1860. 35 **48.** The Chairperson, Members, officers and other employees of the Authority shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, officers, etc., to be public servants.

49. Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give, in writing to it, from time to time:

Power of Central Government to issue directions.

40 Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

45 **50.** The Authority may, by general or special order in writing, delegate to any Member, officer of the Authority or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under section 53) as it may deem necessary.

Delegation.

Protection of
action taken
in good faith.

51. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Authority or the Chairperson or any Member or any officer, or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rule or regulation made thereunder.

Power of
Central
Government
to make rules.

52. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act. 5

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which and the Authority before whom the oath of office and of secrecy is to be subscribed by the Chairperson and Members under sub-section (2) of section 14; 10

(b) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the allowances or remuneration payable to Members of the Authority under sub-section (5) of section 14;

(c) the other powers and functions of the Chairperson of the Authority under section 17; 15

(d) the other powers and functions of the Authority under clause (i) of sub-section (2) of section 23;

(e) the form of annual statement of accounts to be prepared by the Authority under sub-section (1) of section 26; 20

(f) the form and the manner in which and the time within which returns and statements and particulars are to be furnished under sub-section (1) of section 27;

(g) the form and the manner and the time at which the Authority shall furnish annual report under sub-section (2) of section 27;

(h) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules. 25

Power of
Authority to
make
regulations.

53. (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:— 30

(a) the biometric information under clause (e) and the demographic information under clause (h) of section 2;

(b) the process of collecting demographic information and biometric information from the individuals by enrolling agencies under clause (j) of section 2;

(c) the manner of furnishing the demographic information and biometric information by the resident under sub-section (1) of section 3; 35

(d) the manner of verifying the demographic information and biometric information for issue of aadhaar number under sub-section (2) of section 3;

(e) the conditions, fees and manner of authentication of the aadhaar number under sub-section (1) of section 5; 40

(f) the other functions to be performed by Central Identities Data Repository under section 7;

(g) the manner of updating biometric information and demographic information under section 8;

(h) the other categories of individuals under section 10 for whom the Authority shall take special measures for issue of aadhaar number; 45

(i) the time and places of meetings of the Authority and the procedure for transaction of business to be followed by it (including the quorum) under sub-section (1) of section 18;

5 (j) the salary and allowances payable to, and other terms and conditions of service of, the chief executive officer, officers and other employees of the Authority under sub-section (3) of section 20;

(k) the demographic information and biometric information and process for their collection and verification under clause (a) and the manner of their collection under clause (b) of sub-section (2) of section 23;

10 (l) the manner of maintaining and updating the information of individuals in the Central Identities Data Repository under clause (f) of sub-section (2) of section 23;

(m) the manner of omitting and deactivating an aadhaar number and information relating thereto under clause (g) of sub-section (2) of section 23;

15 (n) the usage and applicability of the aadhaar number for delivery of various benefits and services under clause (h) of sub-section (2) of section 23;

(o) the terms and conditions for appointment of Registrars, enrolling agencies and other service providers and the revocation of appointments thereof under clause (i) of sub-section (2) of section 23;

20 (p) the manner of sharing information of aadhaar number holder under clause (k) of sub-section (2) of section 23;

(q) various processes relating to data management, security protocol and other technology safeguards under clause (m) of sub-section (2) of section 23;

(r) the procedure for issuance of new aadhaar number to existing aadhaar number holder under clause (n) of sub-section (2) of section 23;

25 (s) manner of authorising Registrars, enrolling agencies or other services providers to collect such fees for services provided by them under clause (o) of sub-section (2) of section 23;

(t) policies and practices to be followed by the Registrar, enrolling agencies and other service providers under clause (r) of sub-section (2) of section 23;

30 (u) the allowances or remuneration and terms and conditions of consultants, advisors and other persons under sub-section (4) of section 23;

(v) the manner in which an aadhaar number holder can access his identity information under sub-section (3) of section 30;

35 (w) the manner of alteration of demographic information under sub-section (1) and biometric information under sub-section (2) of section 31;

(x) the manner of and the time for maintaining the details of request for authentication and the response thereon under sub-section (1) of section 32;

40 (y) the manner of obtaining, by the aadhaar number holder, the records of request for authentication of his aadhaar number and response thereon under sub-section (2) of section 32;

(z) any other matter which is required to be, or may be, specified, or in respect of which provision is to be or may be made by regulations.

54. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Laying of
rules and
regulations
before
Parliament.

Application of
other laws not
barred.

55. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Power to
remove
difficulties.

56. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty: 5

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

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament. 10

Savings.

57. Anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing notification number A-43011/02/2009-Admin.I, dated the 28th January, 2009, shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Central Government had decided to issue unique identification numbers to all residents in India and to certain other persons. The scheme of unique identification involves collection of demographic information and biometric information from individuals for the purpose of issuing of unique identification numbers to such individuals. The biometric information would involve taking of a set of biological attributes of such individuals.

2. The Central Government, for the purposes of issue of the unique identification numbers, constituted, *vide* its notification dated the 28th January, 2009 being of executive in nature, the Unique Identification Authority of India, which is at present functioning under the Planning Commission.

3. It has been observed and assessed that the issue of unique identification numbers may involve certain issues, such as (a) security and confidentiality of information, imposition of obligation of disclosure of information so collected in certain cases, (b) impersonation by certain individuals at the time of enrolment for issue of unique identification numbers, (c) unauthorised access to the Central Identities Data Repository, (d) manipulation of biometric information, (e) investigation of certain acts constituting offence, and (f) unauthorised disclosure of the information collected for the purposes of issue of the unique identification numbers which should be addressed by law and attract penalties.

4. In view of the foregoing paragraph, it has been felt necessary to make the said Authority as a statutory authority for carrying out the functions of issuing identification numbers to the residents in India in an effective manner. It is, therefore, proposed to enact the National Identification Authority of India Bill, 2010 to provide for the establishment of the National Identification Authority of India for the purpose of issuing identification numbers (which has been referred to as aadhaar number) to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access to benefits and services to such individuals to which they are entitled and for matters connected therewith or incidental thereto.

5. The National Identification Authority of India Bill, 2010, *inter alia*, seeks to provide—

(a) for issue of aadhaar numbers to every resident by the Authority on providing his demographic information and biometric information to it in such manner as may be specified by regulations;

(b) for authentication of the aadhaar number of an aadhaar number holder in relation to his biometric information and demographic information subject to such conditions and on payment of such fees as may be specified by regulations;

(c) for establishment of the National Identification Authority of India consisting of a Chairperson and two part-time Members;

(d) that the Authority to exercise powers and discharge functions which, *inter alia*, include—

(i) specifying the demographic information and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof;

(ii) collecting demographic information and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations;

(iii) appointing of one or more entities to operate the Central Identities Data Repository;

(iv) maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations;

(v) specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations;

(e) that the Authority shall not require any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health;

(f) that the Authority may engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as may be specified by regulations;

(g) for constitution of the Identity Review Committee consisting of three members (one of whom shall be the chairperson) to ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government;

(h) that the Authority shall take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the Central Identities Data Repository) is secured and protected against any loss or unauthorised access or use or unauthorised disclosure thereof;

(i) for offences and penalties for contravention of the provisions of the proposed legislation.

6. The notes on clauses explain in detail the various provisions contained in the Bill.

7. The Bill seeks to achieve the above objectives.

NEW DELHI;

MANMOHAN SINGH

The 8th November, 2010.

Notes on clauses

Clause 2.— This clause contains definitions of certain words and expressions used in the proposed legislation. These definitions, *inter alia*, include the definitions of “aadhaar number”, “authentication”, “Central Identities Data Repository”, “demographic information”, “Identity information”, “resident”, “Review Committee”, etc.

Clause 3.— This clause provides for entitlement to obtain an aadhaar number by every resident. It proposes that every resident shall be entitled to obtain an aadhaar number after providing his demographic information and biometric information to the Authority in such manner as specified by regulations. It further provides that the Central Government may from time to time notify the other category of individuals who may be entitled to obtain an aadhaar number. It also provides that the Authority after verifying the demographic information and biometric information provided by the resident, issue an aadhaar number to such resident.

