

Charts

Ch No.	Name of the Chapter	Chart No.
1	Foreign Exchange Management Act, 1999	1.01 - 1.08
2	Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002	2.01 - 2.05
3	Prevention of Money laundering Act, 2002	3.01 - 3.04
4	The Foreign Contribution (Regulation) Act, 2010	4.01 - 4.05
5	The Arbitration And Conciliation Act, 1996	5.01 - 5.05
6	Overview of Insolvency and Bankruptcy Code 2016	6.01

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 1.1)

Definitions

1) Person

"Person" includes-

- a) An **individual (I)**,
- b) A Hindu undivided family (**HUF**),
- c) A company (**Co**),
- d) A **firm (F)**,
- e) An association of persons (**AOP**) or a body of individuals (**BOI**), whether incorporated or not,
- f) every **artificial juridical person (AJP)**, not falling within any of
- g) any agency, **office or branch owned or controlled by such person**;

2) Authorised Person

It means an **authorised dealer, money changer, off-shore banking unit** or any other person for time being authorised to **deal in foreign exchange or foreign securities**

3) Repatriate To India

It means **bringing into India realised foreign exchange** and

- a) **Selling of such FE to an authorised person in India in exchange for rupees**, or
- b) the **holding of realised amount** in an account with an authorised person in India to extent notified by RBI.

It includes use of realised amount for discharge of a debt or liability

4) Person Resident In India (PRI)

A) a person residing in India for more than 182 days during course of preceding FY but does not include-

- i) a person who has **gone out of India or who stays outside India**, in either case-
 - a) for or on **taking up employment** outside India, or
 - b) for carrying on outside India a **business or vocation outside India**, or
 - c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;
 - ii) a person who has **come to or stays in India**, in either case, **otherwise than-**
 - a) for or on taking up **employment in India**, or
 - b) for carrying on in India a **business or vocation in India**, or
 - c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;
- B) any person or body corporate registered or incorporated in India,**
- c) an office, **branch or agency in India owned or controlled by a PROI**,
 - d) an office, **branch or agency outside India owned or controlled by a PRI**

5) Person Resident Outside India (PROI)

"Person Resident Outside India" means a **person who is not resident in India**

6) Capital Account Transaction

It means a transaction which alters-

- a) **Assets or liabilities**, including contingent liabilities, **outside India of persons resident in India** or
- b) **assets or liabilities** in India of **persons resident outside India**, &
- c) includes transactions referred to in sub-section (3) of section 6

7) Current Account Transaction

It means a **transaction other than a capital account transaction** & without prejudice to generality of foregoing such transaction includes-

- a) **Payments due in connection with foreign trade**, other current business, services, & short- term banking & credit facilities in ordinary course of business.
- b) **Payments due as interest on loans** & as net income from investments.
- c) **Remittances for living expenses of parents, spouse & children residing abroad**, and
- d) **Expenses in connection with foreign travel, education & medical care of parents, spouse & children**

Dealing in foreign exchange, etc. (sec 3)

With **general or special permission of RBI** no person shall

- a) deal in or **transfer any foreign exchange** or foreign security to any person **not being an authorised person**;
- b) Payment to or for **credit of any PROI**
- c) **receive through an authorised person**, any payment by order or on behalf of any PROI
- d) **Financial transaction in India** as consideration for or in association with **acquisition or creation or transfer of a right to acquire any asset outside India**

Holding of foreign exchange (Section 4)

Except as provided in this Act, **No PRI** shall acquire, hold, own, possess or transfer any foreign exchange, foreign security or any immovable property situated outside India

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 1.2)

Current Account Transactions (Section 5)

As per rules, drawal of foreign exchange for certain current account transactions is prohibited, a few need permission of appropriate Govt. of India authority. The three categories are:-

Schedule I (See Rule 3)	Schedule II (See Rule 4)		SCHEDULE III (See rule 5)		
Transactions for which drawal of foreign exchange is prohibited:-	SR NO	Purpose of Remittance	Ministry/Department of Govt. of India whose approval is required	1) Facilities for individuals	2) Facilities for persons other than individual -
a) Remittance out of lottery winnings	1	Cultural Tours	Ministry of HR Development(HRD) (Department of Education & Culture)	Individuals can avail of foreign exchange facility for following purposes within limit of USD 2,50,000 only.	Donations by corporate for
b) Remittance of income from racing/riding, etc., or any other hobby					i) creation of Chairs in reputed educational institutes;
c) Remittance for purchase of lottery tickets, banned/prescribed magazines, football pools, sweep- stakes etc.	2	Advertisement in foreign print media for purposes other than a) Promotion of tourism, b) foreign investments and c) international bidding (exceeding US\$ 10,000) by a SG & its Public Sector Undertakings.	Ministry of Finance, Department of Economic Affairs	For additional Remittance prior approval of RBI require.	ii) to funds (not being an investment fund)
d) Payment of commission on exports made towards eq. investment in Joint Ventures/Wholly Owned Subsidiaries abroad of Indian companies	3	Remittance of freight of vessel chartered by a PSU	Ministry of Surface Transport (Chartering Wing)	a) Private visits to any country (except Nepal and Bhutan)	a) promoted by educational institutes; &
e) Remittance of dividend by any co. to which requirement of dividend balancing is applicable.	4	Payment of import through ocean transport by a Govt. Department or a PSU on c.i.f. basis (i.e., other than f.o.b. and f.a.s. basis)	Ministry of Surface Transport (Chartering Wing)	b) Gift or donation.	iii) to a technical institution or body or association in the field of activity of the donor co.
f) Payment of commission on exports under Rupee State Credit Route , except commission up to 10% of invoice value of exports of tea & tobacco	5	Multi-modal transport operators making remittance to their agents abroad	Registration Certificate from Director General of Shipping	c) Going abroad for employment	Commission, per transaction, to agents abroad for sale of residential flats or commercial plots in India
g) Payment related to "Call Back Services" of telephones	6	Remittance of hiring charges of transponders by (a) TV Channels (b) Internet service providers	Ministry of Information and Broadcasting Ministry of Communication & Information Technology	d) Emigration	a) US \$ 25,000 or b) 5% of inward remittance Whichever is more
h) Remittance of interest income on funds held in Non-resident Special Rupee Scheme a/c	7	Remittance of container detention charges exceeding rate prescribed by Director General of Shipping	Ministry of Surface Transport (Director General of Shipping)	e) Maintenance of close relatives abroad	c) Consultancy services in respect of infrastructure project India.
	8	Remittance of prize money/sponsorship of sports activity abroad by a person other than International/National/ State Level sports bodies, if amt involved exceeds US \$ 100,000	Ministry of Human Resource Development (HRD) (Department of Youth Affairs & Sports)	f) Travel for business , or attending a conference or specialised training or for meeting exp. for meeting medical expenses , or check-up abroad, or for accompanying as attendant to a patient going abroad for medical treatment/check-up	d) Other consultancy services procured from outside
	9	Remittance for membership of P & I Club	Ministry of Finance (Insurance Division)	g) Expenses in connection with medical treatment abroad	US\$ 10,000,000 per project
				h) Studies abroad	US\$ 1,000,000 per project
				i) Any other current account transaction for purposes mentioned at item numbers (d), (f) & (h), may avail of exchange facility for an amt in excess of limit prescribed under Liberalised Remittance Scheme	e) Reimbursement of pre - incorporation expenses.
					a) Remittances exceeding 5% of investment brought into India or b) US\$ 1,00,000 whichever is higher
					a) Procedure for drawal or remit of any foreign exchange under this schedule shall be same as applicable for remitting any amt under said Liberalised Remittance Scheme
					b) Authorised Dealer banks may now allow remittances by a resident individual up to USD 250,000 per FY for any permitted current or capital account transaction or a combination of both
					c) If individual has already remitted any amt under LRS, then applicable limit for such an individual would be reduced from present limit of USD 250,000

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 1.3)

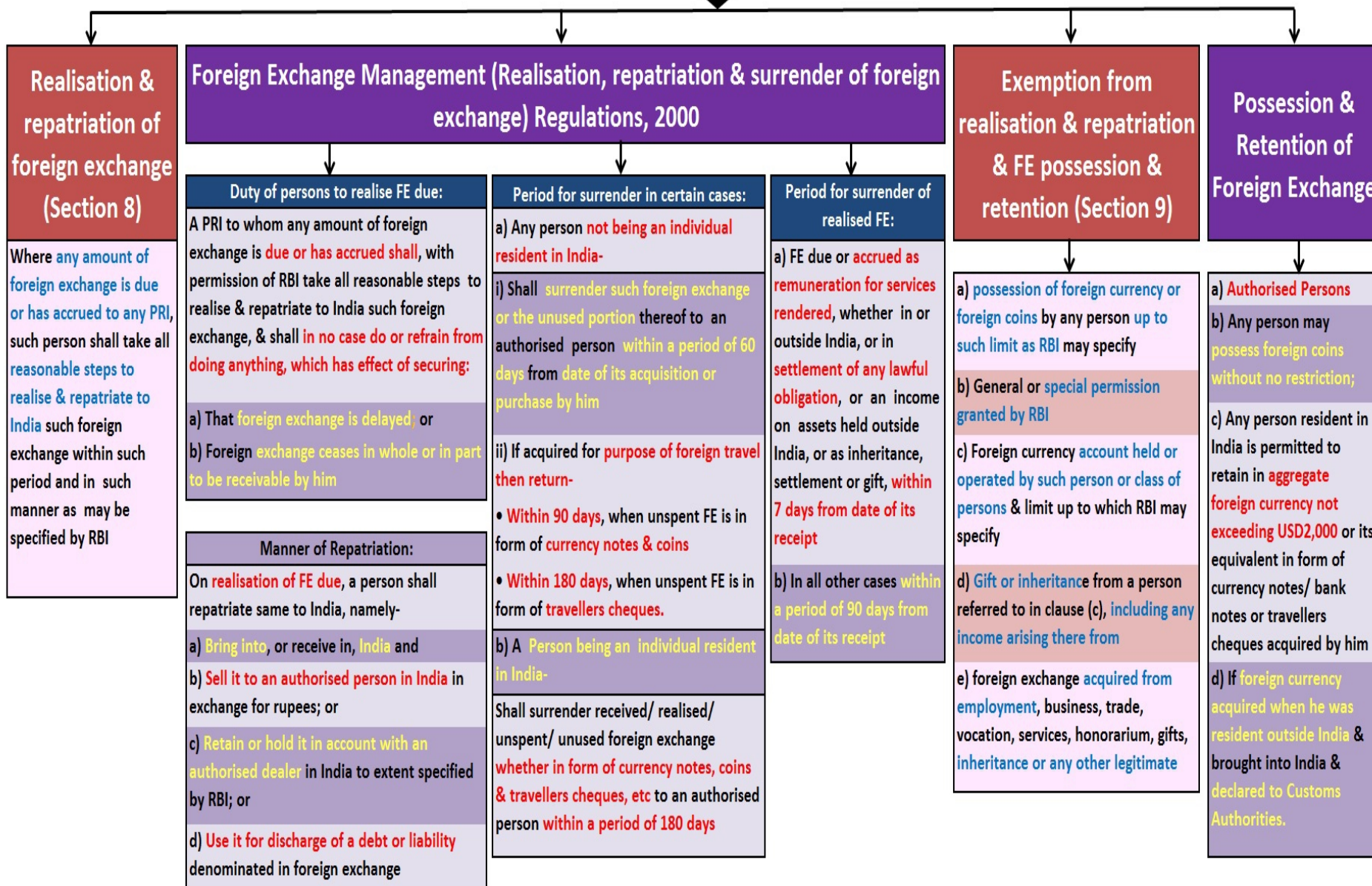
Capital Account Transaction (Section 6)

