PRS Capsule January 2021

Key Highlights of PRS

Governance

J&K Reorganisation (Amendment) Ordinance

- The **Jammu and Kashmir Reorganisation (Amendment) Ordinance, 2021** was promulgated.
  - It amends the **Jammu and Kashmir Reorganisation Act, 2019.**
    - The Act provides for the bifurcation of the state of Jammu and Kashmir (J&K) into the Union Territory of J&K and Union Territory of Ladakh.
- **Key features of the Ordinance include:**
  - **Merging of administrative cadres:** The Act specifies that the members of the Indian Administrative Service, the Indian Police Service and the Indian Forest Service serving in the state of J&K would continue to serve in the two union territories, based on allocation decided by the central government.
    - Further, in future, postings of officers in the two union territories would be from the **Arunachal Goa Mizoram Union Territory (AGMUT) cadre.**
      - The AGMUT cadre covers the three states of Arunachal Pradesh, Mizoram and Goa, as well as all the union territories.
    - The Ordinance amends these clauses to provide for the merger of the existing cadre of J&K with the AGMUT cadre.
  - **Application of provisions on elected legislatures:** The Act provides that Article 239A of the Constitution, which is applicable to the union territory of Puducherry, shall also apply to the union territory of J&K.
    - Article 239A provides for the constitution of the union territory of Puducherry with: (i) a legislature, which may be elected, or partly nominated and partly elected, or

        (ii) a Council of Minister.
    - The Ordinance states that in addition to Article 239A, any other provision of the Constitution which refers to elected members of a legislative assembly of a state and is applicable to the union territory of Puducherry, will also apply to the union territory of J&K.
        - For instance, this may include Article 54 of the Constitution (also applicable to Puducherry) which states that the President will be elected by an electoral college consisting of the elected members of Parliament and state legislative assemblies

Article 239 AA and 239AB

- **The 69th Amendment Act, 1992** has added two new **Articles 239AA and 239AB** under which the Union Territory of Delhi has been given a special status.
- Art. 239AA provides that the Union Territory of Delhi shall now be called the National Capital Territory of Delhi and its administrator shall be known as Lt. Governor.
    - It also creates a legislative assembly for Delhi which can make laws on subjects under the State List and Concurrent List except on these matters: public order, land, and police.
- Article 239AB provides that the President may by order suspend the operation of any provision of Article 239AA or of all or any of the provisions of any law made in pursuance of that article. This provision resembles Art.356 (President's Rule)
- It also provides for a Council of Ministers for Delhi consisting of not more than 10% of the total number of members in the assembly.

Environment Impact Assessment

- In light of the impact of the COVID-19 pandemic, the **Ministry of Environment, Forest and Climate Change** amended the **Environment Impact Notification, 2006**.
    - The **amendments** specify that the period between April 1, 2020 to March 31, 2021 will not be accounted in calculating the validity period of: (i) prior environmental clearances, and (ii) terms of reference.
        - For example, mining projects have 30 years of validity of the clearance.
        - The period specified by the amendment will not be accounted for in the 30 years validity of clearance for mining projects.
- All projects, prior to commencing any construction or related activities (such as modernisation and expansion), are required to obtain a clearance from the concerned regulatory authority (Ministry of Environment, Forest and Climate Change or the State/Union Territory Environment Impact Assessment Authority).
- This clearance from the regulatory authority is called prior-environmental clearance.
    - These projects include: (i) mining of minerals, (ii) coal washeries, and (iii) thermal power plants.
- While conducting the environment impact assessment for granting the clearance to projects, the regulatory authority may give instructions to the applicant for addressing relevant environmental concerns identified in the process. These instructions are called terms of reference.

Economy

Corporate Social Responsibility Rules

- The Ministry of Corporate Affairs (MCA) issued the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021.
    - These rules amend the 2014 Rules, issued under the Companies Act, 2013.