Clause 4.— This clause deals with the properties of aadhaar number. It provides that any aadhaar number issued to an individual shall not be re-assigned to any other individual; it shall be a random number and bear no attributes or identity data relating to the aadhaar number holder. It further provides that the aadhaar number can be accepted as proof of identity of its holder but subject to authentication.

Clause 5.—This clause empowers the Authority to perform authentication of the aadhaar number of a aadhaar number holder in relation to his biometric information and demographic information subject to such conditions and on payment of such fees and in such manner as specified by regulations. It further empowers the Authority to respond to an authentication query with a positive or negative response or with any other appropriate response excluding any demographic information and biometric information.

Clause 6.—This clause lays down that the aadhaar number or the authentication thereof shall not, by itself, confer any right of or be proof of citizenship or domicile in respect of an aadhaar number holder.

Clause 7.—This clause empowers the Authority to engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as provided under regulations.

Clause 8.— This clause deals with the updating of the demographic information and biometric information of the aadhaar number holders, from time to time, in such manner as specified by regulations so as to ensure continued accuracy of their information in the Central Identities Data Repository.

Clause 9.— This clause prohibits the Authority from requiring any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health.

Clause 10.—This clause empowers the Authority to take special measures to issue aadhaar number to women, children, senior citizens, persons with disability, migrant unskilled and unorganised workers, nomadic tribes or to such other persons who do not have any permanent dwelling house and such other categories of individuals which are specified by regulations.

Clause 11.— This clause provides for establishment of the National Identification Authority of India, by the Central Government, to exercise the powers conferred on it and to perform the functions assigned to it under the proposed legislation. The said Authority shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of the proposed legislation, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued. It further provides for the location of the head office of the Authority in the National Capital Region and with the prior approval of the Central Government, to establish its offices at other places in India.

Clause 12.—This clause lays down the composition of the Authority consisting of a Chairperson and two part-time Members to be appointed by the Central Government.

Clause 13.—This clause provides for qualifications for appointment of Chairperson and Members of the Authority. It provides that persons of ability, integrity and outstanding calibre having experience and knowledge in the matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration shall be qualified as Chairperson and Members of the Authority.

Clause 14.— This clause provides for term of office and other conditions of service of Chairperson and Members. It provides that the Chairperson and the Members shall hold office for a term of three years from the date on which they assume office and shall be eligible for reappointment. It also provides that the Chairperson or Member of the Authority shall not hold office as such after he has attained the age of sixty-five years.

It also provides that the Chairperson of the Unique Identification Authority of India appointed before the commencement of the proposed legislation by notification A-43011/02/2009-Admn.I (Vol.II) dated the 2nd July, 2009 shall continue as a Chairperson of the Authority under the proposed legislation for the term for which he had been appointed.

It also provides that the Chairperson and every Member shall, before entering upon their office, make and subscribe to, an oath of office and of secrecy, in such form and in such manner and before such Authority as may be prescribed.

It also provides that notwithstanding anything contained in sub-clause (1), the Chairperson or Member may relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or be removed from his office in accordance with the provisions of clause 15. It also provides that the Chairperson shall not hold any other office during the period of holding their office in the Authority as such.

It also provides that the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and allowances or remuneration payable to part-time Members shall be such as may be prescribed by the Central Government but neither the salary, allowances nor the other terms and conditions of service of the Chairperson shall be varied to his disadvantages after his appointment.

Clause 15.— This clause provides for removal of Chairperson and Members of the Authority. It provides that the Central Government may remove from office the Chairperson or a Member of the Authority on any of the grounds enumerated in this clause.

It further provides that the Chairperson or a Member shall not be removed from his office on the grounds specified in item (d) or (e) of sub-clause (1) unless he has been given a reasonable opportunity of being heard in respect of those charges.

Clause 16.— This clause prohibition as to holding of offices by the Chairperson or a Member on ceasing to be such Chairperson or a Member of the Authority. It provides that on ceasing to hold office, the Chairperson or Member of the Authority, as the case may be, shall subject to the provisions of the proposed legislation, be ineligible, for further employment in, or, connected with the management or administration of, any person which has been associated with any work under the Act, for a period of three years. It also provides that the clause shall not apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined in section 617 of the Companies Act, 1956.