Section 6(1) Any person may sell or draw FE to or from an authorised person for a CAT	Section 6(3) RB may, by regulations, prohibit, restrict or regulate following: a) trf or issue of any FS by a person resident in India b) trf or issue of any security by a person resident outside India c) trf or issue of any security or foreign security by any branch, office or agency in India of a person resident outside India d) any borrowing or lending in FE e) any borrowing or lending in Rs. f) deposits between PRI & PROI g) export, import or holding of currency or currency notes h) trf of immovable property outside India, other than a lease not exceeding 5 years, by PRI i) acquisition or trf of immovable property in India, other than a lease not exceeding 5 years, by a PROI j) Giving of a guarantee or surety in respect of any debt, obligation or other liability incurred: i) by a PRI & owed to a PROI ; or ii) by a PROI	Section 6(4) A PRI may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a PROI It covers following transactions: a) Foreign currency accounts opened & maintained by PROI b) Income earned through employment or business or vocation outside India taken up or commenced which such PROI c) FE including any income arising therefrom, & conversion or replacement or accrual to same d) A PRI may freely utilize all their eligible assets abroad as well as income on such assets or sale proceeds thereof received after their return to India for making any payments	Section 6(5) A PROI may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or property was acquired, held or owned by a such person when he was resident in India or inherited from a person who was resident in India.	Capital account transaction is basically split into the following categories:		
Section 6(2) RBI may, in consultation with CG, specify a) class or classes of CAT, which are permissible b) limit up to which FE shall be admissible for such transactions			Section 6(5) RBI may, by regulation, prohibit, restrict, or regulate establishment in India of a branch, office or other place of business by a PROI, for carrying on any activity relating to such branch, office or other place of business	Permissible Transactions made by PRI a) Investment by a PROI in foreign securities. b) Foreign currency loans raised in India & abroad by a PRI c) Transfer of immovable property outside India by a PRI d) Guarantees issued by a PRI in favour of a PROI e) Export, import & holding of currency/ currency notes. f) Loans & overdrafts (borrowings) by a PRI from a PROI g) Maintenance of foreign currency accounts in India & outside India by a PRI h) Taking out of insurance policy by a PRI from an insurance company outside India i) Loans & overdrafts by a PRI to a PROI j) Remittance outside India of capital assets of a PRI k) Sale & purchase of foreign exchange derivatives in India & abroad & commodity derivatives abroad by a PRI	Permissible Transactions made by PROI a) Investment in India by a PROI, that is to say, i) Issue of security by a body corporate or an entity in India & investment therein by a PRI; ii) Investment by way of contribution by a PROI to capital of a firm or a proprietorship concern or an AOP in India. b) Acquisition & transfer of immovable property in India by a PROI c) Guarantee by a PROI in favour of, or on behalf of, a PRI d) Import & export of currency/currency notes into/from India by a PROI e) Deposits between a PRI & a PROI f) Foreign currency accounts in India of a PROI g) Remittance outside India of capital assets in India of a PROI	Prohibited Transactions On certain transactions,RBI imposes prohibition. a) no person shall undertake or sell or draw FE to or from an authorised person for any CAT provided that- He may draw from an authorized person FE not exceeding USD 250,000 per FY or such amt as decided by RBI b) PROI is prohibited from making investments in India in any form, in any co, or partnership firm or proprietary concern or any entity whether incorporated or not which is engaged or proposes to engage: i) In business of chit fund; ii) As Nidhi company; iii) In agricultural or plantation activities; iv) In real estate business v) In trading in Transferable Development Rights (TDRs)
				Transaction with no Restriction a) For amortisation of loan and b) For depreciation of direct investments in ordinary course of business.		

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 1.4)

Export of goods & services (Section 7)	Foreign Exchange Management (Export of Goods & services) Regulation 2015						
<p>a) Every exporter of goods shall-</p> <p>i) furnish to RBI or to such other authority a declaration, containing true & correct material particulars, including amount representing full export value or, if full export value of goods is not ascertainable at time of export, value which exporter, having regard to prevailing market conditions, expects to receive on sale of goods in a market outside India;</p> <p>ii) furnish to RBI such other information as may be required by RBI</p> <p>b) RBI may, direct any exporter to comply with such requirements as it deems fit</p> <p>c) Every exporter of services shall furnish to RBI or to such other authorities a declaration, containing true & correct material particulars in relation to payment for such services</p>	<p>Declaration of exports:-</p> <p>In case exports taking place through Customs manual ports, every exporter, shall furnish, a declaration in one of forms set out in Schedule & supported by such evidence as may be specified, including amount representing –</p> <p>a) Full export value of goods or software</p> <p>b) If full export value is not ascertainable at time of export, value which exporter, having regard to prevailing market conditions expects to receive on sale of goods or software</p>	<p>Exemptions:-</p> <p>a) Trade samples of goods & publicity material supplied free of payment</p> <p>b) Personal effects of travellers, whether accompanied or unaccompanied</p> <p>c) Ship's stores, trans-shipment cargo & goods supplied under orders of CG</p> <p>d) By way of gift of goods accompanied by a declaration by exporter that they are not more than 5 lakh Rs. in value</p> <p>e) Aircrafts or aircraft engines & spare parts for overhauling and/or repairs abroad subject to their reimport into India, within a period of 6 months from date of their export</p> <p>f) Goods imported free of cost on re-export basis;</p> <p>g) Goods which are permitted by Development Commissioner of SEZ</p> <p>h) Replacement goods exported free of charge</p> <p>i) Goods sent outside India for testing subject to re-import into India;</p> <p>j) Defective goods sent outside India for repair</p>	<p>Authority to whom declaration is to be furnished & manner of dealing with declaration:-</p> <p>a) Declaration in Form EDF</p> <p>b) Declaration in Form SOFTEX</p> <p>c) Duplicate Declaration Forms to be retained with Authorised Dealers</p> <p>Evidence in support of declaration:-</p> <p>Evidence in support of declaration as may establish that-</p> <p>a) Exporter is a PRI & has a place of business in India;</p> <p>b) Destination stated on declaration is final place</p> <p>c) value stated in declaration represents –</p> <p>i) full export value of goods or software</p> <p>ii) If value is not ascertainable value which the exporter, having regard to prevailing market conditions expects to receive on sale of goods in overseas market.</p>	<p>Manner of payment of export value of goods:-</p> <p>Unless authorised by RBI, amt representing full export value of goods exported shall be paid through an authorised dealer</p> <p>Period within which export value of goods/software/ services to be realised:-</p> <p>a) Amt representing full export value of goods / software/ services exported shall be realised & repatriated to India within 9 months from date of export,</p> <p>b) Where export of goods / software / services has been made by Units in SEZ, amount representing full export value of goods or software shall be realised & repatriated to India within 9 months from date of export.</p> <p>c) RBI may for reasonable & sufficient cause direct that said exporter/s shall cease- after giving reasonable opportunity to make a representation</p>	<p>Submission of export documents:-</p> <p>Documents pertaining to export shall be submitted to authorised dealer, within 21 days from date of export, or from the date of certification of SOFTEX form</p> <p>Transfer of documents:-</p> <p>a) Authorised dealer may accept, for negotiation or collection, shipping documents including invoice & bill of exchange covering exports</p> <p>b) Before accepting documents for negotiation or collection, authorised dealer shall –</p> <p>i) where value declared in declaration does not differ from value shown in documents being negotiated or sent for collection</p> <p>ii) where value declared in declaration is less than value shown in documents</p>	<p>Certain Exports requiring prior approval:-</p> <p>a) Export of goods under special arrangement between CG & Govt of a foreign state, or under rupee credits extended by CG to Govt. of a foreign state shall be governed by terms & conditions set out in relative public notices issued by Trade Control Authority in India & instructions issued from time to time by RBI</p> <p>b) An export under line of credit extended to a bank or a financial institution operating in a foreign state by Exim Bank for financing exports from India, shall be governed by terms & conditions advised by RBI to authorised dealers from time to time</p>	<p>Advance payment against exports:-</p> <p>Where an exporter receives advance payment he shall be under an obligation to ensure that-</p> <p>a) Shipment of goods is made within 1 year from date of receipt of advance payment;</p> <p>b) Rate of interest, if any, payable on advance payment does not exceed rate of interest LIBOR + 100 basis points</p> <p>c) Documents covering shipment are routed through authorised dealer through whom advance payment is received</p>

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 1.5)



THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 1.6)

Chapter III- Authorised Person

Authorised person (Section 10)	Power of Reserve Bank to inspect authorised person (Section 12)
a) RBI may, on an application made authorize any person to be known as authorized person to deal in foreign exchange or in foreign securities	a) Verifying correctness of any statement, information or particulars furnished to RBI
b) RBI may revoked it if- i) it is in public interest so to do; or ii) Authorized person has failed to comply with condition	b) Obtaining any information or particulars which such authorised person has failed to furnish on being called upon to do so;
Reserve Bank's powers to issue directions to authorised person (Section 11)	c) Securing compliance with provisions of this Act or of any rules, regulations, directions or orders made there under.
a) In regard to making of pay-ment or doing or desist from doing any act relating to foreign exchange or foreign security	d) It shall be duty of every authorised person to produce to any officer making an inspection such books, accounts & other documents in his custody or power & to furnish any statement or information relating to affairs of such person & in such manner
b) To furnish such information, in such manner, as it deems fit.	
c) penalty for contravenes any direction- Amt extend to 10,000 Rs & in case of continuing contravention with an additional penalty which may extend to 2,000 Rs for every day	

Chapter IV - Contravention & Penalties

Sec No.	Contravention	Quantum of Penalty
11	Authorised person contravenes any direction by RBI or failure to file any return as directed by RBI	Upto Rs. 10,000. If continuing offence additional penalty upto Rs. 2,000 per
13	Of any provision of Act, or any rule, regulation, notification, direction or order or of any condition subject to which an authorisation issued	Upto 3 times, sum involved, if it is quantifiable If not quantifiable upto Rs. 2 lacs. If continuing, further penalty upto Rs. 5,000 per day after first
14	Failure to pay penalty as above where demand is of an amount exceeding Rs. 1 crore. in any other case	Civil imprisonment. Upto 3 years Upto 6 Months

Adjudication & Appeal

Sec No.	Obligation	Time Limit
14	Full penalty to be paid	Within 90 days from date on which notice for payment of penalty is served.
15	Compounding of Contravention under section 13	Within 180 days of receipt application by Directorate education
16	Complaint under sec 16(1) to be dealt by Adjudicated Authority	Within 1 year of receipt of complaint.
17	Appeal to Special Director (Appeals)	Within 45 days from receipt of order.
19	Appeal to Appellate Tribunal	Within 45 days from receipt of order.
19(5)	Appeal to be dealt with by Appellate Tribunal	Will try to dispose off appeal within 180 days from receipt of appeal.
35	Appeal to High Court	Within 60 days of communication of order or decision.

Appointment of Adjudicating Authority (Section 16)

a) CG may, by an order published in Official Gazette, appoint as many officers of CG as it may think fit

b) Where Adjudicating Authority is of opinion that said person is likely to abscond or is likely to evade in any manner, payment of penalty, if levied, it may direct said person to furnish a bond or guarantee for such amount & subject to such conditions as it may deem fit.