        - Under the Act, certain companies are required to spend 2% of their average net profit in the last three financial years towards CSR.
- Key features of the Rules include the following:
    - **Registration:** A company can undertake CSR: (i) by itself, or in conjunction with a trust or society established by the company, or (ii) through an entity, trust or society established by the central or state government, or (iii) through a registered trust or society with a track record of at least three years of similar activities.
        - The **latest rules** require every entity undertaking CSR activities to register itself with the central government with effect from April 1, 2021.
        - This requirement will not apply to projects undertaken before the implementation of these Rules.
    - **CSR expenditure:** The 2014 Rules provide that expenditure undertaken on activities specified under the Act will count towards CSR expenditure.
        - These include eradicating hunger, promoting education, and contributing to the PM's national relief fund.
            - The 2021 Rules add that CSR funds may be spent for creation or acquisition of capital assets, which can be held by: (i) a trust or society with a CSR registration number, (ii) beneficiaries of the CSR project, (iii) public authority.
    - **Impact assessment:** Companies whose CSR obligation is greater than ten crore rupees will have to prepare an impact assessment report for all CSR projects where expenditure is greater than one crore rupees.
        - Expenditure on impact assessment may be counted as CSR expenditure provided it does not exceed 5% of the total CSR for that financial year or fifty lakh rupees, whichever is lower.
    - **Disclosure and reporting:** The Rules require publication of additional disclosure regarding CSR activities on the company website and in the annual report.
        - In addition to the CSR policy, the website must disclose the composition of the CSR Committee, and projects approved by the Board.
        - In addition to reporting on CSR expenditure in the current financial year, the annual report must contain an impact assessment (if applicable), and details regarding ongoing CSR projects undertaken within the previous three years.

Corporate Social Responsibility (CSR)

- The term **"Corporate Social Responsibility"** in general can be referred to as a corporate initiative to assess and take responsibility for the company's effects on the environment and impact on social welfare.
- In India, the concept of CSR is governed by **clause 135** of the **Companies Act, 2013.**
    - Under the Act, a certain class of profitable companies are required to contribute **at least two per cent of their three-year average annual net profit** towards CSR activities in a particular financial year.
- India is the **first country** in the world to mandate CSR spending along with a framework to identify potential CSR activities.

New central sector scheme for the Industrial Development of J&K

- The Cabinet Committee on Economic Affairs approved a Central Sector Scheme for Industrial

Development of Jammu & Kashmir.

    - The scheme provides incentives for new and existing businesses to undertake investment.
- The central government operates certain schemes for the industrial development of the Special Category States, such as North-East states, Jammu and Kashmir, Himachal Pradesh, and Uttarakhand.

    - Note that an industrial development scheme for Jammu & Kashmir was notified in 2018, and is valid up to March 31, 2021.
- Key features of the new scheme include:

    - **Capital investment incentive:** New and existing manufacturing and service sector industrial units with investment up to Rs 50 crore will be provided incentive for investment.

        - For units located in Zone A, incentive of up to 30% of the investment value (capped at five crore rupees) will be provided.
        - For units in Zone B, it will be 50% (capped at Rs 7.5 crore).
        - Districts in Jammu and Kashmir are classified into Zones A and B respectively based on the degree of industrialisation.
    - **Capital interest subvention:** New and existing industrial units will be given interest subvention of 6% for a maximum of seven years for loans of up to Rs 500 crore.

        - The loan availed must be used for investment in plant and machinery, construction of the building, and other durable physical assets.
    - **Working capital interest incentive:** Existing units will receive interest subvention of 5% on working capital loan for a maximum of five years.

        - Incentive received will be capped at one crore rupees.

Startup India Seed Fund Scheme

- The Ministry of Commerce and Industry notified the Startup India Seed Fund Scheme for 2021-25.

    - The scheme will provide financial assistance for startups across all sectors for proof of concept, prototype development, product trials, market entry, and commercialisation.
    - The scheme will have a corpus of Rs 945 crore which will be distributed to startups through grants to incubators.
- Key features of the scheme include:

    - **Eligibility:** Startups must: (i) be recognised under the Startup India program, (ii) not be older than two years (at the time of application), (iii) not have received more than ten lakh rupees monetary support under any other central or state government scheme, (iv) have a scalable business idea that uses technology.

        - Startups creating solutions in health, education, financial inclusion, defence, among others will be given preference.
        - A startup will receive seed funding only once.
    - **Eligibility for incubators:** Incubators must be a legal entity operational for at least two years, and must not be disbursing seed funds using funding from a third-party private entity.