It also provides prohibition to act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority; to give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public; to enter, for a period of three years from his last day in office, into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.

Clause 17.— This clause lays down the functions of the Chairperson. It provides that the Chairperson shall have powers of general superintendence, direction in the conduct of the affairs of the Authority in addition to presiding over the meetings of the Authority and without prejudice to any of the provisions of the proposed legislation, to exercise and discharge such powers and functions of the Authority as may be prescribed.

Clause 18.— This clause empowers the Authority to determine the procedure for the transaction of business in its meetings including times and places of such meetings. It provides that the Chairperson, or, if for any reason, he is unable to attend a meeting of the Authority, the senior most Member shall preside over the meetings of the Authority.

It further provides that all questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members present and voting and in case of an equality of votes, the Chairperson or in his absence the Member presiding over shall have a second or casting vote and all such decisions of the Authority shall be authenticated by the signature of the Chairperson or any other Member authorised by the Authority in this behalf.

It also provides that any Member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

Clause 19.—This clause enumerates the circumstances under which the acts or proceedings of the Authority shall not be invalidated. It provides that no act or proceeding of the Authority shall be invalid merely by reason of, any vacancy in, or any defect in the constitution of, the Authority; any defect in the appointment of a person as a Member of the Authority; or any irregularity in the procedure of the Authority not affecting the merits of the case.

Clause 20.—This clause makes provision for appointment of officers and other employees of Authority. It provides for the appointment of a chief executive officer of the Authority by the Central Government, who shall act as the Member-Secretary of the Authority. It also provides for determining the number, nature and categories of other officers and employees required to the Authority in the discharge of its functions.

It also provides for the determination of the salaries and allowances and the other terms and conditions of service of, the chief executive officer and other officers and other employees of the Authority lay regulation with the approval of the Central Government.

Clause 21.—This clause lays down functions of the chief executive officer. The functions of the chief executive officer, who shall be the legal representative of the Authority, *inter alia*, shall be the day-to-day administration and implementing the work programmes and decisions adopted by the Authority; drawing up of proposal for the Authority's work programmes; the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority; submitting, every year a general report covering all the activities of the Authority in the previous year and programmes of work; and the annual accounts for the previous year and the budget for the coming year.

It further lays down that the chief executive officer shall have administrative control over the officers and other employees of the Authority.

Clause 22.—This clause makes provision for transfer of assets, liabilities of the Authority. It provides that on and from the establishment of the Authority, all the assets and liabilities of the Unique Identification Authority of India, established *vide* notification of the Government of India in the Planning Commission number A-43011/02/2009-Admin.I, dated the 28th January, 2009, shall stand transferred to and vested in the Authority to be established under the proposed legislation.

It further provides that all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Unique Identification Authority of India for or in connection with the purpose of the said Unique Identification Authority of India, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority and all sums of money due shall be deemed to be due to the Authority and all suits and other legal proceedings instituted or which could have been instituted by or against such Unique Identification Authority of India may be continued or may be instituted by or against the Authority.

Clause 23.— This clause lays down the powers and functions of Authority. It provides that the Authority shall develop the policy, procedure and systems for issuing aadhaar numbers to residents and perform authentication thereof under this Act. It further specifies the powers and functions of the Authority which, *inter alia*, include; specifying, by regulation, demographic information and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof; collecting demographic information and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations; appointing of one or more entities to operate the Central Identities Data Repository; generating and assigning aadhaar numbers to individuals; performing authentication of the aadhaar numbers; maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations; specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations; specifying, by regulation, the terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation of appointments thereof; establishing, operating and maintaining of the Central Identities Data Repository; calling for information and records, conducting inspections, inquiries and audit of the operations for the purposes of the proposed legislation of the Central Identities Data Repository, Registrars, enrolling agencies and other agencies appointed under this Act; specifying, by regulation, the conditions and procedures for issuance of new aadhaar number to existing aadhaar number holder; levy and collect the fees or authorise the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under the proposed legislation in such manner as may be specified by regulations.