Directorate of Enforcement

(Section 36)
a) CG shall establish a Directorate of Enforcement
b) CG may authorise Director of Enforcement to appoint officers of Enforcement below rank of an Assistant Director of Enforcement
c) Power of search & seizure: Director of Enforcement & other officers of Enforcement, not below rank of an Assistant Director, shall take up for investigation contravention referred to in sec 13
Empowering other officers (Section 38)
CG may, by order authorise any officer of customs or any central excise officer or any police officer or any other officer of CG or a SG to exercise such of powers & discharge such of duties of Director of Enforcement

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 1.7)

Appeals

Miscellaneous

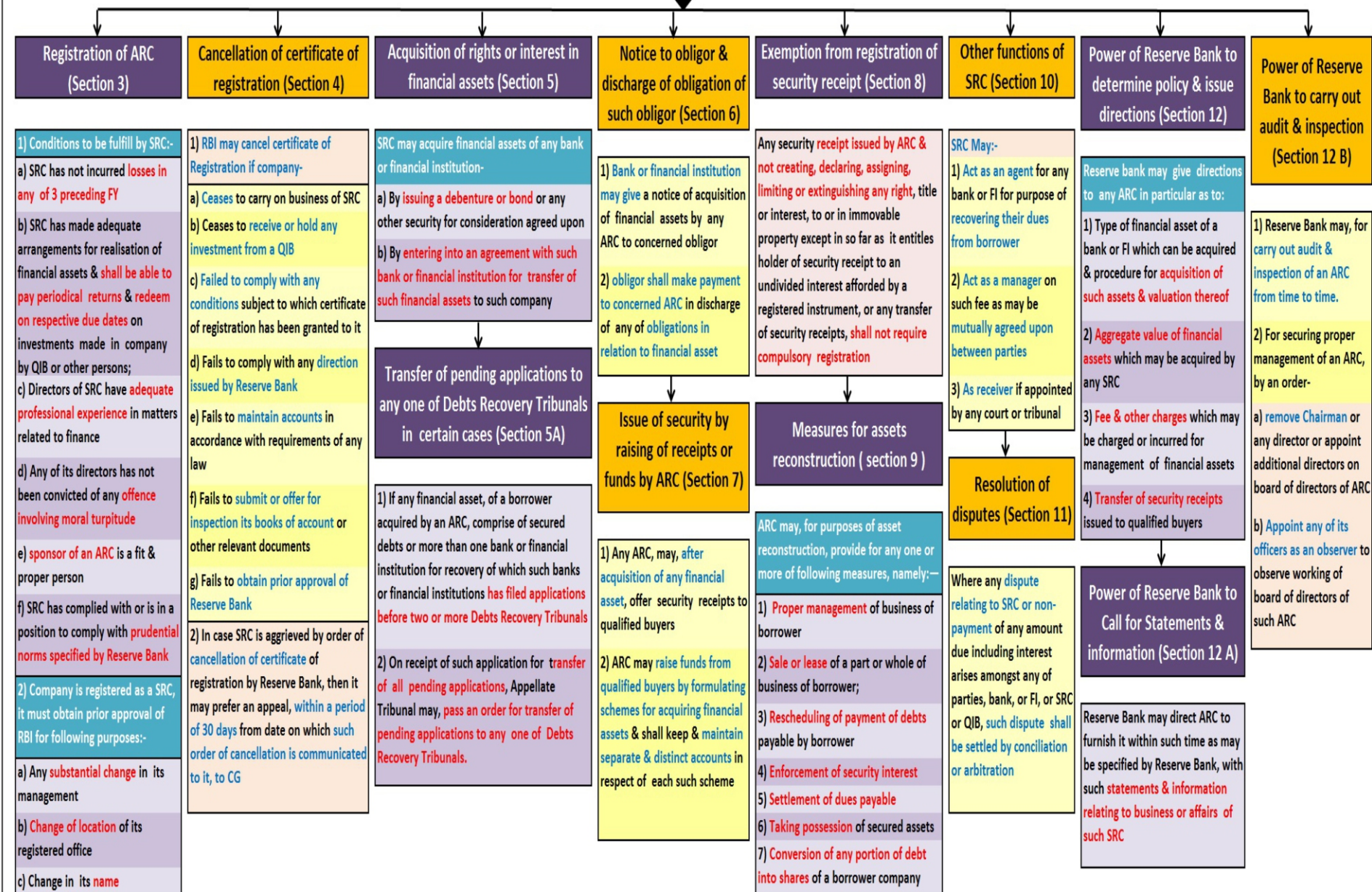
Appeal to Special Director (Appeals) (Section 17)		Appeal to Appellate Tribunal (Section 19)		Appeal to Appellate Tribunal (Section 18)	1) Presentation as to documents in certain cases (Section 39)	2) Suspension of operation of this Act (Section 40)	3) Power of CG to give directions (Section 41)	6) Bar Legal proceedings (Sec 44)
Appeal to Whom?	Special Director (Appeal)	Appeal to Whom?	Appellate Tribunal (AT)	CG shall, by notification, establish an Appellate Tribunal hear appeals against orders of Adjudicating Authorities, Competent Authorities & Special Director (Appeals) under this Act	Where any document: a) Is produced or furnished by any person or has been seized from custody or control of any person b) Has been received from any place outside India in course of investigation of any contravention under this Act alleged to have been committed by any person, Such document is tendered in any proceeding under this Act in evidence against him, or against him & any other person who is proceeded against jointly with him, court or Adjudicating Authority, as case may be	1) If CG is satisfied that any permission restriction imposed by this Act should cease to be granted or imposed CG should suspend or relax to such extent either indefinitely or for such period as may be notified. 2) Such suspension or relaxation may, at any time while this Act remains in force, be removed by CG by notification. 3) Every notification issued under this section shall be laid, as soon as may be after it issued, before each House of Parliament, while it is in session, for a total period of 30 days which may be comprised in one session or in two or more successive sessions	CG may, from time to time, give to RBI such general or special directions as it thinks fit, 4) Contravention by companies (Section 42) Every person who, at time contravention was committed, was in charge of, & was responsible to, company shall be deemed to be guilty of con-travention & shall be liable to be proceeded against & punished accordingly 5) Death or insolvency in certain cases (Section 43) In case of death or insolvency such rights & obligations shall devolve on legal representative of such person or official receiver or official assignee	No suit, prosecution or other legal proceeding shall lie against CG or RBI or any officer of that Govt exercising any power or discharging any functions, for anything in good faith done or intended to be done under this Act or any rule, regulation, notification, direction or order made thereunder. 7) Repeal & saving (Section 49) No court shall take cognizance of an offence under the repealed Act after expiry of a period of 2 years from date of commencement of this Act
Appeal against whom?	Any person aggrieved by an order made by the Adjudicating Authority, being an Assistant Director or Enforcement or a Deputy Director of Enforcement	Appeal against whom?	Central Government (CG) or Any person aggrieved by an order made by an Adjudicating Authority being the Director of Enforcement or above or Special Director (Appeal)					
Time limit of filing Appeal	a) 45 days from the date on which the copy of the order made by the Adjudicating Authority is received by the aggrieved person. b) Special Director (Appeals) may entertain an appeal after the expiry of the said period of 45 days, if he is satisfied that there was sufficient cause for not filing it within that period.	Condition	The person filing the appeal shall while filing the appeal, Deposit the amount of such penalty with such authority as may be notified by the Central Government: Provided further that where in any particular case, the Appellate Tribunal is of the opinion that the deposit of such penalty would cause undue hardship to such person, the Appellate Tribunal (AT) may dispense with such deposit.	Appeal to High Court (Section 35) Any person aggrieved by any decision or order of Appellate Tribunal may file an appeal to High Court within 60 days from date of communication of decision or order				
Power of Authority to whom the appeal has been made	Special Director (Appeals) may after giving the parties to the appeal an opportunity of being heard, pass such order thereon as he thinks fit, confirming, modifying or setting aside the order appealed against.	Time limit of filing Appeal	Same as time limit of making appeals to Special Director (Appeal)					
		Power of Authority	Same powers as being available with Special Director (Appeal)					
		Time limit of Disposing off the case	The appeal filed shall be dealt expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within 180 days from the date of receipt of the appeal:					
Special Director (Appeals) shall send a copy of every order made by him to the parties to appeal and to the concerned Adjudicating Authority.								

THE FOREIGN EXCHANGE MANAGEMENT ACT 1999 (Chart 1.8)

Foreign Exchange Management (Acquisition & Transfer of Immovable property outside India) Regulation, 2018

<p>A) Acquisition & Transfer of Property in India by a Non-Resident Indian or an Overseas Citizen of India</p> <p>An NRI or an OCI may-</p> <p>a) acquire immovable property in India other than agricultural land/ farm house/ plantation property</p> <p>Consideration, shall be made out of:-</p> <p>i) funds received in India through banking channels by way of inward remittance from any place outside India or</p> <p>ii) funds held in any non-resident account maintained in accordance with the provisions of the Act</p> <p>b) acquire any immovable property in India other than agricultural land/ farm house/ plantation property by way of gift from a PRI or from an NRI or from an OCI, who in any case is a relative as defined in section 2(77)</p> <p>c) acquire any immovable property in India by way of inheritance from a PROI who had acquired such property</p> <p>d) transfer any immovable property in India to a PRI</p> <p>e) transfer any immovable property other than agricultural land/ farm house/ plantation property to an NRI or an OCI</p>	<p>B) Acquisition of Immovable Property for carrying on a permitted activity</p> <p>a) acquire any immovable property in India, which is necessary for or incidental to carrying on such activity</p> <p>b) transfer by way of mortgage to an authorised dealer as a security for any borrowing, immovable property acquired in pursuance of clause (a)</p> <p>Provided no person of Pakistan or Bangladesh or Sri Lanka or Afghanistan or China or Iran or Hong Kong or Macau or Nepal or Bhutan or Democratic People's Republic of Korea shall acquire immovable property, other than on lease not exceeding 5 years, without prior approval of Reserve Bank.</p> <p>C) Purchase/ sale of Immovable Property by Foreign Embassies/ Diplomats/ Consulate Generals</p> <p>A Foreign Embassy/ Diplomat/ Consulate General may purchase/ sell immovable property in India other than agricultural land/ plantation property/ farm house provided</p> <p>a) clearance from Govt of India, Ministry of External Affairs is obtained for such purchase/ sale, &</p> <p>b) consideration for acquisition of immovable property in India is paid out of funds remitted from abroad through banking channels.</p>	<p>D) Joint acquisition by spouse of an NRI or an OCI</p> <p>A PROI, not being a NRI or an Overseas Citizen of India, who is a spouse of a NRI or an Overseas Citizen of India may acquire one immovable property (other than agricultural land/ farm house/ plantation property), jointly with his/ her NRI/ OCI spouse</p> <p>a) consideration for transfer, shall be made out of:-</p> <p>i) funds received in India through banking channels by way of inward remittance from any place outside India or</p> <p>ii) funds held in any non-resident account maintained in accordance with provisions of the Act & regulations made by Reserve Bank</p> <p>b) No payment for any transfer of immovable property shall be made either by traveler's cheque or by foreign currency notes</p> <p>c) Provided that marriage has been registered & subsisted for a continuous period of not less than 2 years immediately preceding acquisition of such property</p> <p>d) Provided further that non-resident spouse is not otherwise prohibited from such acquisition</p>	<p>E) Acquisition by a Long-Term Visa holder</p> <p>A person being a citizen of Afghanistan, Bangladesh or Pakistan belonging to minority communities in those countries, namely, Hindus, Sikhs, Buddhists, Jains, Parsis & Christians who is residing in India & has been granted a Long Term Visa (LTV) by CG may purchase only one residential immovable property in India as dwelling unit for self-occupation & only one immovable property for carrying out self-employment subject to following conditions</p> <p>i) property should not be located in & around restricted/ protected areas so notified by CG & cantonment areas</p> <p>ii) Registration documents of property should mention nationality & fact that such person is on LTV</p> <p>iii) property of such person may be attached/ confiscated in event of his/ her indulgence in anti-India activities</p> <p>iv) copy of documents of purchased property shall be submitted to DCP, FRO, FRRO & Ministry of Home Affairs</p> <p>v) such person shall be eligible to sell property only after acquiring Indian citizenship</p>	<p>F) Repatriation of sale proceeds</p> <p>a) A person referred to in sub-sec(5) of Sec 6 of the Act, or his successor shall not, except with general or specific permission of Reserve Bank, repatriate outside India sale proceeds of any immovable property</p> <p>b) In event of sale of immovable property other than agricultural land/ farm house/ plantation property in India by an NRI or an OCI, authorised dealer may allow repatriation of sale proceeds outside India</p> <p>c) In event of failure in repayment of external commercial borrowing availed by a PRI under prov. of FEMA, a bank which is an authorised dealer may permit overseas lender or security trustee to sell immovable property on which said loan has been secured only to a PRI & to repatriate sale proceeds towards outstanding dues in respect of said loan & not any other loan.</p> <p>G) Prohibition on acquisition or transfer of immovable property in India by citizens of certain countries</p> <p>No person being a citizen of Pakistan, Bangladesh, Sri Lanka, Afghanistan, China, Iran, Nepal, Bhutan, Hong Kong or Macau or Democratic People's Republic of Korea without prior permission of Reserve Bank shall acquire or transfer immovable property in India, other than lease, not exceeding 5 years. This prohibition shall not apply to an OCI</p>	<p>H) Prohibition on transfer of immovable property in India</p> <p>No PROI shall transfer any immovable property in India-</p> <p>Provided that</p> <p>i) Reserve Bank may, for sufficient reasons, permit transfer, subject to such conditions as may be considered necessary</p> <p>ii) A bank which is an authorised dealer</p> <p>iii) An Authorized Dealer in India being Indian correspondent of an overseas lender</p> <p>I) Miscellaneous</p> <p>Any transaction involving acquisition or transfer of immovable property under these regulations shall be undertaken</p> <p>i) through banking channels in India</p> <p>ii) subject to payment of applicable taxes & other duties/ levies in India</p> <p>J) Saving</p> <p>Any existing holding of immovable property in India by a PROI made in accordance with policy in existence at time of such acquisition would not require any modifications to confirm to these regulations</p>
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SARFAESI ACT, 2002 (Chart 2.1)



