



International Journal of Research Publication and Reviews

Journal homepage: www.ijrpr.com ISSN 2582-7421

From Criminal Prosecution to Administrative Penalty: Has the Jan Vishwas (Amendment of Provisions) Act, 2026 Created a New Constitutional Architecture of Administrative Punishment in India?

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ABSTRACT :

The Jan Vishwas (Amendment of Provisions) Act, 2026 amends 784 provisions in 79 Central Acts. It replaces imprisonment and court-imposed fines with 'penalties' imposed by executive 'adjudicating officers', subject to an internal appeal. This article asks whether that change amounts to a new constitutional architecture of administrative punishment. It argues that the Act has created a new *statutory* architecture, a repeated template of adjudication, internal appeal and revenue recovery, but not a new *constitutional* one. It amends no constitutional text, it supplies no general procedural code, and it leaves every constitutional safeguard to be located in existing doctrine. The article makes four claims. First, the 'civil' label cannot insulate penalties that are punitive in magnitude, structure and consequence. Second, the Act's adjudicators and appellate authorities fall short of the independence the Supreme Court has required wherever judicial-type functions are transferred away from courts. Third, particular provisions are constitutionally vulnerable: imprisonment for non-payment of penalty, administrative findings used as predicates for criminal liability, mandatory floors, unbounded delegated penalty-setting, and an indeterminate escalation clause. Fourth, the Act's scale makes a general administrative penalties statute constitutionally advisable. The article proposes a four-condition framework (legality and proportionality, independence, procedural fairness, effective review) as the constitutional minimum for administrative punishment, and applies it to representative provisions.

Keywords: administrative penalties; decriminalisation; Jan Vishwas; separation of powers; tribunals; Article 21; proportionality.

I. Introduction

On 7 April 2026 the President assented to the Jan Vishwas (Amendment of Provisions) Act, 2026.¹ The Government states that it amends 784 provisions across 79 Central Acts administered by 23 Ministries, and that 717 of those provisions are decriminalised.² The Bill passed both Houses within a week of introduction.³ The statute's declared purpose is to 'enhance trust-based governance for ease of living and doing business'.⁴

The political vocabulary is decriminalisation. The legal vocabulary the Act uses is different. Where the old law said 'punishable with imprisonment' or 'punishable with fine on conviction before a Magistrate', the new text says 'liable to penalty', and attaches an 'adjudicating officer' and an 'appellate authority'. The question is whether this repackaging is merely administrative, or whether it relocates punitive power from courts to the executive on a scale that changes India's constitutional order. The question is more than rhetorical. Decriminalisation in the sense of removing imprisonment and stigma is one thing. The transfer of the power to determine guilt and impose sanctions from independent judges to serving officials is another. The Act performs both operations at once, and the first can obscure the second.

Thesis: The Act has not created a new constitutional architecture. Constitutional architecture is built from three sources: text, institutional structure and doctrine. The Act touches no constitutional text. Its institutional structure is an archipelago of ministry-specific adjudicators rather than a designed system. As to doctrine, it leaves courts to apply Articles 14, 19(1)(g), 20 and 21, the separation-of-powers principle and the tribunal-independence cases to a field

¹ Jan Vishwas (Amendment of Provisions) Act 2026 (India) (Act 8 of 2026) (2026 Act), published in Gazette of India Extraordinary, Pt II s 1, No 13 (8 April 2026).

² Press Information Bureau, Ministry of Commerce and Industry, 'Lok Sabha and Rajya Sabha Pass Jan Vishwas (Amendment of Provisions) Bill, 2026' (Press release, 2 April 2026) < <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2248596®=48&lang=2> > accessed 25 September 2026.

³ PRS Legislative Research, 'The Jan Vishwas (Amendment of Provisions) Bill, 2026' < <https://prsindia.org/billtrack/the-jan-vishwas-amendment-of-provisions-bill-2026> > accessed 25 September 2026

⁴ 2026 Act (n 1), long title.

enlarged by several orders of magnitude. What the Act has done is produce, by sheer repetition across 79 statutes, a de facto general model of administrative punishment without a general law to govern it. The effect is to shift the locus of constitutional scrutiny from the criminal trial to the administrative order. The constitutional minima for that order are not stated in the Act and must be extracted from the case law.

Contribution and method: The article proceeds doctrinally and works from the Act as published in the Gazette, official statements, the parliamentary record as summarised by PRS Legislative Research, and Supreme Court authority. It offers (i) a taxonomy of the Act's adjudicative models; (ii) an argument that the constitutional character of a sanction turns on function, not label; (iii) an analysis of the independence deficit in the adjudicating and appellate machinery; (iv) the identification of provisions most exposed to constitutional challenge; and (v) a four-condition framework and reform proposals. The Schedule's 79 entries cannot all be examined in an article of this length, so the analysis proceeds from a representative set chosen to cover each structural variant, and claims about unexamined entries are avoided. So far as the author has been able to determine, no constitutional challenge to the Act has yet reached a court, and the Act is being brought into force enactment by enactment.

II. Genealogy and Design of the Act

A. From 2023 to 2026

The 2026 Act is the third stage of a deliberate programme. The Jan Vishwas (Amendment of Provisions) Act 2023 was the first, amending 42 Central Acts after a Joint Committee examined the 2022 Bill.⁵ The Joint Committee's recommendations already contained the structural idea carried forward in 2026: designate an officer of stated rank as adjudicating officer, and provide an appellate authority of at least one rank higher. A second Bill, in 2025, proposed amending 17 Acts and was referred to a Select Committee chaired by Mr Tejasvi Surya.⁶ That Committee held 49 sittings and reported on 13 March 2026. It recommended timelines and officer qualifications for adjudication and appeals, recommended retaining certain offences the Bill would have removed, and examined further Acts for decriminalisation.⁷ The 2025 Bill was withdrawn on 17 March 2026 and replaced on 27 March by the 2026 Bill, which the Lok Sabha passed on 1 April and the Rajya Sabha on 2 April.⁸

The compressed final passage matters for the constitutional analysis. The Select Committee's work was substantial, but the final text, spanning 79 Acts and 23 Ministries, was enacted within days of introduction. The Act therefore has a thinner deliberative record on its adjudicative design than its scale warrants. Questions such as whether executive adjudication is appropriate for each sanction, and whether a higher appellate tier should be judicial, appear not to have been addressed Act by Act.

B. The template

Across the Schedule one can identify seven recurring design features.

First, conversion of sanction. Imprisonment and fine on conviction are replaced by 'liable to penalty', often with a large increase in quantum. Examples include the Reserve and Auxiliary Air Forces Act 1952 and the Pharmacy Act 1948.⁹

Second, designation of an adjudicator by rank. The adjudicating officer is a serving executive officer defined by seniority: a Deputy Commissioner or Deputy Collector under the Court Fees Act 1870, a Sub-Divisional Magistrate or other Executive Magistrate under the Cattle Trespass Act 1871, a Commanding Officer under the Works of Defence Act 1903, a Joint Secretary or State Secretary under the Coal Mines Provident Fund Act 1948, and an Assistant Commissioner or above authorised by the Commissioner under the Delhi Municipal Corporation Act 1957.¹⁰

Third, a uniform appeal: thirty days to a higher officer, condonation for 'sufficient cause', and disposal within sixty days.¹¹

⁵ PRS Legislative Research, 'Joint Committee Report Summary' (Jan Vishwas (Amendment of Provisions) Bill 2022) < <https://prsindia.org/billtrack/prs-products/joint-committee-report-summary-4077> > accessed 14 August 2026.