        - Incubators must have at least five startups undergoing incubation if the incubator is assisted by the central or state government.
        - If not, it must have at least 10 startups undergoing incubation, and have been operational for at least three years.
    - **Expert Advisory Committee:** An Expert Advisory Committee will select incubators for allotment of grants of up to five crore rupees, which will be released in instalments based on achievement of milestones.

        - The Committee will also monitor the implementation of the scheme.
    - **Disbursement of funds:** Incubators will disburse seed fund to startups in the following manner: (i) up to Rs 20 lakh as a grant for proof of concept or product trials, disbursed on the achievement of milestones, (ii) up to Rs 50 lakh as investment through debt instruments for commercialisation.
    - **Incubator Seed Management Committee:** Each incubator will constitute an Incubator Seed Management Committee to select startups.
        - The Committee will consist of representatives from the incubator, the state government startup nodal team, a venture capital fund, academia, and entrepreneurs.

Aatmanirbhar Bharat Rojgar Yojana

- The **Employees' Provident Fund and Miscellaneous Provisions Act, 1952** provides for a contribution-based employee provident fund (EPF) scheme in certain establishments.
    - The Ministry of Labour and Employment notified the "Aatmanirbhar Bharat Rozgar Yojana" to subsidise such provident fund contributions.
- Key features of the scheme include:
    - **Applicability:** The central government will pay EPF contribution for new employees for two years (up to June 30, 2023).
        - For establishments with 1,000 or less employees, the government will cover EPF contributions of 24% (12% each for the employer and the employee).
        - For others, the government will only cover the employee's contribution.
    - **Eligibility criteria for employees:** The scheme will be applicable to new employees earning less than Rs 15,000 per month and engaged between October 1, 2020 and June 30, 2021.
        - **New employees include**: (i) employees who were not working in any establishment and did not have a Universal Account Number (UAN) prior to October 1, 2020, and have been allotted UAN thereafter, or (ii) any EPF member possessing UAN who left employment between March 1, 2020 and September 30, 2020 (and whose exit is recorded in UAN).
- **Universal Account Number (UAN):** The UAN is a unique member number allotted by EPFO (under the 1952 Act).
    - Benefits under the scheme will not be available to employees whose employers are already availing benefits under the **Pradhan Mantri Rojgar Protsahan Yojana (PMRPY).**
    - Under PMRPY, the central government pays the pension contribution (of 8.33% under the 1952 Act) on behalf of employers for hiring new employees (for a period of three years).
- **Eligibility criteria for establishments:** Establishments which are already registered with EPFO must employ at least two new employees over the reference base (if the reference base is 50 or less workers) and at least five new employees (if the reference base is over 50) to avail the scheme.
    - The reference base is the number of employees for whom the employer has filed returns in the month of September.

Pradhan Mantri Rojgar Protsahan Yojana (PMRPY)

- Under the scheme, the government incentivizes employers for generation of new employment.
- The Government of India pays the full employer's contribution of 12% (towards Employees' Provident Fund and Employees' Pension Scheme), for the new employment generated with salary up to Rs. 15,000 per month.
- PMRPY was announced on August 07, 2016 and is being implemented by the Ministry of Labour and Employment through the Employees' Provident Fund Organization (EPFO).

- The entire system of PMRPY is online and AADHAAR based with no human interface in the implementation of the scheme.
- A direct benefit of this scheme is that workers have access to social security benefits through Provident Fund, Pension and Death Linked Insurance.

Industrial Relations Code, 2020

- The Ministry of Labour and Employment invited comments on **draft Model Standing Orders** for the manufacturing, mining, and service sectors.
    - The draft Orders were issued under the **Industrial Relations Code, 2020** to replace the current model standing orders under the Industrial Employment (Standing Orders) Central Rules, 1946.
- Key highlights of the draft Orders include:
    - **Probation period:** A worker needs to complete a probationary period to qualify as a permanent worker.
        - The draft Orders seek to increase the probation period from three months to six months.
    - **Notice period for change in shifts:** The draft Orders seek to reduce the notice period for changes in shift (such as change in timings, discontinuation or restarting of shifts) from two months to 21 days.
    - **Payment of wages:** The draft Orders specify that wages of workers must be credited directly in their respective bank accounts.
        - The intimation of payment will be sent through digital channels (such as SMS and email) or by issuing a wage slip.
        - Currently, the wages of workers in mines are paid directly to them in presence of an authorised witness.
    - **Work from home:** The draft Orders formalise the culture of work from home for workers in the service sector. Work from home may be allowed for periods determined by the employer based on mutual agreement.
    - **Complaints committee:** The draft Orders add that a complaint committee must be constituted to act as the inquiring authority for complaints of sexual harassment.
        - The Committee must consist of: (i) a woman as the Chairperson, and (ii) a member from a non-government organisation or any other body familiar with issues of sexual harassment (such as nominees from state or national level human rights commission, or commission for women).