SARFAESI ACT, 2002 (Chart 2.2)

Enforcement of security interest (Section 13)

1) Where borrower makes a default payment of debt:-

Then, secured creditor may require borrower **by notice in writing to discharge in full his liabilities to secured creditor within 60 days**

2) Notice prescribing details of debts:-

a) Notice shall **give details of amount payable** by borrower & secured assets in event of non-payment of secured debts

b) If borrower **makes any representation or raises any objection**, secured creditor shall consider such representation or objection

c) & if **rejection is not acceptable** then he shall **communicate within 15 days** of receipt of such representation or objection reasons for non- acceptance

3) Borrower fails to discharge his liability:-

Following measures to recover his secured debt-

a) Take possession of secured assets **including right to transfer** by way of lease, assignment or sale for realising secured asset

b) **Take over management of business**, including right to transfer by way of lease, assignment or sale for realising secured asset

c) Appoint any person to **manage secured assets** possession of which has been taken over by secured creditor

d) Any **money is due or may become due to borrower**, to pay secured creditor, so much of money as is sufficient to pay secured debt

4) Discharge from payment:-

Any payment made by any person to secured creditor shall give such person a **valid discharge as if he has made payment to borrower**

5) Right with respect to immovable property:-

a) Where sale of an immovable property, for which a reserve price has been specified, **has been postponed for want of a bid of an amount not less than such reserve price**, it shall be lawful for any officer of secured creditor, if so authorised by secured creditor in this behalf, **to bid for immovable property on behalf of secured creditor at any subsequent sale.**

b) If secured creditor, **declared to be purchaser of immovable property at any subsequent sale**, amt of purchase price shall be **adjusted towards amount of claim**

6) Right related to transfer of secured assets by secured creditor:-

Any **transfer of secured asset after taking possession** thereof by secured creditor shall vest in transferee all rights in, or in relation to, secured asset transferred as **if transfer had been made by owner of such secured asset**

7) Recovery of expenses from borrower:-

All **costs, charges & expenses** shall be recoverable from borrower

8) Payment of dues of secured creditors:

a) **Secured assets shall not be transferred** by way of lease assignment or sale by secured creditor; &

b) In case, any step has been taken by secured creditor for transfer by way of lease or assignment or sale of assets before tendering of **such amount no further step shall be taken by such secured creditor for transfer by way of lease or assignment**

9) Role of liquidator with respect to workmen dues:-

liquidator shall **intimate secured creditor workmen's dues** in accordance with provisions & in case such workmen's dues cannot be ascertained, **liquidator shall intimate estimated amount of workmen's dues**

10) In case of deposits of amount of workmen dues by secured creditor:

In case secured creditor deposits estimated amount of workmen's dues, such **creditor shall be liable to pay balance of workmen's dues or entitled to receive excess amount**, if any, deposited by secured creditor with liquidator

11) Furnishing of undertaking by secured creditor:

secured creditor shall **furnish an undertaking to liquidator to pay balance of workmen's dues**

12) Filing of an application by secured creditor:

Where dues of secured creditor are not fully satisfied with sale proceeds, **he may file an application in form & manner as may be prescribed to Debts Recovery Tribunal**

13) Rights of secured creditors in relation to secured assets:

a) Rights of a secured creditor under this Act **may be exercised by one or more of his officers authorised** in this behalf in such manner as may be prescribed

b) **No borrower shall, after receipt of notice, transfer by way of sale, lease or otherwise any of his secured assets**

SARFAESI ACT, 2002 (Chart 2.3)

Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset (Section 14)

Secured creditor may, for purpose of taking possession or control of secured asset, request, in writing, Chief Metropolitan Magistrate to take possession thereof.

on such request being made to him-
a) take possession of such asset & documents relating thereto; and
b) forward such asset & documents to secured creditor within a period of 30 days from the date of application

No compensation to directors for loss of office (Section 16):

No managing director or any other director or a manager or any person in charge of management of business of borrower shall be entitled to any compensation for loss of office or for premature termination under this Act

Manner & effect of take over of management (Section 15)

1) Appointment of persons by secured creditors:

i) When management of business of a borrower is taken over by a SRC or by a secured creditor, secured creditor may, by publishing a notice in a newspaper published in English language & in a newspaper published in an Indian language in circulation in place where principal office of borrower is situated, appoint as many persons as it thinks fit-

a) In case Borrower is Co. - Director
b) Other cases Administrator of business of borrower

ii) On publication of above notice - All person holding as office as a director, & other person holding any office having power to control & direction of business of borrower shall be deemed to vacate their office

2) When any contract of management shall be deemed to be terminated:

Any contract of management between borrower & any director or manager thereof holding office as such immediately before publication of above notice, shall be deemed to be terminated.

3) Exercise of powers of person so appointed for borrowers:

All directors appointed in accordance with above notice shall, for all purposes, be directors of company of borrower & such directors or administrators, powers are derived from MOA or AOA of company of borrower or from any other source

4) Management of borrower taken by secured creditor:

Where management of business of a borrower, is taken over by secured creditor-

a) It shall not be lawful for shareholders of such company or any other person to nominate or appoint any person to be a director of company

b) No resolution passed at any meeting of shareholders of such company shall be given effect to unless approved by secured creditor

c) No proceeding for winding up of such company or for appointment of a receiver in respect thereof shall lie in any court, except with consent of secured creditor

5) Obligation of secured creditor:

a) Secured creditor is under an obligation to restore management of business of borrower, on realisation of his debt in full, in case of takeover of management of business of a borrower by such secured creditor.

b) If any secured creditor jointly with other secured creditors or ARC or FI has converted part of its debt into shares of a borrower company & thereby acquired controlling interest in borrower company, such secured creditors shall not be liable to restore management of business to such borrower

Application against measures to recover secured debts (Section 17)

1) Filing of an application:-

Any person aggrieved by any of measures taken by secured creditor or his authorised officer make an application to Debts Recovery Tribunal having jurisdiction in matter within 45 days

2) Jurisdiction :-

An application shall be filed before Debts Recovery Tribunal within local limits of whose jurisdiction-

a) Cause of action, wholly or in part, arises
b) Where secured asset is located; or
c) Branch or any other office of a bank or financial institution is maintaining an account in which debt claimed is outstanding for time being.

3) Measures taken shall be in compliance:

If, Debts Recovery Tribunal, comes to conclusion that any of measures are not in accordance, it may, by order-

a) Declare recourse to any one or more measures taken by secured creditor as invalid

b) Restore possession of secured assets to borrower

c) Pass such other direction as it may consider appropriate & necessary in relation to any of recourse taken by secured creditor

4) Measures taken shall be in compliance:

Secured creditor shall be entitled to take recourse to one or more of measures to recover his secured debt.

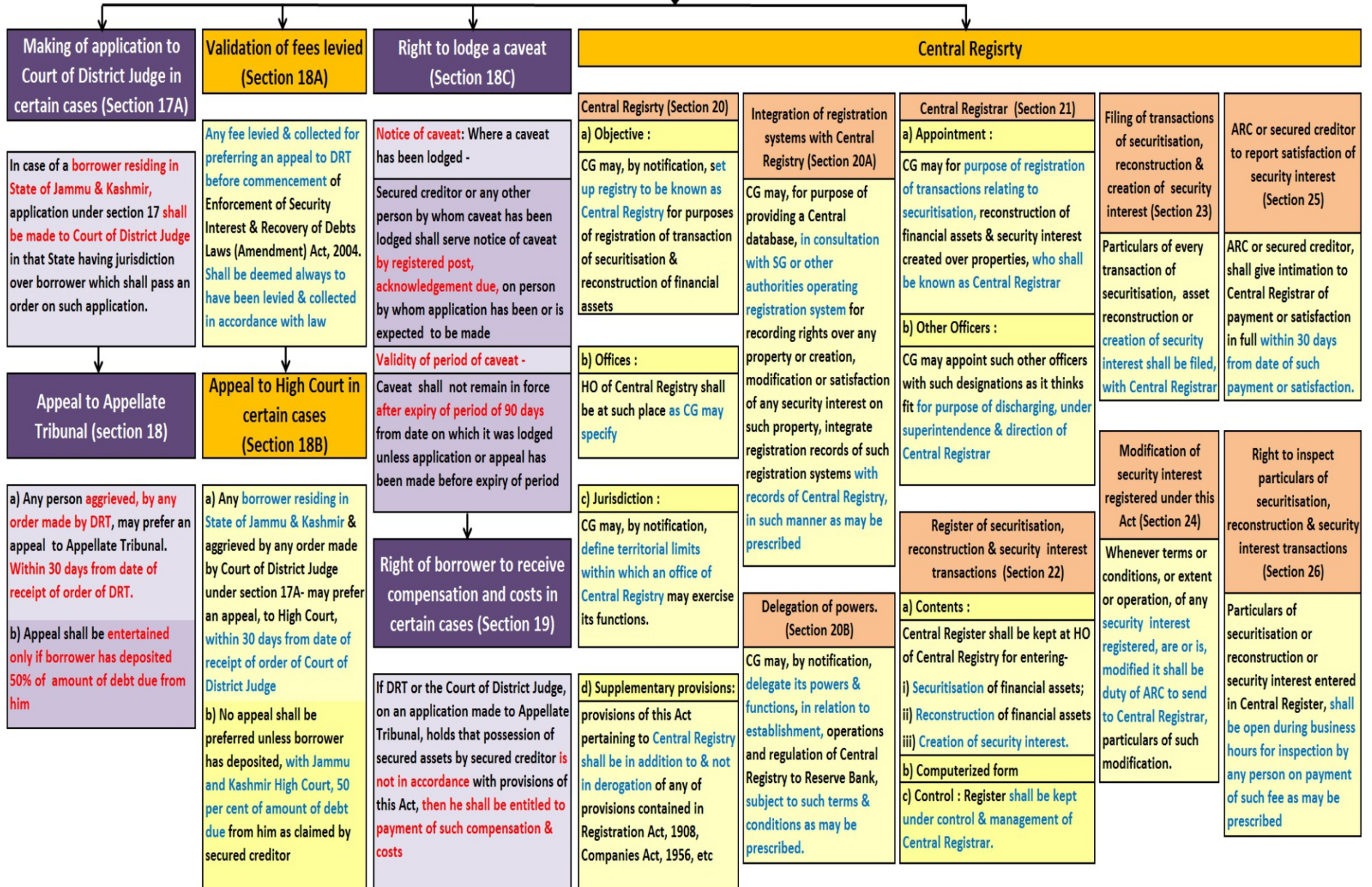
5) Time limit for disposal of an application:

Any application made under sub-section (1) shall be dealt with by Debts Recovery Tribunal within 60 days from date of such application

6) Order by appellate tribunal for expeditious disposal of pending application:

If application is not disposed of by Debts Recovery Tribunal within the period of 4 months, any part to application may make an application, to Appellate Tribunal for directing Debts Recovery Tribunal