⁶ PRS (n 3).

⁷ PRS Legislative Research, 'Select Committee Report Summary – Jan Vishwas Bill 2025' < <https://prsindia.org/billtrack/prs-products/select-committee-report-summary-1774844340> > accessed 19 August 2026.

⁸ PRS (n 3); PIB (n 2).

⁹ 2026 Act (n 1) sch, item 16(A) (Reserve and Auxiliary Air Forces Act 1952, s 30) and item 9(B) (Pharmacy Act 1948, s 43).

¹⁰ 2026 Act (n 1) sch, item 1(B) (Court Fees Act 1870, s 34A); item 2(A) and (O) (Cattle Trespass Act 1871, ss 3, 27A); item 5 (Works of Defence Act 1903, s 36A); item 12(A) (Coal Mines Provident Fund and Miscellaneous Provisions Act 1948, s 9A); item 26(ZJ) (Delhi Municipal Corporation Act 1957, s 468A).

¹¹ 2026 Act (n 1) sch, item 1(B) (Court Fees Act 1870, s 34B(1)–(4)); item 12(A) (Coal Mines Provident Fund and Miscellaneous Provisions Act 1948, s 9B).

Fourth, recovery of unpaid penalties ‘as an arrear of land revenue’ (or, under the Delhi Municipal Corporation Act, ‘as an arrear of tax’).¹²

Fifth, graduated enforcement: advisories, warnings and improvement notices precede penalty. The Apprentices Act 1961, as amended, provides an advisory for a first contravention, a warning for a second and a penalty thereafter, and the Tea Act 1953, the Central Silk Board Act 1948 and the Textiles Committee Act 1963 provide first-instance warnings. The PRS summary records improvement notices under the Legal Metrology Act 2009.¹³

Sixth, residual criminality. Many provisions are hybrid: they decriminalise one band of conduct while retaining imprisonment for another. The Delhi Development Act 1957, the Public Premises (Eviction of Unauthorised Occupants) Act 1971 and the Petroleum and Minerals Pipelines Act 1962 each split conduct between a penalty track and a criminal track.¹⁴

Seventh, two cross-cutting provisions. Section 3 of the Act escalates fines and penalties by ten per cent of the minimum amount every three years from commencement. Section 5 empowers the Central Government to make removal-of-difficulty orders for two years.¹⁵

C. Four adjudicative models

The template conceals real variation. Four models can be distinguished.

Model	Illustration	First instance	Appeal
A. Civil-executive	Cattle Trespass Act 1871	Sub-Divisional Magistrate or other Executive Magistrate	District or Additional District Magistrate
B. Court-adjacent	Presidency Small Cause Courts Act 1882	Deputy Registrar of the court; procedure by High Court rules	Officer at least one rank higher, appointed by the State Government
C. Institutional-hierarchical	Works of Defence Act 1903	Officer not below Commanding Officer	Officer not below GOC-in-C or head of organisation
D. Tribunal-appeal	Petroleum and Minerals Pipelines Act 1962	Officer not below Joint Secretary	Appellate Tribunal under the PNGRB Act 2006, with the onward appeal that Act provides

Source: 2026 Act, Schedule.¹⁶

A fifth, anomalous category appears in the National Highways Act 1956. Substituted section 8B provides a penalty of between ₹10 lakh and ₹1 crore for mischief rendering a national highway impassable or less safe, imposed and recovered by the Highway Administration or an authorised officer through the machinery of the Control of National Highways (Land and Traffic) Act 2002.¹⁷ On the text of the substituted section, there is no designated adjudicator, no express hearing requirement and no appeal. Any safeguards must be sought in the 2002 Act or in constitutional principle.

Model D shows that the drafters knew how to provide an independent appeal. The choice of Model A or C elsewhere is therefore a choice, and it has constitutional consequences.

III. When is a ‘Penalty’ Punishment?

A. The Indian position: penalties as quasi-criminal

The label ‘civil penalty’ does not settle the constitutional character of a sanction. Indian law has long treated administrative penalties as a distinct category, quasi-criminal in character, imposed in proceedings that are not prosecutions. In *Hindustan Steel Ltd v State of Orissa*, the Supreme Court characterised

¹² 2026 Act (n 1) sch, item 1(B) (Court Fees Act 1870, s 34B(5)); item 26(ZJ) (Delhi Municipal Corporation Act 1957, s 468B(6)).

¹³ 2026 Act (n 1) sch, item 29(A)–(C) (Apprentices Act 1961, ss 2, 30, 31); item 17(A) (Tea Act 1953, s 37); item 13(B) (Central Silk Board Act 1948, s 14); item 31(A) (Textiles Committee Act 1963, s 17); PRS (n 3) (Legal Metrology Act 2009).

¹⁴ 2026 Act (n 1) sch, item 25(A) (Delhi Development Act 1957, s 29); item 36(A) (Public Premises (Eviction of Unauthorised Occupants) Act 1971, s 11); item 30(A) (Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962, s 15).

¹⁵ 2026 Act (n 1) ss 3, 5.

¹⁶ 2026 Act (n 1) sch, item 2 (Cattle Trespass Act 1871, ss 3, 27A–27B); item 3(C) (Presidency Small Cause Courts Act 1882, ss 87A–87B, 98); item 5 (Works of Defence Act 1903, ss 36A–36B); item 30(B) (Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962, ss 15A–15B), cross-referring to Petroleum and Natural Gas Regulatory Board Act 2006 (India), ss 30, 33–37.

¹⁷ 2026 Act (n 1) sch, item 21 (National Highways Act 1956, s 8B); Control of National Highways (Land and Traffic) Act 2002 (India), s 26.

a penalty for breach of a statutory obligation as the outcome of a quasi-criminal proceeding. It held that such a penalty should not ordinarily be imposed where the breach is technical or the result of a bona fide belief, and should be reserved for deliberate defiance of the law or conscious disregard of obligation.¹⁸ The principle gave administrative penalties a mens rea gradient. Later decisions confined it. *Director of Enforcement v MCTM Corporation Pvt Ltd* upheld adjudication of penalties under the foreign exchange legislation without requiring mens rea in the criminal sense,¹⁹ and *Union of India v Dharamendra Textile Processors* held that where the statute makes a penalty mandatory, the *Hindustan Steel* discretion is displaced and the penalty is a civil liability to which proof of intent is not essential.²⁰

The same classification has operated in the Article 20(2) cases. The protection against double punishment extends only to ‘prosecution and punishment’ before a court or judicial tribunal, so a departmental or customs adjudication does not bar a subsequent prosecution for the same facts.²¹ This reasoning is important for the Act’s hybrid provisions. Because administrative penalty proceedings are not ‘prosecution’ in the Article 20(2) sense, the Act’s two-track structure does not as such offend the double-jeopardy bar. That conclusion is precisely why other constitutional protections must carry the weight.