It also empowers the Authority to enter into a Memorandum of Understanding or agreement, as the case may be, with the Central Government or State Governments or Union territories or other agencies for the purpose of performing any of the functions in relation to collecting, storing, securing or processing of information or performing authentication; and appoint by notification, such number of Registrars, engage and authorise such agencies to collect, store, secure, process information or do authentication or perform such other functions in relation thereto, as may be necessary for the purposes of the proposed legislation or to engage such consultants, advisors and other persons as may be required for efficient discharge of its functions under this Act on such allowances or remuneration and terms and conditions as may be specified by regulations.

Clause 24.—This clause makes provision for grants by the Central Government. It provides that after due appropriation made by Parliament by law the Central Government may make grants of such sums of money as it may think fit to the Authority for being utilised for the purposes of the proposed legislation.

Clause 25.—This clause provides for other fees and revenue. It provides that fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India and entire amount so credited shall be transferred to the Authority.

Clause 26.—This clause makes provision for accounts and audit. It provides that the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

It further provides that the accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

It also provides that the accounts of the Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Clause 27.—This clause provides for returns and annual report, etc. It provides that the Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time require.

It further provides that the Authority shall prepare, once in every year, and in such form and manner and at such time as may be prescribed, an annual report giving a description of all the activities of the Authority for the previous years; the annual accounts for the previous year; and the programmes of work for coming year. A copy of such report shall be laid by the Central Government before each House of Parliament.

Clause 28.— This clause provides for the Review Committee. It provides that the Central Government may, by notification, constitute the Identity Review Committee, consisting of three members (one of whom shall be the chairperson as such designated by the Central Government) who are persons of eminence, ability, integrity and standing in public life having knowledge and experience in the fields of technology, law, administration and governance, social service, journalism, management or social sciences, to discharge functions specified under sub-clause (1) of clause 29 in respect of any matter connected with the usage of the aadhaar numbers.

It further provides that the members of the Review Committee shall be appointed by the Central Government on the recommendations of a committee consisting of the Prime Minister, who shall be the chairperson of the committee; the Leader of Opposition in the Lok Sabha; and a Union Cabinet Minister to be nominated by the Prime Minister.

It also provides that the member of the Review Committee shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or a member of any political party. A member of the Review Committee shall hold office for a term of three years from the date on which they enter upon office and shall not be eligible for reappointment and may be removed by the Central Government on the grounds specified under sub-clause (6).

Clause 29.—This clause makes provision for functions of the Review Committee. It provides that the Review Committee shall ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government. This clause further empowers the Review Committee to determine the manner of preparation of the report. It also provides that a copy of the report along with the recommendations of the Review Committee shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

Clause 30.—This clause provides for security and confidentiality of information. It provides that the Authority shall ensure the security and confidentiality of identity information and authentication records of individuals and take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the Central Identities Data Repository) is secured and protected against any loss or unauthorised access or use or unauthorised disclosure thereto.

It further provides that notwithstanding anything contained in any other law for the time being in force and save as otherwise provided in the proposed legislation, the Authority or any of its officer or other employee or any agency who maintains the Central Identities Data Repository shall not reveal any information stored in the Central Identities Data Repository to any person but an aadhaar number holder may request the Authority to provide access to his identity information in such manner as may be specified by regulations.

Clause 31.—This clause makes provision relating to alteration of demographic information or biometric information. It provides that in case any demographic information relating to an aadhaar number holder is found incorrect or it changes subsequently, and in case any biometric information of aadhaar number holder is lost or changes subsequently for any reason, then the aadhaar number holder shall request the Authority to alter such demographic information or biometric information in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

It further provides that on receipt of any request for alteration of demographic information or biometric information, the Authority may, if it is satisfied, make such alteration as may be required in the record relating to such aadhaar number holder and intimate such alteration to the concerned aadhaar number holder.

Clause 32.—This clause makes provision for access to own information and records of requests for authentication. It provides that the Authority shall maintain details of every request for authentication of the identity of every aadhaar number holder and the response provided thereon by it in such manner and for such time as may be specified by regulations. It further provides that every aadhaar number holder shall be entitled to obtain details of request for authentication of his aadhaar number and the response provided thereon by the Authority in such manner as may be specified by regulations.