SARFAESI ACT, 2002 (Chart 2.4)



SARFAESI ACT, 2002 (Chart 2.5)

Registration by Secured Creditors & other creditors (Chapter IV A)

I) Registration of Secured creditors & other creditors (Section 26B)	II) Effect of registration of transactions, etc. (Section 26C)
a) CG may by notification to all creditors for creation, modification or satisfaction of any security interest over any property of borrower for purpose of securing due repayment of any financial assistance granted by such creditor to borrower	Any registration of transactions shall be deemed to constitute a public notice from date & time of filing of particulars of such transaction with Central Registry for creation, modification or satisfaction of such security interest or attachment order
b) From date of notification creditor may file particulars of transactions with Central Registry	III) Right of enforcement of securities. (Section 26D)
c) If any person, having any claim against any borrower, obtains orders for attachment of property to issue attachment order, such person may file particulars of such attachment orders with Central Registry	From date of commencement of provisions of this Chapter, no secured creditor shall be entitled to exercise rights of enforcement of securities unless security interest created in its favour by borrower has been registered with Central Registry.
	IV) Priority to secured creditors. (Section 26E)
	Debts due to any secured creditor shall be paid in priority over all other debts & all revenues, taxes, cesses & other rates payable to CG or SG or local authority

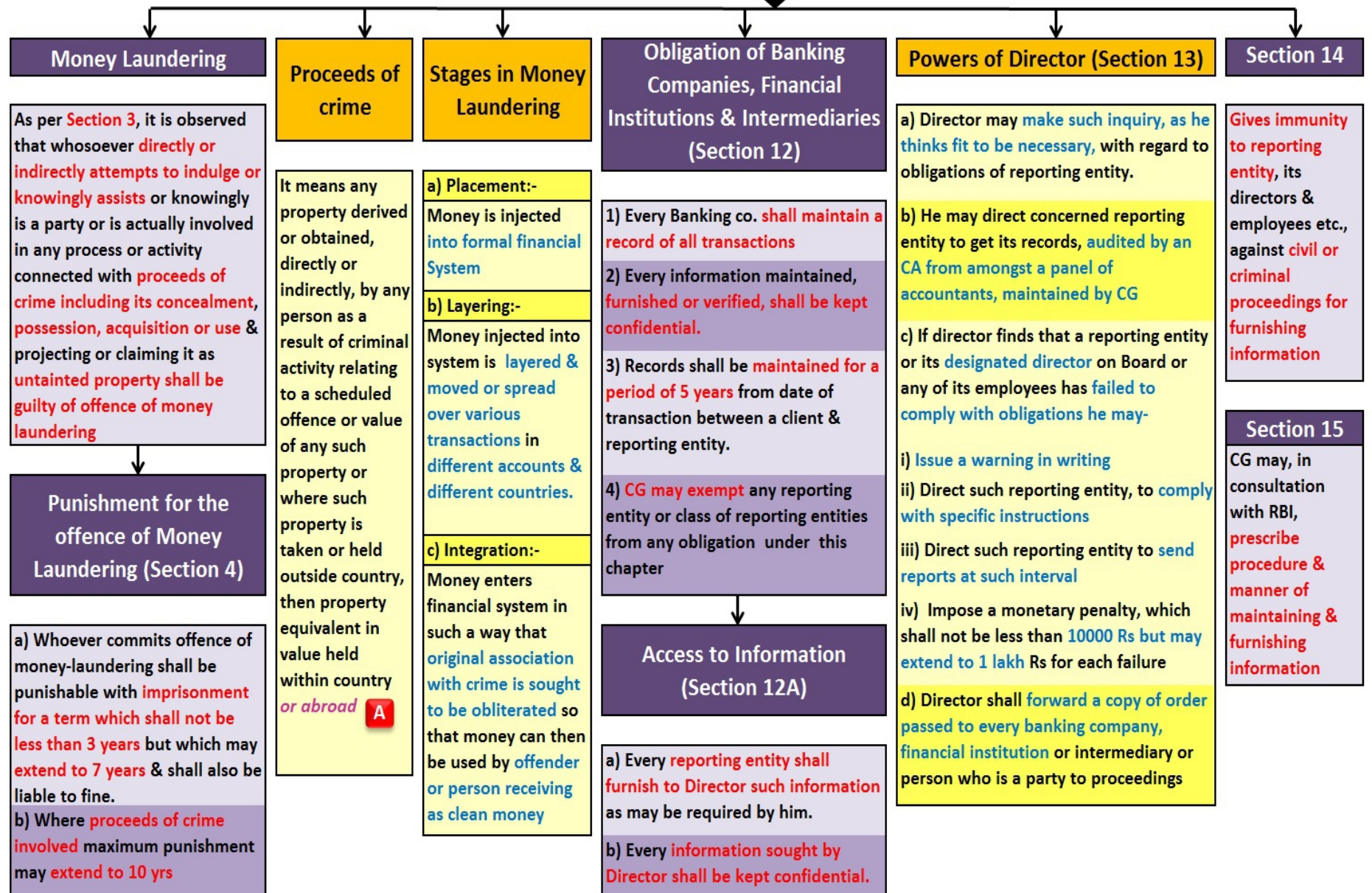
Offences & Penalties

Section 27	Cognizance of Offence (Section 30)	Appeal against penalties (section 30B)
a) Default in filing under section 23, particulars of every transaction of any securitisation or asset reconstruction or security interest or	No court shall take cognizance of any offence punishable under section 27 in relation to non-compliance, except upon a complaint in writing made by an officer of Central Registry or an officer of Reserve Bank	A person in default, aggrieved by an order passed, may within a period of 30 days from date on which such order is passed, prefer an appeal to Appellate Authority
b) Default in sending under section 24, or		Appellate Authority (Section 30C)
c) Default in giving intimation under sec 25	Power of adjudicating authority to impose penalty (Section 30A)	a) Central Board of Reserve Bank may designate such officer as it deems fit to exercise power of Appellate Authority.
Fine upto Rs. 5000 per day of Default	Where any ARC or any person fails to comply with any direction issued by Reserve Bank, adjudicating authority may, impose on such company or person in default, a penalty not exceeding 1 cr or Rs or twice amount involved, whichever is more, & where such failure is a continuing one, a further penalty which may extend to 1 lakh Rs for every day	b) Appellate Authority shall have power to pass such order as it deems fit after providing a reasonable opportunity of being heard
Section 29		Recovery of penalties (Section 30D)
Contravenes or attempts to contravene or abets contravention of provisions of this Act or of any rules		Any penalty imposed under sec 30A shall be recovered as a "recoverable sum" & shall be payable within a period of 30 days
Imprisonment upto 1 Year and / or Fine.		

Miscellaneous

Non- Applicability of Act (Section 31)	Provisions of the Act not to apply in some cases (Section 31A)	Offences by companies (Section 33)	Limitation (Section 36)
a) A lien on any goods, money or	1) CG may, by notification in public interest, direct that any of provisions of this act	Where an offence under this Act has been committed by a company, every person who at time offence was committed was in charge of, shall be deemed to be guilty of offence & shall be liable to be proceeded against & punished	No secured creditor shall be entitled to take all or any of measures unless his claim in respect of financial asset is made within period of limitation prescribed under Limitation Act, 1963.
b) A pledge of movables	a) Shall not apply to such class or classes of banks or FI		Application of other laws not barred (Section 37)
c) Creation of any security in any aircraft	b) Shall apply to the class or classes of banks or FI		The provisions of this Act or the rules made thereunder shall be in addition to, & not in derogation of, the Companies Act, 2013, SEBI Act, 1992, Recovery of Debts Due to Banks & Financial Institutions Act, 1993
d) Creation of security interest in any vessel	2) A copy of every notification proposed, shall be laid in draft before each House of Parliament, while it is in session, for a total period of 30 days	Civil Court not to have jurisdiction (Section 34)	Power of CG to make rules (Section 38)
e) Any properties not liable to attachment or sale	3) No account shall be taken of any period during which House's prorogued or adjourned for more than 4 consecutive days.	No injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act	CG may, by notification in Electronic Gazette, make rules for carrying out provisions of this Act.
f) Any security interest for securing repayment of any financial asset not exceeding 1lakh Rs.			
g) Any rights of unpaid seller	Protection of action taken in good faith (Section 32)	The provisions of this Act to override other laws (Section 35)	
	No suit, prosecution or other legal proceedings shall lie against Reserve Bank or Central Registry or any secured creditor or any of its officers for anything done or omitted to be done in good faith		

The Prevention of Money Laundering Act, 2002 (Chart 3.1)



The Prevention of Money Laundering Act, 2002 (Chart 3.2)

Attachment, Adjudication & Confiscation

Attachment of property involved in money-laundering (Section 5)

1) Where Director has **reason to believe on basis of material in his possession, that-**
a) any person is in **possession of any proceeds of crime**
b) proceeds of crime are likely to be **concealed, transferred** which may result in frustrating any proceedings relating to **confiscation of such proceeds**

He may, by order in writing, provisionally attach such property for a period **not exceeding 180 days from date of order**

A For purposes of computing period of 180 days, period during which proceedings under this section is stayed by the HC, shall be excluded & a further period not exceeding 30 days from date of order of vacation of such stay order shall be counted.

2) Director shall **forward a copy of order**, along with material in his possession to **Adjudicating Authority**, in a sealed envelope

3) Every order of attachment shall **cease to have effect after expiry of period or on date of an order made** whichever is earlier.

4) Director shall, **within a period of 30 days** from such attachment, **file a complaint before Adjudicating Authority**

Adjudicating Authorities, composition, powers, etc. (Section 6)

1) CG shall **ppoint an Adjudicating Authority** to exercise jurisdiction & powers

2) An Adjudicating Authority shall **consist of a Chairperson & 2 other Members**. 1 Member each shall be a person having experience in field of law, **administration, finance or accountancy**.

Vesting of property in CG (Section 9)

Where an order of confiscation has been made in respect of any property of a person, **all rights and title in such property shall vest absolutely in CG free from all encumbrances**.

Adjudication [Section 8]

1) On receipt of a complaint it may **serve a notice of not less than 30 days** on such person calling upon him to **indicate sources of his income, earning or assets**, out of which or by means of which **he has acquired property attached**

2) Adjudicating Authority shall, after-

- a) **Considering reply,**
- b) **Hearing aggrieved person**
- c) **Taking into account all relevant materials placed on record before him,**

by an order, **record a finding whether all or any of properties are involved in money laundering**

3) Where Adjudicating Authority decides that any property is involved in money-laundering, he shall, by an order in writing, **confirm attachment of property & record a finding to that effect**, whereupon such attachment or retention or freezing of seized or frozen property or record shall—

- i) **continue during investigation for a period not exceeding 90 days or** the pendency of proceedings relating to any offence under this Act before a court or under corresponding law of any other country, before competent court of criminal jurisdiction outside India, as case may be; &]
- ii) **become final after an order of confiscation is passed by Special Court**

4) Where provisional order of attachment has been confirmed Director shall forthwith **take possession of property attached under sec 5**

5) If Special Court finds that offence of money-laundering has been committed **it shall stand confiscated to CG**

6) If Special Court finds that offence of **money laundering has not taken place**, he shall order **release of such property**

7) Where **trial under this Act cannot be conducted by reason of death**, Special Court shall pass appropriate orders regarding **confiscation or release of property**, as the case may be after having regard to the material before it.

8) Where a property stands **confiscated to CG**, **restore such confiscated property or part thereof of a claimant with a legitimate interest in property**.