B. The comparative convergence on function

Other jurisdictions have faced the same problem and converged on a functional approach. The European Court of Human Rights, in *Engel v Netherlands*, asks three questions: how the domestic system classifies the sanction, the nature of the offence, and the nature and severity of the penalty. *Öztürk v Germany* applied the approach to a German regulatory offence (the German system having decriminalised minor traffic offences into administrative proceedings) and held that the Convention’s criminal-limb guarantees still applied. *Jussila v Finland* later accepted that those guarantees apply with less rigour outside the ‘hard core’ of criminal law.²² The Court’s accommodation of administrative sanctioning rests on one condition: the sanction must be reviewable by a judicial body with full jurisdiction over law and fact, as *A Menarini Diagnostics Srl v Italy* confirmed for administrative fines imposed by a competition authority.²³

In the United States, *SEC v Jarkesy* held that where the SEC seeks civil penalties for securities fraud, a remedy of the kind traditionally decided in courts of law, the Seventh Amendment requires a jury and the ‘public rights’ exception does not permit the agency to adjudicate the claim. The decision revisits *Atlas Roofing Co v OSHRC* and draws on the older test in *Kennedy v Mendoza-Martinez* for deciding whether a sanction is punitive.²⁴ The Supreme Court of Canada, by contrast, held in *Guindon v Canada* that a substantial administrative monetary penalty in a regulatory scheme was not, by size alone, a ‘true penal consequence’ attracting the criminal-law guarantees of the Charter.²⁵

No single comparative rule is imported here, and India has no jury guarantee. The relevant lesson is narrower and robust: every jurisdiction examined treats magnitude, purpose and consequence as relevant to whether a sanction is punitive, and none allows the legislature’s label to be decisive. Those that accept administrative first-instance sanctioning attach a condition of independent judicial review.

C. Applying the functional test to the Act

Measured functionally, many of the Act’s ‘penalties’ are punishments in every sense but the label.

Magnitude. Section 40 of the Life Insurance Corporation Act 1956 previously provided imprisonment up to one year or a fine up to ₹1,000, or both. As substituted, it provides a penalty up to ₹50 lakh or the value of the property, whichever is higher, for each contravention, with a further penalty up to ₹50,000 a day for a continuing contravention.²⁶ The National Highways Act’s penalty band of ₹10 lakh to ₹1 crore replaces a regime of imprisonment of up to five years or fine.²⁷ That is not a mitigation of punishment but its conversion into a different and potentially heavier form.

Floors: Section 28A of the Drugs and Cosmetics Act 1940 as amended provides a penalty that ‘shall not be less than’ ₹3 lakh and may extend to ₹5

¹⁸ *Hindustan Steel Ltd v State of Orissa* (1969) 2 SCC 627.

¹⁹ *Director of Enforcement v MCTM Corporation Pvt Ltd* (1996) 2 SCC 471.

²⁰ *Union of India v Dharamendra Textile Processors* (2008) 13 SCC 369.

²¹ Constitution of India 1950, art 20(2); *Maqbool Hussain v State of Bombay* AIR 1953 SC 325; *SA Venkataraman v Union of India* AIR 1954 SC 375.

²² *Engel v Netherlands* (1976) 1 EHRR 647; *Öztürk v Germany* (1984) 6 EHRR 409; *Jussila v Finland* (2007) 45 EHRR 39.

²³ *A Menarini Diagnostics Srl v Italy* App no 43509/08 (ECtHR, 27 September 2011).

²⁴ *SEC v Jarkesy* 603 US 109 (2024); *Atlas Roofing Co v Occupational Safety and Health Review Commission* 430 US 442 (1977); *Kennedy v Mendoza-Martinez* 372 US 144 (1963).

²⁵ *Guindon v Canada* 2015 SCC 41.

²⁶ 2026 Act (n 1) sch, item 20(B) (Life Insurance Corporation Act 1956, s 40).

²⁷ 2026 Act (n 1) sch, item 21 (National Highways Act 1956, s 8B); PRS (n 3).

lakh.²⁸ A statutory floor removes the adjudicator's power to impose a nominal or no penalty on a technical or inadvertent breach.

Accrual: Daily penalties accumulate under several provisions. Section 9 of the Coal Mines Provident Fund Act 1948, as substituted, imposes ₹10,000 for each day of continuing contravention, up to ₹10 lakh.²⁹

Conversion to imprisonment on default: Several provisions restore imprisonment, or a fine of twice the penalty, for non-payment. These are examined in Part VI.

Stigma: A finding of contravention by a named official, publicly recorded and followed by revenue-recovery proceedings, carries reputational consequence even without imprisonment.

On this analysis, the constitutional character of the Act's penalties is to be tested by function. The conceptual consequence is that 'decriminalisation' accurately describes the removal of imprisonment, the criminal procedural framework and some stigma, but not a reduction in punitive severity. In a number of provisions the severity has increased.

D. The mens rea question inside the Act

The Act is internally inconsistent on fault. Some entries embed a culpability gradient that reflects the *Hindustan Steel* principle: section 34(3) of the Court Fees Act as substituted separates a contravention committed 'with fraudulent intent' (retaining imprisonment or fine) from a contravention 'without any fraudulent intent' (penalty up to ₹10,000), and the amended Works of Defence Act and Slum Areas Act expressly exclude from 'obstruction' conduct arising from incapacity, unintentional conduct or circumstances beyond the person's control.³⁰ Others are silent. The silence is not neutral: after *Dharamendra Textile*, an adjudicator may read an unqualified 'liable to penalty' as imposing strict liability. The Act would be constitutionally safer, and more coherent, if the culpability gradient were stated by statute rather than left to implication.

IV. Separation of Powers and the Independence of Adjudicators

A. The doctrine

The Indian Constitution does not adopt a rigid separation of powers, and the executive's exercise of adjudicatory functions is neither unknown nor unconstitutional.³¹ The Supreme Court has nonetheless treated the separation of judicial power, and the independence of the judiciary, as part of the basic structure.³² In *Union of India v R Gandhi*, the Court held that the legislature may transfer judicial functions traditionally performed by courts to tribunals only if those tribunals possess the essential attributes of independence, security of tenure and judicial competence.³³ The line of decisions that followed, *Madras Bar Association v Union of India* (2014),³⁴ *Roger Mathew v South Indian Bank Ltd*,³⁵ and the Court's judgment of 19 November 2025 striking down parts of the Tribunals Reforms Act 2021 as an impermissible legislative override of binding precedent,³⁶ insists that adjudicatory bodies exercising the judicial power of the State be structurally independent of the executive. The same judgment directed the establishment of an independent National Tribunals Commission. Throughout, *L Chandra Kumar v Union of India* provides the background guarantee: judicial review under Articles 226, 227 and 32 is part of the basic structure and survives the creation of any tribunal or adjudicator.³⁷

B. Application

The Act's adjudicating officers are not tribunals within the *Madras Bar* line, and the Act does not claim that they are. They are serving executive officers exercising delegated penal power. The difficulty is functional. Where an Act previously confided the determination of guilt and the imposition of a monetary sanction to a Magistrate sitting in a criminal court, and now confides the identical determination to a Sub-Divisional Magistrate in his executive capacity, a function 'traditionally performed by courts' has passed to the executive. That is precisely the transfer *R Gandhi* analysed. The shift in the

²⁸ 2026 Act (n 1) sch, item 8(A)–(B) (Drugs and Cosmetics Act 1940, ss 27A(ii), 28A).