Clause 33.—This clause provides for disclosure of information in certain cases. It provides that provisions of sub-clause (3) of clause 30 which impose restrictions on providing information shall not apply in respect of any disclosure of information (including identity information or details of authentication) made pursuant to an order of a competent court; or any disclosure of information (including identity information) made in the interests of national security in pursuance of a direction to that effect issued by an officer or officers not below the rank of Joint Secretary or equivalent in the Central Government specifically authorised in this behalf by an order of the Central Government.

Clause 34.—This clause provides for penalty for impersonation at time of enrolment. It provides that whoever impersonates or attempts to impersonate another person, whether dead or alive, real or imaginary, by providing any false demographic information or biometric information shall be punishable with imprisonment for a term which may extend to three years and with a fine which may extend to ten thousand rupees.

Clause 35.—This clause provides for penalty for impersonation of Aadhaar number holder by changing demographic information or biometric information. It provides that whoever, with the intention of causing harm or mischief to a aadhaar number holder, or with the intention of appropriating the identity of a aadhaar number holder changes or attempts to change any demographic information or biometric information of a aadhaar number holder by impersonating or attempting to impersonate another person, dead or alive, real or imaginary, shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

Clause 36.—This clause provides for penalty for impersonation. It provides that whoever, not being authorised to collect identity information under the provisions of this Act, by words, conduct or demeanour pretends that he is authorised to do so, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Clause 37.—This clause provides for penalty for disclosing identity information. It provides that whoever, intentionally discloses, transmits, copies or otherwise disseminates any identity information collected in the course of enrolment or authentication to any person not authorised under this Act shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Clause 38.— This clause provides for penalty for unauthorised access to the Central Identities Data Repository. It provides that whoever, not being authorised by the Authority, intentionally, (a) accesses or secures access to the Central Identities Data Repository or (b) downloads, copies or extracts any data from the Central Identities Data Repository; or stored in any removable medium; or (c) introduces or causes to be introduced any virus or other computer contaminant; in the Central Identities Data Repository; or (d) damages or causes to be damaged the data in the Central Identities Data Repository; (e) disrupts or causes disruption of the access to the Central Identities Data Repository; or (f) denies or causes a denial of access to any person who is authorised to access the Central Identities Data Repository; or (g) provides any assistance to any person to do any of the acts aforementioned; (h) destroys, deletes or alters any information stored in any removable storage media or in the Central Identities Data Repository or diminishes its value or utility or effects it injuriously by any means; (i) steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used by the Authority with an intention to cause damage, shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which shall not be less than one crore rupees.

It further defines the expressions “computer contaminant”, “computer virus” and “damage” to have the same meanings for the purposes of this clause as are respectively assigned to them in the *Explanation* to section 43 of the Information Technology Act, 2000.

Clause 39.—This clause provides for penalty for tampering with data in Central Identities Data Repository. It provides that whoever, not being authorised by the Authority, uses or tampers with the data in the Central Identities Data Repository or in any removable storage medium with the intent of modifying information relating to aadhaar number holder or discovering any information thereof shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

Clause 40.— This clause provides for penalty for manipulating biometric information. It provides that whoever gives or attempts to give any biometric information which does not pertain to him for the purpose of getting an aadhaar number or authentication or updating his information, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or with both.

Clause 41.— This clause provides for general penalty. It provides that whoever, commits an offence under the proposed legislation for which no penalty is provided elsewhere than in this clause, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to twenty-five thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Clause 42.— This clause deals with the offences by companies. It provides that where an offence under the proposed legislation has been committed by a company then every person who at the time when the alleged offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

It further provides that if any such person proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence, then he shall not be liable for the said punishment.

It also provides that where any offence under the proposed legislation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Clause 43.— This clause makes provision for application of the proposed legislation in relation to offence or contravention committed outside India. It provides that the provisions of the proposed legislation shall apply also to any offence or contravention committed outside India by any person, irrespective of his nationality, if the act or conduct constituting the offence or contravention involves the Central Identities Data Repository.