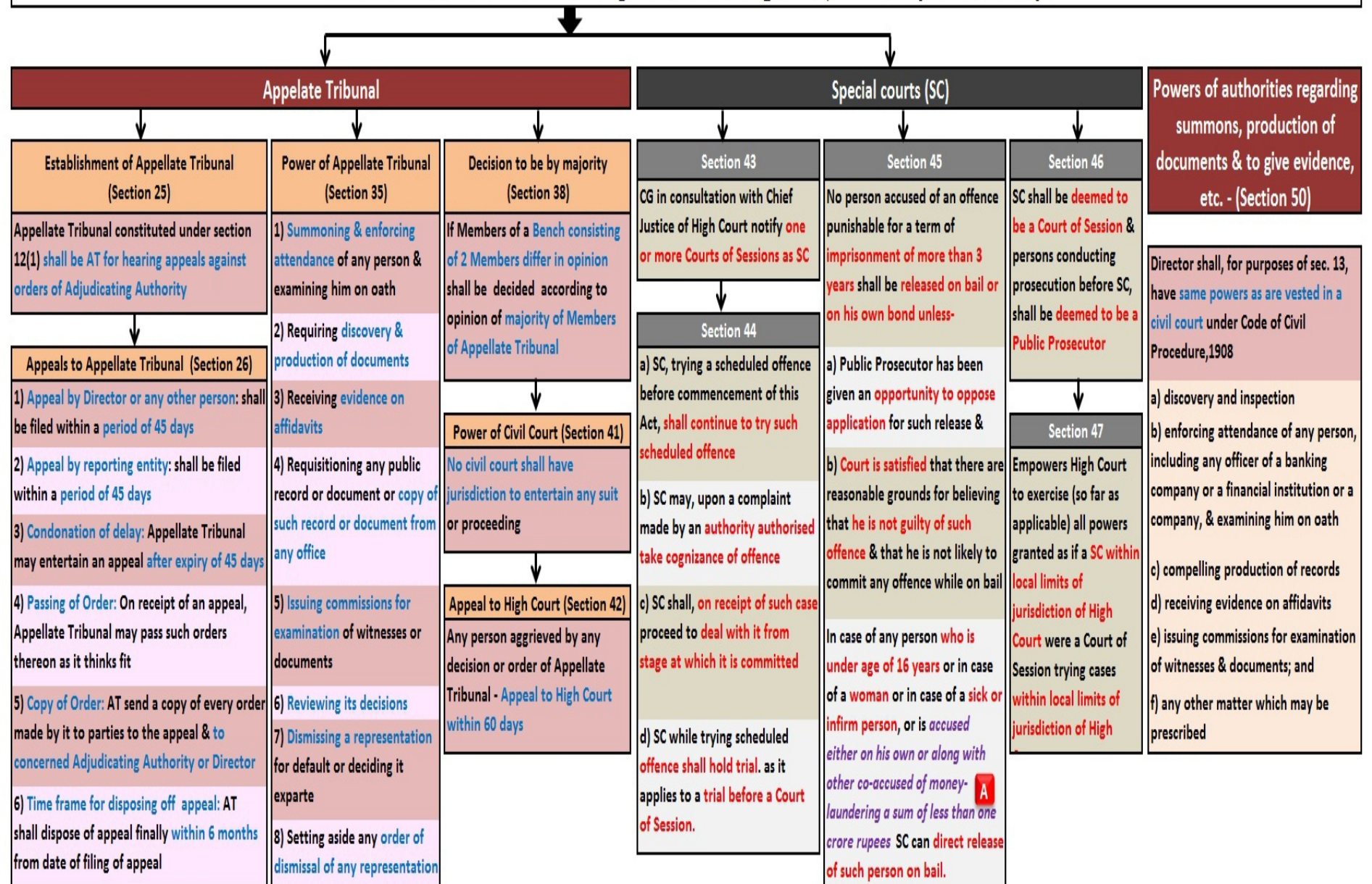
Provided further that the Special Court may, if it thinks fit, consider the claim of the claimant for the purposes of restoration of such properties during the trial of the case in such manner as may be prescribed

Power to arrest (Section 19)

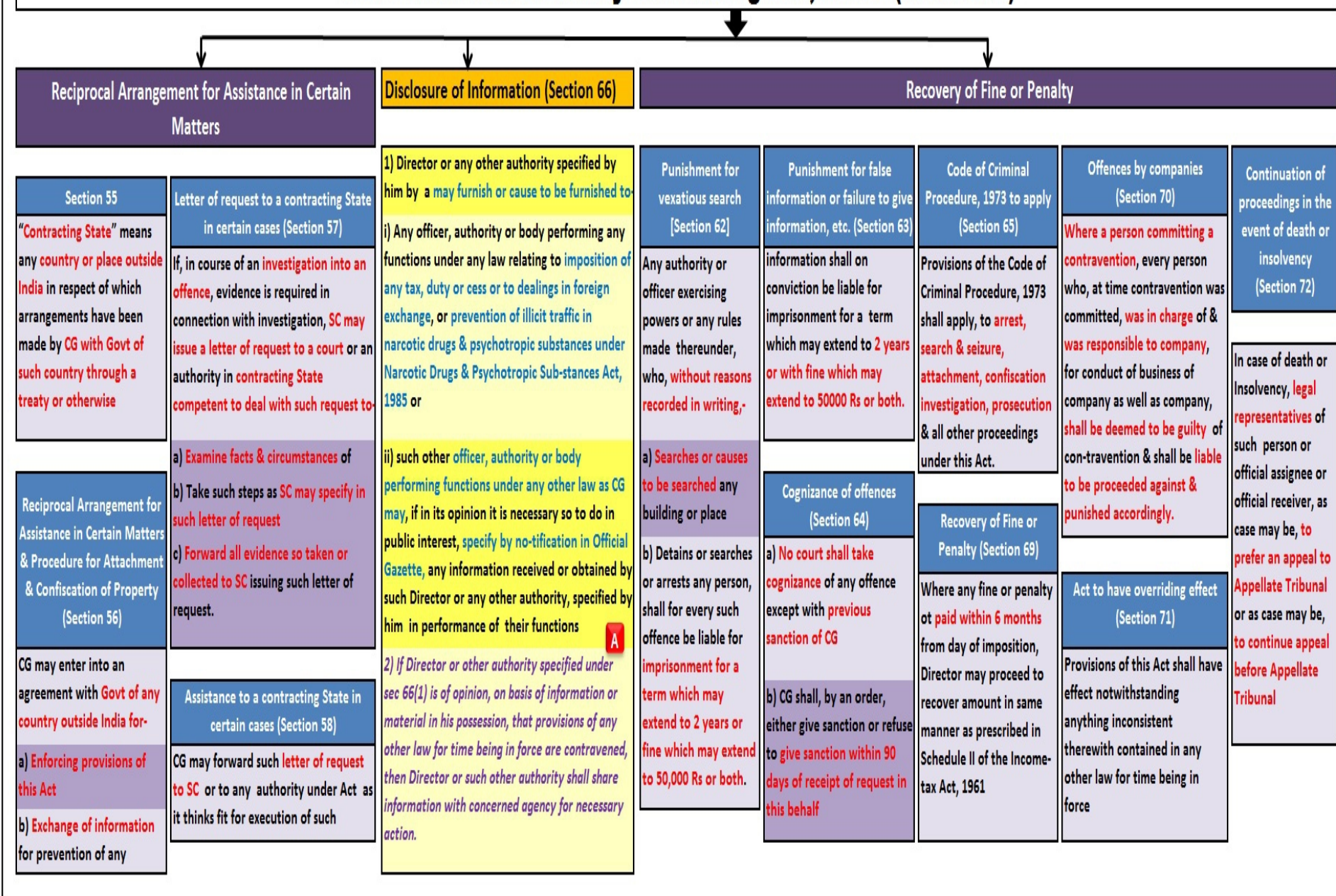
1) If **Director, Deputy Director, Assistant Director, or any other officer authorised** in this behalf by CG by general or special order, has on basis of material in his possession reason to believe that **any person has been guilty of an offence punishable** under this Act, he may arrest such person and shall, as soon as may be, inform him of the grounds for such arrest

2) Every person arrested under sub-sec. (1) shall **within 24 hrs, be taken Special court or to a Judicial Magistrate or a Metropolitan Magistrate**, as case may be, having jurisdiction: **Provided that period of 24 hours shall exclude time necessary for journey from place of arrest to Special court or Magistrate's Court.**

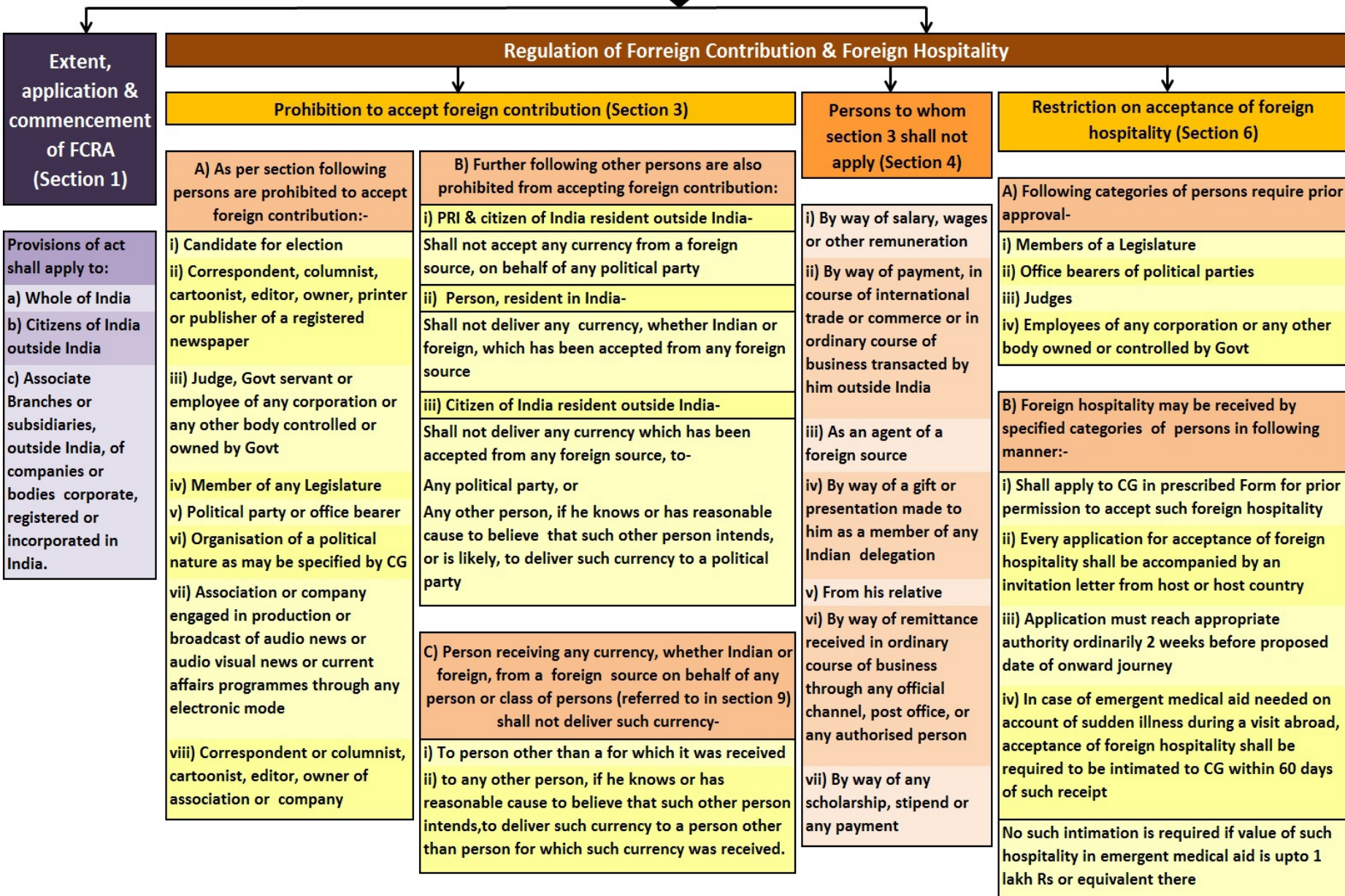
The Prevention of Money Laundering Act, 2002 (Chart 3.3)



The Prevention of Money Laundering Act, 2002 (Chart 3.4)



The Foreign Contribution (Regulation) Act, 2010 (Chart 4.1)



Provisions of act shall apply to:

- a) Whole of India
- b) Citizens of India outside India
- c) Associate Branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India.