²⁹ 2026 Act (n 1) sch, item 12(A) (Coal Mines Provident Fund and Miscellaneous Provisions Act 1948, s 9).

³⁰ 2026 Act (n 1) sch, item 1(A) (Court Fees Act 1870, s 34(3)); item 5 (Works of Defence Act 1903, s 36, Explanation); item 22(A)(v) (Slum Areas (Improvement and Clearance) Act 1956, s 32(3A), Explanation).

³¹ *Ram Jawaya Kapur v State of Punjab* AIR 1955 SC 549.

³² *Kesavananda Bharati v State of Kerala* (1973) 4 SCC 225; *Indira Nehru Gandhi v Raj Narain* (1975) Supp SCC 1.

³³ *Union of India v R Gandhi*, *President, Madras Bar Association* (2010) 11 SCC 1.

³⁴ *Madras Bar Association v Union of India* (2014) 10 SCC 1.

³⁵ *Roger Mathew v South Indian Bank Ltd* (2020) 6 SCC 1.

³⁶ *Madras Bar Association v Union of India* (2026) 2 SCC 1 (judgment of 19 November 2025).

³⁷ *L Chandra Kumar v Union of India* (1997) 3 SCC 261.

Cattle Trespass Act is the starkest: ‘adjudicating officer’ is defined as a Sub-Divisional Magistrate or other Executive Magistrate and the appellate authority as the District Magistrate or an Additional District Magistrate.³⁸ The arrangement also sits uneasily with Article 50, which directs the State to separate the judiciary from the executive in the public services, and which underlies the post-1973 distinction between judicial and executive magistrates.³⁹

Three features aggravate the concern.

Combination of functions: Under the Delhi Municipal Corporation Act, the Commissioner authorises the adjudicating officer, authorises the appellate authority, specifies (by statutory Schedule) the penalties, and is the head of the enforcing municipal organisation.⁴⁰ The fairness problem here is not personal bias of the kind in *Gullapalli Nageswara Rao v Andhra Pradesh State Road Transport Corp*, but institutional: adjudicator and appellate authority are drawn from, appointed by and answerable to the same hierarchy that enforces the law.⁴¹

Military hierarchy: Under the Works of Defence Act, penalties are adjudicated by an officer ‘not below the rank of Commanding Officer’ and appealed to an officer ‘not below the rank of General Officer Commanding-in-Chief or equivalent or head of the organisation’.⁴² Civilian respondents in disputes with the armed forces thus have their case determined entirely within the chain of command of the party whose property or operations are in issue.

Revenue interest: Penalty proceeds under the Cattle Trespass Act are credited to the Animal Welfare Board of India’s fund.⁴³ That arrangement does not create the direct pecuniary interest that invalidates an adjudicator, but it illustrates how the Act detaches penalty from the neutral public purse without addressing the resulting institutional incentives.

C. The counter-argument and its limits

The strongest defence of the Act is historical. Executive adjudication of penalties is familiar in Indian regulatory law. *MCTM* upheld it under foreign exchange legislation,⁴⁴ and the corporate and securities statutes have long used adjudicating officers: the Securities and Exchange Board of India Act 1992, ss 15I and 15T; the Companies Act 2013, s 454; and the Foreign Exchange Management Act 1999, ss 16, 17 and 19.⁴⁵ The Act, it may be said, merely extends a settled model.

That argument is partly right and partly misses the point. It is right that executive penalty adjudication is constitutionally permissible in principle. But the precedents the Act follows are not uniform, and the corporate-law comparators are instructive. Section 15T of the SEBI Act routes appeals from SEBI’s adjudicating officers to the Securities Appellate Tribunal, an independent tribunal, and the FEMA scheme likewise culminates in an Appellate Tribunal. By contrast, the Companies Act model of adjudication under section 454 leads, on appeal, to a Regional Director, a departmental authority. The Act’s default template (Models A and C) follows the departmental model, not the tribunal model, even though Model D shows the tribunal model was available. Where the sanction is mild and the contravention technical, a departmental appeal may be proportionate. Where the Act converts imprisonment into a penalty of ₹50 lakh or ₹1 crore, it is difficult to say the same.

The proper conclusion is not that executive adjudication is unconstitutional. It is that the *degree* of independence the Constitution requires varies with the severity of the sanction and the nature of the function transferred, and that the Act applies a uniform template regardless of either.

V. Fair Procedure and the Limits of the Penalty Power

A. What the Act provides and omits

The Act’s procedural content is thin and repetitive. Each adjudication provision contains a proviso that no penalty shall be imposed ‘without giving the person concerned a reasonable opportunity of being heard’. Some give the adjudicating officer power to summon witnesses and compel documents, and the Delhi Municipal Corporation Act empowers both the adjudicating officer and the appellate authority to summon and enforce attendance.⁴⁶ The Act is silent on a number of matters that bear on fairness: a requirement to give reasons; disclosure of the case to be met and of the material relied on; cross-

³⁸ 2026 Act (n 1) sch, item 2(A) (Cattle Trespass Act 1871, s 3(a)–(b)).

³⁹ Constitution of India 1950, art 50.

⁴⁰ 2026 Act (n 1) sch, item 26(ZG), (ZJ), (ZN) (Delhi Municipal Corporation Act 1957, ss 461, 468A–468B, Twelfth Schedule).

⁴¹ *Gullapalli Nageswara Rao v Andhra Pradesh State Road Transport Corp* AIR 1959 SC 308.

⁴² 2026 Act (n 1) sch, item 5 (Works of Defence Act 1903, ss 36A–36B).

⁴³ 2026 Act (n 1) sch, item 2(P) (Cattle Trespass Act 1871, s 28).

⁴⁴ *MCTM* (n 19).

⁴⁵ Securities and Exchange Board of India Act 1992 (India), ss 15I, 15T; Companies Act 2013, s 454; Foreign Exchange Management Act 1999, ss 16, 17, 19.

⁴⁶ 2026 Act (n 1) sch, item 1(B) (Court Fees Act 1870, s 34A); item 26(ZJ) (Delhi Municipal Corporation Act 1957, ss 468A(2), 468B(3)).

examination; legal representation; recusal for conflict; the standard and burden of proof; the factors that guide quantum; and publication of orders.

B. Reading procedure into the statute

Indian constitutional law does not leave the gaps open. Following *Maneka Gandhi v Union of India*, a procedure affecting a person's rights must be 'right, just and fair', and the dissolution of the distinction between administrative and quasi-judicial functions in *A K Kraipak v Union of India* extends natural justice to any decision with civil consequences.⁴⁷ *S N Mukherjee v Union of India* establishes that reasons are an incident of fair adjudication,⁴⁸ and the Court's attention to the combination of functions in *Gullapalli and Ranjit Thakur v Union of India* supports an implied duty of structural impartiality.⁴⁹ These principles will almost certainly be read into the Act.