Clause 44.— This clause provides for power to investigate offences. It provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any offence under the proposed legislation.

Clause 45.— This clause relates to penalties not to interfere with other punishments. It provides that no penalty imposed under the proposed legislation shall prevent the imposition of any other penalty or punishment under any other law for the time being in force.

Clause 46.— This clause provides for cognizance of offences. It provides that any court shall not take cognizance of any offence punishable under the proposed legislation, save on a complaint made by the Authority or any officer or person authorised by it.

It further provides that any court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall not try any offence punishable under the proposed legislation.

Clause 47.— This clause empowers the Central Government to supersede Authority. It provides that the Central Government may after satisfying on the grounds mentioned under this clause supersede the Authority by issuing a notification for such period not exceeding six months and appoint a person or persons as the President may direct to exercise powers and discharge functions under the proposed legislation.

It further provides that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

It also provides that upon the publication of a notification superseding the Authority, (a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted be exercised and discharged by the person or persons referred to in sub-clause (1); and (c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

It also provides that the Central Government shall reconstitute the Authority, before the expiration of the period of supersession, by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office due to supersession of the Authority shall not be deemed to be disqualified for reappointment.

It also provides that the Central Government shall cause a copy of the notification and a full report of any action taken under this clause and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Clause 48.— This clause provides that Members, officers, etc., to be public servants. It provides that the Chairperson, Members, officers and other employees of the Authority

shall be deemed, while acting or purporting to act in pursuance of any of the provisions of the proposed legislation, to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 49.—This clause empowers the Central Government to issue directions. It provides that without prejudice to the foregoing provisions of the proposed legislation, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give, in writing to it, from time to time.

It further provides that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this clause. It also provides that the decision of the Central Government, whether a question is one of policy or not, shall be final.

Clause 50.— This clause provides for delegation. It provides that the Authority may, by general or special order in writing, delegate to any Member, officer of the Authority or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under clause 53 relating to making of regulations) as it may deem necessary.

Clause 51.— This clause provides for protection of action taken in good faith. It provides that any suit, prosecution or other legal proceeding shall not lie against the Central Government or the Authority or the Chairperson or any Member or any officer, or other employees of the Authority for anything which is in good faith done or intended to be done under the proposed legislation or the rules or regulations made thereunder.

Clause 52.— This clause empowers the Central Government to make rules. It provides that the Central Government may, by notification, make rules to carry out the provisions of the proposed legislation. It further specifies the matters in respect of which such rules may be made.

Clause 53.— This clause empowers the Authority to make regulations. It provides that the Authority may, by notification, make regulations for carrying out the provisions of the proposed legislation consistent with the proposed legislation and the rules made thereunder. It further specifies the matters in respect of which such regulations may be made.

Clause 54.— This clause provides for laying of rules and regulations before Parliament. It provides that every rule and every regulation made under the proposed legislation shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 55.— This clause provides that the provisions of the proposed legislation shall be in addition to, and not in derogation of, any other law for the time being in force.

Clause 56.— This clause makes provision for removal of difficulties. It provides that if any difficulty arises in giving effect to the provisions of the proposed legislation then the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the proposed legislation as may appear to be necessary for removing the difficulty.

It further provides that any such order for removal of difficulty shall be made under this section within a period of two years from the commencement of the proposed legislation.

It also provides that every order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 57.— This clause provides for savings. It provides that anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing notification number A-43011/02/2009-Admin.I, dated the 28th January, 2009, shall be deemed to have been done or taken under the corresponding provisions of the proposed legislation.

FINANCIAL MEMORANDUM

Clause 11 provides for establishment of the National Identification Authority of India which shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and sue or be sued with the head office in the National Capital Region and may establish its offices at other places in India. Clause 12 provides that Authority shall consist of a Chairperson and two part-time Members. Sub-clause (5) of clause 14 makes provision for salaries and allowances payable to the Chairperson and allowances or remuneration payable to part-time Members. Sub-clause (3) of clause 20 makes provision for salaries and allowances payable to the chief executive officer and other officers and other employees of the Authority.

2. Item (j) of sub-clause (2) of clause 23 provides for establishment, operation and maintenance of the Central Identity Data Repository.