The Foreign Contribution (Regulation) Act, 2010 (Chart 4.2)

Regulation of Foreign Contribution & Foreign Hospitality

Prohibition to transfer foreign contribution to other person (Section 7)

A) Person who-

i) Is registered & granted a certificate, or has obtained prior permission under this Act; &

ii) Receives any foreign contribution,

B) Procedure for transferring foreign contribution to any unregistered person as under-

i) Make an application to CG in prescribed Form.

ii) Every application shall be accompanied by a declaration to effect that-

- Amt proposed to be transferred during FY is less than 10% of total value of foreign contribution received by him during FY
- Transferor shall not transfer until CG approves such transfer.

iii) A person who has been granted a certificate of registration or prior permission under section 11 shall not be required to seek prior approval of CG

iv) Both transferor & recipient shall be responsible for ensuring proper utilisation of foreign contribution so transferred & such transfer of foreign contribution shall be reflected in returns in Form FC-4 to be submitted by both transferor & recipient.

Restriction to utilize foreign contribution for administrative purpose (Section 8)

Every person, who is registered & granted a certificate or given prior permission under this Act & receives any foreign contribution, shall—

a) utilise such contribution for purposes for which contribution has been received.

Provided that any income arising out of it shall not be used for speculative business

b) Not defray as far as possible such sum, not exceeding 50% of such contribution, received in a FY, to meet administrative expenses

Provided that administrative expenses exceeding 50% of such contribution may be defrayed with prior approval of CG

Power of Central Government to prohibit receipt of foreign contribution, etc., in certain cases. (Section 9)

CG May-

a) Prohibit, from accepting any foreign contribution

b) Obtain prior permission of CG before accepting any foreign hospitality

c) Furnish intimation as to amount of any foreign contribution received & source from which it was received & purpose for which it was utilised;

d) Require any person specified in that Section 11(1) to obtain prior permission of CG before accepting any foreign contribution

e) Require any person, to furnish intimation, as to receipt of any foreign hospitality, source from which & manner in which such hospitality was received.

Power to prohibit payment of currency received in contravention of the Act (Section 10)

• Where CG is satisfied, after making such inquiry, that any person has in his custody or control any-

- a) Article or
- b) Currency or
- c) Security

• Which has been accepted by such person in contravention

• Prohibit such person from paying, delivering, transferring or otherwise dealing with, such article or currency or security

The Foreign Contribution (Regulation) Act, 2010 (Chart 4.3)

Registration

Registration of certain persons with Central Government (Section 11)

- I) Person having a definite cultural, economic, educational, religious or social programme
- II) Acceptance of foreign contribution after obtaining prior permission of CG
- III) CG may, by notification in Official Gazette, specify-
Class of persons, areas, purposes & sources For acceptance & utilization

Grant of certificate of registration (Section 12)

I) Conditions to be met for grant of registration & prior permission

A) 'Person' making an application for registration or grant of prior permission-

- i) Is not fictitious or benami
- ii) Has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another
- iii) Has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of country
- iv) Has not been found guilty of diversion or misutilisation of its funds
- v) Not engaged or likely to engage in propagation of sedition
- vi) Not likely to use foreign contribution for personal gains
- vii) Has not contravened any of Provisions
- viii) Has not been prohibited from accepting foreign contribution
- ix) Person being an Individual or in case of other than individual any of its directors or office bearers, has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him

B) Acceptance of foreign contribution by association/ person is not likely to affect prejudicially -

- i) Sovereignty and integrity of India
- ii) Security, strategic, scientific or economic interest of the State
- iii) Public interest
- iv) Freedom or fairness of election to any Legislature
- v) Friendly relation with any foreign State
- vi) Harmony between religious, racial, social, linguistic, regional groups, castes or communities

C) Acceptance of foreign contribution-

- i) Shall not lead to incitement of an offence
- ii) Shall not endanger life or physical safety of any person

II) Procedure for grant of certificate of Registration

- a) Application to be made to CG
- b) CG may reject application if it is not in prescribed form
- c) If CG is of the opinion that conditions are satisfied, it may, ordinarily within 90 days from date of receipt of application, register such person & grant him a certificate
- d) Where CG refuses grant of certificate, it shall record in its order reasons therefor & furnish a copy thereof to applicant.
- e) Certificate granted shall be valid for a period of 5 years from date of its issue

III) Suspension of certificate (Section 13)

- a) CG may suspend certificate for such period not exceeding 180 days as may be specified in order
- b) Every person whose certificate has been suspended shall—
 - i) Not receive any foreign contribution during period of suspension of certificate
 - ii) Utilise, in prescribed manner, foreign contribution in his custody with prior approval of CG

IV) Cancellation of certificate (Section 14)

- a) CG may, by an order, cancel certificate if -
 - i) Holder of certificate has made a statement in, or in relation to, application for grant of registration or renewal thereof, which is incorrect or false or;
 - ii) Holder of certificate has violated any of terms & conditions of certificate or renewal thereof
 - iii) In opinion of CG, it is necessary in public interest to cancel certificate
 - iv) Holder of certificate has violated any of provisions of this Act or rules
 - v) If holder of certificate has not been engaged in any reasonable activity in its chosen field for benefit of society for 2 consecutive years or has become defunct
- b) No order of cancellation of certificate shall be made unless person concerned has been given a reasonable opportunity of being heard
- c) Cooling period of 3 years

The Foreign Contribution (Regulation) Act, 2010 (Chart 4.4)

Registration

V) Management of foreign contribution of person whose certificate has been cancelled (Section 15)

a) Foreign contribution and assets created out of foreign contribution in custody of every person whose certificate has been cancelled - shall vest in such authority as may be prescribed

b) Such an authority may, if it considers necessary & in public interest- manage activities of person, as CG may direct & such authority may utilise foreign contribution or dispose of assets created out of it in case adequate funds are not available for running such activity

c) Authority shall- return foreign contribution & assets vested upon it to person, if such person is subsequently registered under this Act

VI) Renewal of certificate (Section 16)

a) Every person who has been granted a certificate, shall have such certificate renewed within 6 months before expiry of period of certificate

b) Application for renewal of certificate shall be made to CG

c) CG shall renew certificate within 90 days & grant a certificate of renewal for a period of 5 years.

Procedure for renewal:-

a) Every certificate of registration issued to a Person shall be liable to be renewed after expiry of 5 yrs.

b) Before date of expiry person shall apply to CG, 6 mnths before date of expiry of certificate of registration.

c) Application shall be accompanied by a fee of Rs. 500

d) fee for renewal shall be remitted by DD or banker's cheque in favour of "Pay & Accounts Officer, Ministry of Home Affairs", payable at New Delhi or through online electronic payment gateway as specified CG.

e) In case no application for renewal of registration is received certificate of registration of such person shall be deemed to have ceased.

f) If validity of certificate of registration of a person has ceased a fresh request for grant of a certificate of registration may be made to CG.

g) In case a person provides sufficient grounds, in writing, explaining reasons for not submitting certificate of registration for renewal within stipulated time, his application may be accepted, but not later than 4 months after expiry of original certificate of registration

Accounts, Intimation, Audit & Disposal of Assets etc.

I) Foreign contribution through scheduled bank (Section 17)

Every person who has been granted a certificate or given prior permission shall receive foreign contribution in a single account only through such one of branches of a bank as he may specify in his application for grant of certificate

II) Intimation (Section 18)

Every person who has been granted a certificate or given prior approval shall give an intimation to CG, & such other authority as may be specified by CG

III) Maintenance of accounts (Section 19)

Every person who has been granted a certificate shall maintain, in such form & manner as may be prescribed,-

- a) An account of any foreign contribution received by him &
- b) A record as to manner in which such contribution has been utilised by him

IV) Audit of accounts (Section 20)

a) Where any person who has been granted a certificate , fails to furnish any intimation after inspection of such intimation, CG may-

i) By general or special order, authorise such Gazetted Officer, any other officer or authority or organisation, as it may think fit

ii) To audit any books of account kept or maintained by such person

b) Every such officer shall have right to enter in or upon any premises at any reasonable hour, for purpose of auditing said books of account

c) Any information obtained from such audit shall be kept confidential & shall not be disclosed

V) Disposal of assets created out of foreign contribution (Section 22)

Where any person who was permitted to accept foreign contribution under this Act-

- a) Ceases to exist or has become defunct
- b) In absence of any such law-

CG may specify that all such assets shall be disposed of by such authority, in such manner & procedure as may be prescribed

The Foreign Contribution (Regulation) Act, 2010 (Chart 4.5)

Adjudication

Miscellaneous

I) Confiscation of article or currency or security obtained in contravention of the Act (Section 28)

Any article or currency or security which is seized shall be liable to confiscation if such article or currency or security has been adjudged under section 29 to have been received or obtained in contravention of this Act

II) Adjudication of confiscation (Section 19)

a) Without limit, by Court of Session within local limits of whose jurisdiction seizure was made.

b) Subject to such limits as may be prescribed, by such officer, not below rank of an Assistant Sessions Judge

III) Procedure for confiscation (Sec 30)

No order of adjudication of confiscation shall be made unless a reasonable opportunity of making a representation has been given

IV) Appeal (Section 31)

Order passed by-	Appeal to be made-
the Court of Session	To the high court to which such court is subordinate
OR	
any officer specified section 29(1)(b)	Court of session within the local limits of whose jurisdiction such order of adjudication of confiscation was made
Appeal may be preferred within one month from the date of communication to such person of the order	
However, the appellate court may, allow such appeal to be preferred within a further period of one month, but not thereafter.	

V) Revision of orders by Central Government (Section 32)

a) Power to central Government:

CG may either- of its own motion or on an application for revision by person registered under this Act, call for & examine record

b) Restriction on entertainment of revision:

CG shall not of its own motion revise any order if order has been made more than 1 year previously

c) In case of an application for revision under this section –

Application must be made within 1 year from date on which order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier

I) Power to call of information or document & Investigation into cases under the Act (Sections 42 & 43)

II) Power of Central Government to give directions & delegation of powers (Sections 46 & 47)

III) Power to make rules (Section 48)

IV) Power to exempt in certain cases (Section 50)

V) Act not to apply to certain Government transactions (Section 51)

VI) Application of other laws not barred (Section 52)

VII) Power to remove difficulties (Section 53)

The Arbitration And Conciliation Act, 1996 (Chart 5.1)

Arbitration - General Provisions

I) Alternate methods of dispute resolution

- a) Arbitration
- b) Conciliation
- c) Mediation
- d) Negotiation

II) Primary legislation dealing with alternate methods of dispute resolution

a) Legislation

- The Arbitration and Conciliation Act, 1996
- Legal Services Authorities Act, 1987
- The Code of Civil Procedure, 1908

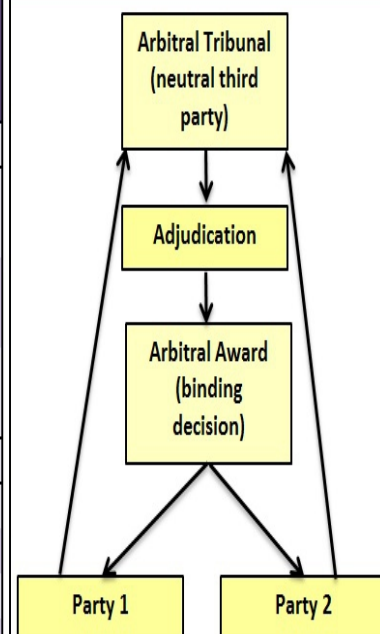
b) Methods

- Arbitration
- Conciliation
- Mediation
- Judicial Settlement
- Lok Adalat
- Permanent Lok Adalat

III) Arbitration

- a) It is a method of adjudication of disputes
- b) by a neutral third person(s) selected by parties
- c) who renders a final & binding decision

IV) Process of arbitration



VI) Basic Features of Arbitration

- a) Arbitration agreement
- b) Arbitrator
- c) Seat of arbitration
- d) Party autonomy & procedure
- e) Finality of outcome
- f) Confidentiality
- g) Arbitral Awards
- h) Enforcement of arbitral awards