Two matters are less settled. First, the privilege against self-incrimination. Article 20(3) protects a person 'accused of any offence'. *Raja Narayanlal Bansilal v Maneck Phiroz Mistry* tied the protection to a formal accusation, and *Selvi v State of Karnataka* and *Nandini Satpathy v P L Dani* extended its rationale to any proceeding in which compelled answers may expose the person to criminal liability.⁵⁰ The Act's hybrid provisions create exactly that situation: an adjudicating officer exercising summons powers in a penalty inquiry may compel answers or documents that later found a prosecution on the retained criminal track. Second, the standard of proof. In *SEBI v Kishore R Ajmera* the Supreme Court applied the preponderance of probabilities to civil securities proceedings.⁵¹ For a penalty equal to or exceeding the former criminal sanction, there is a respectable argument that a more demanding standard should apply, and the Act is silent.

C. Quantum, discretion and proportionality

The most significant omission is any statutory guidance on quantum. The SEBI Act directs the adjudicating officer to have regard to defined factors, namely the amount of disproportionate gain or unfair advantage, the amount of loss caused to investors, and the repetitive nature of the default.⁵² The Act contains no analogue to section 15J. An adjudicator under the Act may select a figure anywhere within a band, with no statutory criteria and, on the Gazette text, no obligation to state why.

Proportionality is by now a recognised element of Article 14 and Article 21 review. The Court has applied it as a standard of review in *Om Kumar v Union of India* and *Modern Dental College and Research Centre v State of Madhya Pradesh*,⁵³ has invalidated mandatory punishment that precludes consideration of circumstances in *Mithu v State of Punjab*,⁵⁴ and has accepted in *Shayara Bano v Union of India* that manifest arbitrariness is a ground of invalidity.⁵⁵ Mandatory floors such as those in section 28A of the Drugs and Cosmetics Act and section 8B of the National Highways Act are exposed on that footing, because they require the adjudicator to impose a substantial penalty even for a technical, inadvertent or trivial breach and so negate the principle of *Hindustan Steel*.⁵⁶ Section 11 of the Public Premises Act, in providing a penalty of forty times the licence fee for the first month of unauthorised residential occupation, increasing by ten per cent a month, states no ceiling in the text.⁵⁷

The better view is that these provisions can be defended only if read as conferring a residual discretion, or if the adjudicator is understood to have a duty to refrain from penalising where the breach is technical and the contravention not wilful. Courts may adopt that reading to save the provisions. The Act should not depend on them doing so.

VI. Appeals, Access to Justice and the Return of Imprisonment

A. The structure of review

The Act's appeal structure is uniform: one internal appeal, within thirty days, to an officer of higher rank, disposed of within sixty days. There is no

⁴⁷ *Maneka Gandhi v Union of India* (1978) 1 SCC 248; *AK Kraipak v Union of India* (1969) 2 SCC 262.

⁴⁸ *SN Mukherjee v Union of India* (1990) 4 SCC 594.

⁴⁹ *Gullapalli* (n 41); *Ranjit Thakur v Union of India* (1987) 4 SCC 611.

⁵⁰ Constitution of India 1950, art 20(3); *Raja Narayanlal Bansilal v Maneck Phiroz Mistry* AIR 1961 SC 29; *Selvi v State of Karnataka* (2010) 7 SCC 263; *Nandini Satpathy v PL Dani* (1978) 2 SCC 424.

⁵¹ *SEBI v Kishore R Ajmera* (2016) 6 SCC 368.

⁵² SEBI Act 1992 (n 45), s 15J.

⁵³ *Om Kumar v Union of India* (2001) 2 SCC 386; *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353.

⁵⁴ *Mithu v State of Punjab* (1983) 2 SCC 277.

⁵⁵ *Shayara Bano v Union of India* (2017) 9 SCC 1.

⁵⁶ 2026 Act (n 1) sch, item 8(B) (Drugs and Cosmetics Act 1940, s 28A); item 21 (National Highways Act 1956, s 8B); *Hindustan Steel* (n 18).

⁵⁷ 2026 Act (n 1) sch, item 36(A) (Public Premises (Eviction of Unauthorised Occupants) Act 1971, s 11(2), (4)).

second appeal and, in Models A to C, no judicial appeal. Judicial review under Articles 226 and 227 is preserved by *L Chandra Kumar*,⁵⁸ but the High Court ordinarily declines to entertain writ petitions where an effective alternative remedy exists, subject to exceptions for breach of natural justice, absence of jurisdiction and challenges to vires.⁵⁹ A person penalised in the lower bands must therefore choose between an internal appeal that is administratively close to the original decision and a writ petition disproportionate in cost to a penalty of a few thousand rupees. That access-to-justice gradient is a real constitutional concern. Where penalties are small, practical review is often unavailable.

The sixty-day period for disposal is a welcome feature. It is directory in form, however, and the Act provides no consequence for non-compliance, such as deemed allowance or release of the appellant from any default liability.

B. Pre-deposit

Section 25C(4) of the Mines and Minerals (Development and Regulation) Act 1957, as inserted, bars the appellate authority from entertaining an appeal unless the appellant deposits ten per cent of the penalty imposed.⁶⁰ The Court's pre-deposit jurisprudence permits conditions on a statutory right of appeal if they are not onerous or illusory: it invalidated an onerous requirement in *Anant Mills Co Ltd v State of Gujarat* and 50 per cent in *Mardia Chemicals Ltd v Union of India*, while accepting more moderate requirements in cases such as *Vijay Prakash D Mehta v Collector of Customs* and *Shyam Kishore v Municipal Corporation of Delhi*.⁶¹ A ten per cent condition falls within the accepted range. However, the provision contains no power to waive or reduce the deposit on grounds of undue hardship, and it is attached to penalties running to ₹50 lakh and daily penalties. For large penalties ten per cent is a substantial sum, and the absence of a hardship valve is a design weakness.

C. Imprisonment returns by the back door

The most troubling feature of the Act is its reintroduction of imprisonment as a consequence of non-payment of an administrative penalty. Section 27C of the Cattle Trespass Act, as inserted, provides imprisonment of up to three months, or a fine of up to twice the penalty, or both, where a person fails to pay a penalty within ninety days of its imposition. Section 21(2A) of the Mines and Minerals (Development and Regulation) Act, as inserted, provides imprisonment of up to two years, or a fine up to twice the penalty, or both, for failure to pay within ninety days of imposition a penalty under sections 25B or 25C. Section 36B(5) of the Works of Defence Act, as inserted, makes an appellant who fails to pay within fifteen days of receiving the order liable to a fine of up to twice the penalty.⁶²

Three objections arise:

First, the conversion of civil debt into criminal liability. An offence defined as 'failure to pay' contains no mental element. The Supreme Court held in *Jolly George Varghese v Bank of Cochin* that imprisonment of a judgment-debtor for mere inability to pay offends Article 21 as informed by Article 11 of the International Covenant on Civil and Political Rights.⁶³ Article 11 speaks of inability to fulfil a 'contractual obligation', so the analogy is imperfect, but the principle against imprisoning the impecunious for want of means applies with greater force where the debt is a state-imposed penalty. A court would be expected to read in wilfulness and ability to pay. The Act, by drafting the offence without those elements, makes the court's task a saving construction rather than a straightforward application.