Social Justice

Ayushman CAPF Scheme

- The Ministry of Home Affairs launched the **"Ayushman CAPF"** scheme.
    - The scheme is applicable to personnel and dependents of the Central Armed Police Forces (CAPF).
- **Central Armed Police Forces (CAPF):** **CAPF** refers to the seven central police forces including the Assam Rifles, Border Security Forces, Central Reserve Police Force, and the National Security Guard.
    - Under the scheme, serving CAPF personnel and their dependents will receive cashless healthcare services through the Ayushman Bharat PM-JAY IT platform.

        - The **Ayushman Bharat scheme** aims to provide a cover of five lakh rupees per family per year to 10.7 crore families (no cap on family size and age) belonging to the poor and all vulnerable portions of the population.
    - In addition to cashless services, the scheme will also provide a 24x7 call centre, online grievance management system, real-time monitoring dashboards, and fraud and abuse control systems.

Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill

- The Standing Committee on Social Justice and Empowerment submitted its report on the Maintenance and Welfare of Parents and Senior Citizens (Amendment) Bill, 2019.
    - The Bill amends the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007.**
        - It provides for financial security, welfare, and protection for senior citizens.
- **Key observations and recommendations of the Committee include:**
    - **Care homes:** The Act prescribed establishment of at least one old age home in each district by the state government. The Bill replaces this to provide that senior citizen care homes may be set up by the central or state government or any organisation.
        - The Committee observed that out of more than 700 districts in the country, only 482 have care homes.
        - It recommended that the Bill should mandate at least one care home and one multi-service day care centre in each district.
    - The Bill requires state governments to designate registration and regulatory authorities for registration and monitoring of care homes and day care centres.
        - The Committee recommended that the Bill should require state governments to designate these authorities within six months of the amendment of the Act.
    - **Healthcare for senior citizens:** The Act provides for certain facilities (provision of beds, separate queues, separate facilities for geriatric patients) for senior citizens in government hospitals. The Bill requires all hospitals, including private organisations, to provide these facilities for senior citizens.
        - The Committee recommended that the Bill should require district hospitals to also provide adequate counselling facilities for senior citizens.
        - It also recommended that the Bill should require the government to set up separate geriatric health facilities, hospitals, and research centres for senior citizens in all states in a time bound manner.

The Unique Health Identifier Rules, 2021

- The **Ministry of Health and Family Welfare** notified the Unique Health Identifier (UHID) Rules, 2021.
    - The Rules have been issued under the **Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.**
        - The Act provides for targeted delivery of subsidies and services to individuals residing in India by assigning them unique identity numbers, called Aadhaar numbers.
    - The Ministry aims to create UHID for identification and authentication of beneficiaries in various health IT applications implemented by the Ministry.
        - **UHID** will facilitate the integration of health data and the creation of electronic health records for citizens.
    - **Key features of the Rules are:**

- **Creation of UHID:** Aadhaar authentication will be used for establishing the UHID.
- **Creation of UHID is voluntary:** Health services will not be denied in the absence of UHID.
    - The Ministry may require additional documents for the creation of UHID through an order.
- **Use of UHID by entities:** Entities will be permitted to provide users with an option to use Aadhaar voluntarily for creation of Health ID and share health information under various health IT applications.
- **Requesting entity:** The Ministry of Health and Family Welfare will be the requesting entity for the purpose of providing Aadhaar authentication services for UHID.
    - The requesting entity includes agencies and persons who submit Aadhaar numbers along with demographic or biometric information to the centralised Aadhaar database for authentication.