VII) Authorities under Act

- a) Judicial authority
- b) Court
- c) Supreme or High Court or any person or institution designated by such court

VII) Distinction between Arbitration and Litigation

Litigation

- a) Takes place in court
- b) A judge is assigned by court
- c) Procedure followed by court is fixed & determined by Rules of court
- d) Proceedings are generally open to public
- e) Court decisions are subject to numerous appeals
- f) It is often difficult to enforce judgments of court of one country in a foreign country

Arbitration

- a) Place of arbitration is chosen by parties
- b) Arbitrator(s) is selected by parties
- c) Parties have adequate flexibility to choose procedures that would apply to their arbitration
- d) Confidentiality is one of most important characteristic of arbitration
- e) Arbitral awards can be challenged on very limited grounds
- f) Enforcing an arbitral award in foreign nations is much easier & is governed by international treaties

IX) Arbitration Agreement

a) Definition

"It means an agreement by parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not"

b) Types

- Arbitration clause
- Submission agreement

c) General Principles

- It is an agreement enforceable under law
- Consent (consensus ad idem)
- Ouster of jurisdiction
- Doctrine of separability
- Competency to rule on its jurisdiction

d) Requirements of a valid arbitration agreement

- Writing
- Clarity of consent
- Defined Legal relationship
- Final & binding award
- Specific words
- Dispute
- Arbitrability
- Signature

e) Termination of an arbitration agreement

- Mutual consent
- Termination of principal contract
- Death of parties
- Operation of Law

The Arbitration And Conciliation Act, 1996 (Chart 5.2)

Arbitral Tribunal

Arbitral Award

Conciliation

I) Arbitral Tribunal

An arbitrator(s) or arbitral tribunal performs function of a judge, in other words an arbitrator adjudicates/ judges dispute between parties

II) Who can be an arbitrator?

Any person capable of contracting, in theory can be an arbitrator.

III) Appointment of Arbitral Tribunal

- a) An important principle of arbitration is principle of party autonomy. Party autonomy means 'freedom to choose' whether it is procedure, venue, seat or arbitrators
- b) Parties have right to choose persons who would act as arbitrators in their dispute
- c) There are two aspects to appointment, namely number of arbitrators, & actual procedure of appointment

IV) Number of Arbitrators

Parties tend to have high level of freedom when deciding on number of persons that can be chosen as arbitrators

V) Procedure for appointment

- a) Parties will jointly appoint
- b) Each party will appoint one & two arbitrators would appoint rest
- c) Appointment would be made by an unrelated person or institution, e.g. President of ICAI, President FICCI, etc

Step 1

Parties fail to appoint arbitrator in accordance with agreed procedure OR Parties had not decided on a procedure to appoint an arbitrator

Step 2

Parties are required to proceed in accordance with default procedure noted in the Act

Step 3

If any party fails to follow the default procedure, then other party can approach court.

Step 4

Court may require parties to act in accordance with their agreement OR may itself appoint arbitrator. While appointing an arbitrator court must take into account qualifications that parties had agreed upon.

VI) Requirements of an arbitral tribunal

- a) Arbitrator could be of any nationality
- b) Capable of contracting
- c) Lack of Bias

VII) Duties & liabilities of arbitrator

- a) Conduct arbitral proceedings without delay
- b) Remain at all times impartial i.e. treat both parties equally
- c) Keep all matters concerning arbitration confidential
- d) Deliberation
- e) Avoid unilateral communication with one party
- f) Ensure all documents & communication received from one party is communicated to other party
- g) Ensure that award & all other decisions comply with legal requirements
- h) Ensure that he/she himself at all times comply with legal requirements associated with arbitrator

VIII) Termination, Removal & substitution of arbitral tribunal

- a) When arbitrator leaves voluntarily
- b) When all parties involved in arbitration agree that arbitrator should be removed
- c) Operation of law
 - Arbitrator unable to continue
 - When arbitration process ends
- d) When the court decides that arbitrator should be removed

I) Definition

An arbitral award is similar to a judgment given by a court of law. It is given by arbitral tribunal as a decision on various issues in a matter which parties had placed before arbitral tribunal

II) General Principles

- a) Who can challenge
- b) Authority
- c) Timeline
- d) Automatic stay

III) Types of arbitral award

- a) Final Award
- b) Interim Award
- c) Settlement Award
- d) Additional Award

IV) Consequence of challenge

- a) Set aside
- b) Confirm
- c) Modify
- d) Remit back to arbitral tribunal

IV) Requirements of an arbitral award

- a) Must be a decision by majority
- b) Must be made in writing, signed & dated
- c) Must be reasoned
- d) Must not be vague
- e) Should be capable of being performed
- f) Must not be illegal (against public policy)

V) Challenging an Award

- a) under Section 13 – challenge of bias against arbitral tribunal
- b) under Section 16 – overstepping of jurisdiction by the arbitral tribunal
- c) under Section 34 – specific grounds for reviewing an award

i) The first set of grounds includes:

- Party is under some incapacity
- Invalid arbitration agreement
- Party is not given proper notice about appointment of arbitrator or arbitral proceedings
- Award deals with disputes not submitted to arbitration

ii) Second set of grounds which court can look at its own motion, includes:

- Subject matter of dispute is not capable of settlement by arbitration
- It is in contravention of public policy of India

I) Definition

There is no single definition of Conciliation. It is an alternative method of dispute resolution.

II) Characteristics

- a) Voluntary
- b) Non Adversarial
- c) Assisted procedure
- d) Finality of settlement
- e) Confidentiality

III) Conciliation in India

- a) Number of Conciliator
- b) Appointment of Conciliators
- c) Procedure of Conciliation
- d) Bar on judicial or arbitral proceedings






V) Settlement Agreement







- a) Initial steps
- b) Agreement
- c) Enforcement

VI) Confidentiality

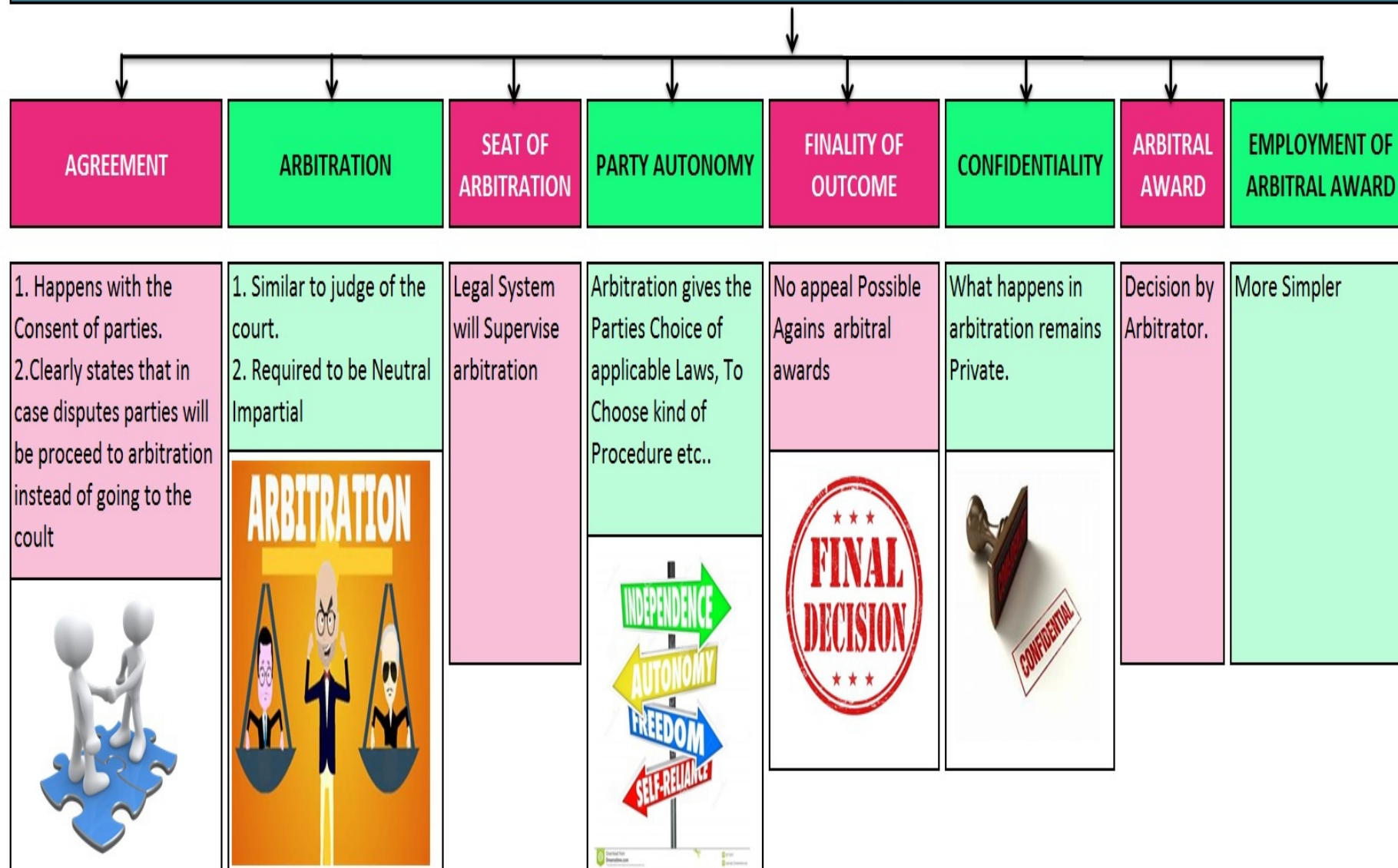
Both conciliator & parties are required to keep all matter relating to proceedings & settlement agreement confidential

REQUIREMENT OF AN ARBITRAL AWARD (Chart 5.3)

Must be a Decision by the Majority	Must be made in Writing , Sined and Dated	Must be Reasoned	Must Not Be Vague	Should Be Capable of Being Performed	Must Not Be illegal (against Public Policy)
Made Through Majority Submitted to the arbitral Tribunal for Adjudication.	1. Writing and Having the signature of Majority members of the arbitral tribunal. 2. Two Conditions are fulfilled not agree with the contents of the Award. 3. Majority of the arbitrators to Sign. 4. of Equal Importance hepls determining Various Timelines.	1. Failure to state reasons would make the award invalid. 2.arbitrator had applied their Minds to the Matter. 3.In others Words, the Decision would not be an arbitrary decision. 4. agreed that no Reasons need be given for the award	1. Both certain and Clearly note which party has to do what parity has and finally what relief has been awarded to parties. 2. Must not be tentative vagueness should be avoided at all cost.	The award should be capable of being performed. An unenforceable award would be set aside.	1. It is Violation of the public policy Would be set aside. 2. if it is Contrary to substantive provisions of Law
					

WRITING	CLARITY OF CONSENT	DEFIND LEGAL RELATIONSHIP	FINAL & BINDING	SPECIFIC WORDS	DISPUTE	ARBITRABILITY	SIGNATURE
Theree Is however no requirement for the same to be in writing in one document.	1. The intention to go to arbitration must be clear in other words there must be consensus ad idem. 2.The Words used should disclose a determination and abligation	1. borrowed from the UNCITRAL Model law does not define this term. 2. Dispute that aries from a legel relationship can be submitted to arbitration unless it is expressly or impliedly barred by a statute.	Parties must agree that the determination of their substantive rights by the neutral third Person.	Arbitration ' or ' Arbitrator ' will not make it an arbitration agreement.	Future Dispute/ difference in connection with some Contemplated affairs that is proposed be submitted to arbitration.	The Dispute Proposed to be Submitted to arbitration must be arbitrable.	Contained in a Contract i.e. in one set of Documents no Signature is required respodence or Exchange of Pleadings.
							

FEATURES OF ARBITRATION (Chart 5.5)



Insolvency & Bankruptcy Code, 2016

Timeline - Corporate Insolvency Resolution Process