Second, the timing. Under the Cattle Trespass Act, an appeal may be filed within thirty days and is to be disposed of within sixty, which approaches or equals the ninety-day payment period, and nothing in the inserted text suspends the running of time on the filing of an appeal. Under section 36B of the Works of Defence Act, the liability for double penalty arises on non-payment within fifteen days of the order, while the appeal period is thirty days. An appellant who files on day twenty-five may already have incurred the liability. The provision, as drafted, penalises the exercise of the appeal right.

Third, the structural point that a criminal offence now has as its element a determination made by an executive officer. Whether the criminal court may go behind the penalty order, and on what standard, is not addressed. If the penalty order is conclusive, criminal liability depends on an administrative finding that no court has reviewed.

⁵⁸ *L Chandra Kumar* (n 37).

⁵⁹ *Whirlpool Corp v Registrar of Trade Marks* (1998) 8 SCC 1.

⁶⁰ 2026 Act (n 1) sch, item 27(B) (Mines and Minerals (Development and Regulation) Act 1957, s 25C(4)).

⁶¹ *Anant Mills Co Ltd v State of Gujarat* (1975) 2 SCC 175; *Vijay Prakash D Mehta v Collector of Customs (Preventive)* (1988) 4 SCC 402; *Shyam Kishore v Municipal Corporation of Delhi* (1993) 1 SCC 22; *Mardia Chemicals Ltd v Union of India* (2004) 4 SCC 311.

⁶² 2026 Act (n 1) sch, item 2(O) (Cattle Trespass Act 1871, s 27C); item 27(A)(i) (Mines and Minerals (Development and Regulation) Act 1957, s 21(2A)); item 5 (Works of Defence Act 1903, s 36B(5)).

⁶³ *Jolly George Varghese v Bank of Cochin* (1980) 2 SCC 360; International Covenant on Civil and Political Rights 999 UNTS 171, art 11.

D. Administrative findings as predicates for criminal liability

A related structural problem arises in the hybrid provisions that criminalise repeat contraventions. Section 29(3) of the Delhi Development Act as substituted makes obstruction of an authorised person a penalty offence for the first contravention and, for 'any second or subsequent contravention', punishable under section 221 of the Bharatiya Nyaya Sanhita 2023. Section 15(1) of the Petroleum and Minerals Pipelines Act separates first contraventions (penalty) from second or subsequent ones (imprisonment or fine). The PRS summary records the same pattern in the Legal Metrology Act.⁶⁴ Each makes a prior contravention an element of the criminal offence, and prior contraventions will, by design, have been established in non-judicial proceedings. The consequence is that a conviction depends on a fact found without a judicial trial, the privilege against self-incrimination, or proof beyond reasonable doubt. The statute should require the prosecution to prove the earlier contravention afresh in the criminal proceedings, or at the least to rely only on an earlier finding that has become final after exhausting appeals. Absent that, Article 21 is engaged.

VII. Legislative Standards: Delegation, Certainty and the Escalator

A. Section 3 and the indeterminate base

Section 3 provides that fines and penalties 'shall be increased by ten per cent of the minimum amount of fine or penalty ... prescribed therefor, after the expiry of every three years from the date of commencement of this Act'.⁶⁵ Two textual difficulties arise.

The first is the base. Many of the Act's provisions prescribe only a maximum ('may extend to ...') and no minimum. A ten per cent increase of a non-existent minimum is arithmetically nil, or else the provision must be read to apply to the maximum. Which reading governs is not stated, and, because the figure bears on the liability of citizens, the ambiguity matters. The principle of legal certainty in penal and quasi-penal laws, recognised in the vagueness cases such as *Kartar Singh v State of Punjab*, requires that a person be able to ascertain the sanction attached to conduct.⁶⁶

The second is the clock. Section 3 runs from 'the date of commencement of this Act', but section 1(2) provides that the Act comes into force on a date the Central Government appoints and that 'different dates may be appointed for amendments relating to different enactments'. The phrase 'the date of commencement of this Act' therefore has no single referent. The most coherent reading is that the clock runs separately for each enactment from its own commencement. The statute should have said so.

B. Delegated penalty-setting

Two provisions leave penalty quantum to State Government notification. Section 12 of the Cattle Trespass Act, as substituted, requires pound-keepers to impose penalty 'in accordance with the scale ... prescribed by the State Government', with different scales for different local areas. Section 87C of the Presidency Small Cause Courts Act, as inserted, provides that 'the quantum of penalty or fine shall be such amount as the State Government concerned may ... determine from time to time, having regard to the pecuniary jurisdiction and local requirements of the Court'.⁶⁷ The doctrine of excessive delegation, from *In re Delhi Laws Act 1912* through *Hamdard Dawakhana v Union of India* and *Harakchand Ratanchand Banthia v Union of India*, requires the legislature to lay down the policy and standards, with the delegate filling in detail.⁶⁸ A provision that permits the executive to set the very amount of a penalty, with no ceiling and with guidance only as to 'local requirements' of a court, is vulnerable under that doctrine. Fixing the quantum of a penalty is not a matter of detail. It is the substance of the sanction.

C. The removal-of-difficulties clause

Section 5 permits the Central Government, for two years, to make orders 'not inconsistent with the provisions of the enactments as amended' to remove any difficulty in giving effect to the amendments. Such clauses are constitutionally acceptable only if confined to the mechanical removal of difficulty and not used to alter the essential features of the enactment; the Court said so in *Jalan Trading Co (P) Ltd v Mill Mazdoor Union* and *Gammon India Ltd v Union of India*.⁶⁹ The scale of the Act makes the clause unusually consequential. Section 46 of the Road Transport Corporations Act 1950, for example, is amended only to convert 'punishable with fine' into 'liable to penalty'; the Act as published supplies no adjudicating officer or appeal for it.⁷⁰ A gap of that kind may tempt reliance on section 5 to designate an adjudicator, which is not a mechanical matter. If the courts accept that designation of the

⁶⁴ 2026 Act (n 1) sch, item 25(A)(iv) (Delhi Development Act 1957, s 29(3)); item 30(A)(ii) (Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962, s 15(1)); Bharatiya Nyaya Sanhita 2023 (India) (Act 45 of 2023), s 221; PRS (n 3).

⁶⁵ 2026 Act (n 1) ss 1(2), 3.

⁶⁶ *Kartar Singh v State of Punjab* (1994) 3 SCC 569.

⁶⁷ 2026 Act (n 1) sch, item 2(D) (Cattle Trespass Act 1871, s 12); item 3(C) (Presidency Small Cause Courts Act 1882, s 87C).

⁶⁸ *In re Delhi Laws Act 1912* AIR 1951 SC 332; *Hamdard Dawakhana v Union of India* AIR 1960 SC 554; *Harakchand Ratanchand Banthia v Union of India* (1969) 2 SCC 166.

⁶⁹ 2026 Act (n 1) s 5; *Jalan Trading Co (P) Ltd v Mill Mazdoor Union* AIR 1967 SC 691; *Gammon India Ltd v Union of India* (1974) 1 SCC 596.