3. Clause 24 provides that the Central Government may after due appropriation made by Parliament by law in this behalf, make to the Authority, grants of such sums of money as the Central Government may think fit for being utilised for the purposes of the proposed legislation.

4. Clause 25 of the Bill provides that the fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India and the entire amount so credited will be transferred to the Authority.

5. It is estimated that there would be an expenditure of approximately Rs. 3023.01 crore in phase two of the scheme. Out of this, an amount of Rs. 477.11 crore would be towards recurring establishment expenditure and Rs. 2,545.90 crore would be towards non-recurring project related expenditure. The estimated cost for the first phase of the scheme was Rs. 147.31 crore towards the setting up necessary infrastructure for offices at headquarters and regional headquarters, creating testing facilities for running the pilots and proof of concept studies, initial work of creating standards in various areas of operations, and setting up of a project management unit and hiring of consultants.

6. The Bill does not envisage any other expenditure of recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 52 of the Bill empowers the Central Government to make, by notification, rules to carry out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, *inter alia*, include: (a) the form and manner in which and the authority before whom the oath of office and of secrecy is to be subscribed by the Chairperson and Members under sub-clause (2) of clause 14; (b) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the allowances or remuneration payable to Members of the Authority under sub-clause (5) of clause 14; (c) the other powers and functions of the Chairperson of the Authority under clause 17; (d) the other powers and functions of the Authority under item(t) of sub-clause (2) of clause 23; (e) the form of annual statement of accounts to be prepared by Authority under sub-clause (1) of clause 26; (f) the form and the manner in which and the time within which returns and statements and particulars are to be furnished under sub-clause (1) of clause 27; (g) the form and the manner and the time at which the Authority shall furnish annual report under sub-clause (2) of clause 27; (h) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

2. Sub-clause (1) of clause 53 of the Bill empowers the National Identification Authority of India to make, by notification, regulations to carry out the provisions of the proposed legislation consistent with the provisions of the proposed legislation and the rules made thereunder. Sub-clause (2) specifies the matters in respect of which such regulations may be made. These matters, *inter alia*, include: (i) the biometric information under sub-clause (e); the demographic information under sub-clause (h); the process of collecting demographic information and biometric information from the individuals by enrolling agencies under sub-clause (j) of clause 2; (ii) the manner of furnishing the demographic information and biometric information by the resident under sub-clause (1) of clause 3; and the manner of verifying the demographic information and biometric information for issue of aadhaar number under sub-clause (2) of clause 3; (iii) the procedure for authentication of the aadhaar number under sub-clause (1) of clause 5; (iv) the other functions to be performed by Central Identities Data Repository under clause 7; (v) the manner of updating biometric information and demographic information under clause 8; (vi) the other categories of individuals under clause 10 for whom the Authority shall take special measures for allotment of aadhaar number; (vii) the time and places of meetings of the Authority and the procedure for transaction of business to be followed by it (including the quorum) under sub-clause (1) of clause 18; (viii) the salary and allowances payable to, and other terms and conditions of service of, the chief executive officer, officers and other employees of the Authority under sub-clause (3) of clause 20; (ix) various matters specified under clause 23; (x) the manner of accessing the identity information by the aadhaar number holder under sub-clause (3) of clause 30; (xi) the manner of alteration of demographic information under sub-clause (1) and biometric information under sub-clause (2) of clause 31; (xii) the manner of and the time for maintaining the request for authentication and the response thereon under sub-section (1) and the manner of obtaining, by the aadhaar number holder, the records of request for authentication and response thereon under sub-clause (2) of clause 32 (xiii) any other matter which is required to be, or may be, specified, or in respect of which provision is to be or may be made by regulations.

3. Clause 54 provides that every rule and every regulation made under the proposed legislation shall be laid, as soon as may be after it is made, before each House of Parliament.

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

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to provide for the establishment of the National Identification Authority of India for the purpose of issuing identification numbers to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access to benefits and services to such individuals to which they are entitled and for matter connected therewith or incidental thereto.

*(Shri V. Narayanasamy, Minister of State in the Ministry of Planning and
Parliamentary Affairs)*