⁷⁰ 2026 Act (n 1) sch, item 14 (Road Transport Corporations Act 1950, s 46).

adjudicator is an essential feature, the section 46 penalty is, until the Legislature supplies an adjudicator, unenforceable. If they do not, section 5 becomes a source of significant substantive power. Either outcome is unsatisfactory, and it is a drafting problem the Act created.

VIII. Temporal Questions: Savings, Commencement and Pending Proceedings

Section 4 of the Act preserves liabilities already incurred and proceedings already commenced, and provides that nothing in the amendment or repeal revives any liability or jurisdiction not then in force.⁷¹ Read with section 6 of the General Clauses Act 1897, the effect is that conduct before commencement remains subject to the earlier law, including prosecution before a court. Article 20(1) reinforces that conclusion for the more onerous cases: a person may not be convicted except under a law in force at the time of the act, nor ‘subjected to a penalty greater than’ that then applicable.⁷² Where the new penalty is heavier than the old fine, as with section 40 of the LIC Act, the new penalty cannot constitutionally be applied to prior conduct. Whether Article 20(1) in terms reaches administrative penalties is not settled, but the underlying presumption against retrospective imposition of heavier liability, affirmed in *Zile Singh v State of Haryana*, leads to the same place.⁷³

The reverse question, whether a person facing a pending prosecution for a decriminalised offence may claim the benefit of the milder regime, is governed by section 4 and the principles in *State of Punjab v Mohar Singh* on the effect of repeal, with the contrasting treatment of ameliorative legislation in *Rattan Lal v State of Punjab*.⁷⁴ Section 4’s express saving of ‘any remedy or proceeding in respect thereof’ points against any automatic benefit. The result is that two classes of persons, one prosecuted and one penalised, may be treated differently for the same conduct depending only on the date of the act. That is a legitimate consequence of non-retroactivity, but the legislature could have eased it by a specific transitional provision permitting pending prosecutions to be compounded or converted.

The phased commencement creates a different risk: enforcement gaps. Section 1(2) allows different dates for different enactments. The Court Fees Act amendments are reported to have taken effect from 8 July 2026,⁷⁵ and each of the other enactments awaits its own notification. Between the commencement of an amendment and the appointment of adjudicating officers, an offence may have been removed without the penalty machinery being operable. During that period conduct is, practically, unsanctionable. This is not a constitutional defect, but it should be addressed by a simple rule that no amendment commences until its adjudicators and appellate authorities are notified.

IX. Is There a ‘New Constitutional Architecture’?

A. The criteria

To say that an enactment has created a constitutional architecture is to say that it has altered the constitutional system’s text, its institutional design or its governing principles. Applying each in turn:

Text: The Act amends no provision of the Constitution. It does not invoke Articles 323A or 323B, so creates no constitutionally anchored tribunal system. It rests on the ordinary legislative competence over each subject matter, with the penal power ancillary.

Institutions: The Act creates no single institution. It creates a large number of ministry-specific adjudicators and appellate authorities, each defined by rank, in different ministries, answerable to different hierarchies, with no common appellate body, no common rules and no common registry. That is an archipelago of designations, not a designed system.

Principles: The Act states one: ‘trust-based governance’. The principle is not legally operative, and it is arguably in tension with a structure in which executive officers determine the liability of citizens with limited independent review.

By these criteria the Act has not created a constitutional architecture.

B. What it has done

The Act has done something different. By applying the same adjudicate, appeal and recover template across 79 Acts, it has produced a de facto general

⁷¹ 2026 Act (n 1) s 4.

⁷² General Clauses Act 1897 (India), s 6; Constitution of India 1950, art 20(1); *Rao Shiv Bahadur Singh v State of Vindhya Pradesh* AIR 1953 SC 394.

⁷³ *Zile Singh v State of Haryana* (2004) 8 SCC 1.

⁷⁴ *State of Punjab v Mohar Singh* AIR 1955 SC 84; *Rattan Lal v State of Punjab* AIR 1965 SC 444.

⁷⁵ ‘Jan Vishwas (Amendment of Provisions) Act, 2026: Administrative Penalty Regime for Stamp Sale Violations under the Court Fees Act’ (SCC Online Blog, 24 June 2026) < <https://www.sconline.com/blog/post/2026/06/24/court-fees-act-reforms-under-jan-vishwas-act-2026-explained/> > accessed 21 August 2026.

law of administrative punishment. A uniform thirty-day appeal period, uniform sixty-day disposal period, uniform recovery as land revenue, and uniform ‘reasonable opportunity’ formula amount to an emergent code, built by repetition in each Schedule entry, without the thing a code needs: a general statute that states its principles, fixes its minimum guarantees and provides an authoritative interpretive anchor. The consequence is that the Constitution’s protections operate on this system not through the Act, but over it. The Act has increased the volume of administrative punishment that falls to be tested against the Constitution but has said nothing about the tests.

That is the sense in which the Act changes the constitutional landscape. It has not built a new architecture, but it has loaded an old one with a new burden, and it has done so while omitting to specify the load-bearing safeguards.

C. A four-condition framework

The case law surveyed supports four conditions that administrative punishment should satisfy.

Legality and proportionality: The sanction must be fixed with certainty by the legislature, must be capped, must permit the adjudicator to take account of culpability and gain, and must not be mandatory in a way that excludes consideration of the circumstances. The authorities are *Hindustan Steel, Mithu, Om Kumar, Kartar Singh* and *Hamdard Dawakhana*.

Independence: The adjudicator and the appellate authority must be sufficiently separated from the enforcing hierarchy, and the degree of separation should rise with the severity of the sanction. The authorities are *R Gandhi, Madras Bar Association* (2014), *Roger Mathew, Madras Bar Association* (2026), *Gullapalli* and *Ranjit Thakur*.

Procedural fairness: The person affected must have notice, disclosure, a hearing, reasons, an appropriate standard of proof, and protection against compelled self-incrimination where criminal exposure exists. The authorities are *Maneka Gandhi, Kraipak, S N Mukherjee, Selvi* and *Kishore Ajmera*.

Effective review: At least one independent and judicially qualified forum with jurisdiction over law and fact must be accessible without prohibitive cost or deposit, and non-payment pending review must not generate criminal liability. The authorities are *L Chandra Kumar, Whirlpool, Mardia Chemicals* and *Jolly George Varghese*, and, comparatively, *Menarini*.

D. Application to representative provisions

Provision	Legality and proportionality	Independence	Procedure	Review
Cattle Trespass Act, ss 24–27C	Fixed ceilings (₹1,000 to ₹5,000): strong	Executive Magistrate; appeal to DM: weak	‘Reasonable opportunity’ only	Internal appeal only; imprisonment on default (s 27C): weak
Works of Defence Act, ss 36–36B	Fixed ceiling; mens rea carve-out: moderate	Chain of command to GOC-in-C: weak	‘Reasonable opportunity’ only	Internal appeal only; 15-day default clause conflicts with 30-day appeal period: weak
Petroleum Pipelines Act, ss 15–15B	First-offence ceiling; criminal on repeat: moderate	Joint Secretary; appeal to statutory Appellate Tribunal: stronger	‘Reasonable opportunity’ only	Tribunal appeal with onward appeal: strongest of the group
MMDR Act, ss 21(2A), 25A–25D	₹50 lakh ceiling; daily penalty; no minimum: moderate	Deputy or Joint Secretary level; appeal to Joint Secretary: weak to moderate	‘Reasonable opportunity’ only	10% pre-deposit without hardship relief; imprisonment for non-payment up to two years: weak
DMC Act, ss 461, 468A–468B	Scheduled penalties, fixed: strong	Commissioner controls both tiers: weak	Summons powers; appellate re-hearing	Internal appeal; recovery as arrear of tax: weak to moderate
National Highways Act, s 8B	₹10 lakh to ₹1 crore; mandatory floor: weak	No adjudicator identified in the substituted section: weak	Not specified	Not specified: weak

Provision	Legality and proportionality	Independence	Procedure	Review
Road Transport Corporations Act, s 46	Fixed ceiling: moderate	No adjudicator in the Act as published	None	None: weak

Source: 2026 Act, Schedule, as analysed above.

The table is a qualitative assessment on the text of the Act, and not a prediction of outcomes. It shows that the template does not deliver the same constitutional quality across the Schedule. It also shows that the weakest points are structural. The Act as a whole is unlikely to be struck down on a facial challenge, because executive penalty adjudication is a recognised category and each Act's text is capable of a saving construction. The more probable site of challenge is as-applied, and its object will be the specific provisions identified in this Part and in Parts V to VII.

E. A comparative note on what a general law would look like

Two comparators show that India's template lacks a general framework that other systems regard as essential. In the United Kingdom, Part 3 of the Regulatory Enforcement and Sanctions Act 2008 creates a general civil-sanctions regime with prescribed types of sanction, procedural requirements and a right of appeal to the First-tier Tribunal.⁷⁶ In Germany, administrative fines for regulatory contraventions under the Ordnungswidrigkeitengesetz 1968 may be challenged by objection, and the dispute then proceeds to the local court.⁷⁷ Both models accept that sanctions may be imposed administratively, but both make the court or tribunal the final arbiter. The Indian Act relies on neither a general statute nor a judicial or tribunal guarantee.

X. Recommendations

The analysis in Parts III to IX points towards a set of reforms. They are set out below in descending order of priority, each with the reasoning that supports it.

The first and most important reform is a framework statute on administrative penalties. The Act's central weakness is that the same adjudicate-appeal-recover template has been replicated in 79 enactments with no common statement of the guarantees it must respect, so that every safeguard has to be rediscovered by litigation, Act by Act and provision by provision. A short general law, applicable to every penalty imposed under any Central Act, would cure this at source. It should require written notice stating the contravention alleged, disclosure of the material relied on, a hearing with a right to be represented, a reasoned order, recusal where an officer has had a prior role in the matter, and publication of orders. It should also state the standard of proof and a presumption against penalising technical or bona fide breaches, thereby giving statutory form to *Hindustan Steel*. For guidance on quantum, section 15J of the SEBI Act, which directs the adjudicator to consider gain, loss and repetition, supplies a tested model that could be generalised. The United Kingdom's Regulatory Enforcement and Sanctions Act 2008 shows that such a framework is compatible with a wide range of regulators, and its existence would give courts an interpretive anchor that the present scattered text lacks.

The second reform concerns the independence of review. The present uniform model of an appeal to an officer one rank higher is defensible for low-value, technical contraventions, but it does not meet the standard that *R Gandhi* and the *Madras Bar Association* line of decisions require where the penalty replaces imprisonment or runs into lakhs or crores of rupees. The Act should therefore set a threshold, expressed either as a sum or as a category of sanction, above which the appeal lies to an independent tribunal with a judicially qualified member, as the Petroleum and Minerals Pipelines Act already provides. Below the threshold an internal appeal may remain, but with a further appeal on questions of law to the High Court, so that the writ jurisdiction does not become the only practical route to an independent forum. A tiered design of this kind keeps the speed and economy that justify administrative sanctioning while ensuring that the more serious sanctions are reviewed by a body that is structurally separate from the enforcing hierarchy. It is also consistent with the condition, found in the comparative case law, that administrative sanctioning is acceptable where there is access to a judicial body with full jurisdiction.

The third reform is to remove or recast imprisonment for non-payment of penalty. Provisions such as section 27C of the Cattle Trespass Act and section 21(2A) of the Mines and Minerals (Development and Regulation) Act convert a civil debt, determined by an executive officer, into a criminal offence that carries a custodial sentence. A decriminalisation statute that reintroduces imprisonment on default defeats its own purpose, and offends the principle that a person should not be imprisoned for mere inability to pay. These provisions should be replaced by civil enforcement through recovery proceedings.

⁷⁶ Regulatory Enforcement and Sanctions Act 2008 (UK), pt 3.

⁷⁷ Gesetz über Ordnungswidrigkeiten (OWiG) 1968 (Germany), ss 67–68.

If a criminal consequence is retained at all, the statute should confine it to wilful default by a person who has the means to pay, should suspend the running of the payment period while an appeal is pending, and should ensure that the offence cannot be prosecuted until the appellate process is exhausted. Section 36B(5) of the Works of Defence Act, which makes the appellant liable to a fine of up to twice the penalty fifteen days after the order, although the appeal period is thirty days, should be amended so that the default period cannot expire before the right of appeal does.

The fourth reform addresses the use of administrative findings as the predicate for criminal liability. Where a statute makes a second or subsequent contravention an offence, as the Delhi Development Act and the Petroleum and Minerals Pipelines Act do, the earlier contravention will have been established without a trial, without the protection against self-incrimination and without proof beyond reasonable doubt. The statute should require the prosecution either to prove the earlier contravention afresh before the criminal court, or to rely only on an earlier finding that has become final after the appeal period and any appeal have been exhausted. Either course preserves the efficiency of graduated enforcement while ensuring that no person is convicted on the strength of a fact that no court has examined. The same provisions should also clarify that statements made in compelled penalty proceedings cannot be used against the person in a later prosecution, to remove the doubt that Article 20(3) raises where the same officer's summons powers can feed the criminal track.

The fifth reform is the separation of functions within the enforcing hierarchy. An officer who investigates or enforces should not appoint, supervise or assess the performance of the adjudicator or the appellate authority in the same matter. The present provisions under which the Commissioner of a municipal corporation authorises both tiers, or under which a military commander adjudicates and a senior officer of the same command hears the appeal, create an appearance of institutional bias that undermines the legitimacy of the penalties imposed, even where no individual officer acts improperly. The remedy need not be elaborate. It is enough to provide that adjudicating officers and appellate authorities are notified by a body or officer who has no enforcement function, that they hold office for a fixed period, and that their service conditions do not depend on the outcome of the cases they decide. Where the size of the sanction or the nature of the enforcing body makes even that insufficient, the matter should be assigned to a judicially qualified adjudicator.

The sixth reform is to correct the drafting defects identified in Part VII and elsewhere. Section 3 should state whether the ten per cent escalation applies to the minimum or the maximum amount and from which date the three-year period runs for each enactment, because a citizen is entitled to know what a penalty will be. The delegation of penalty quantum to State notification in section 12 of the Cattle Trespass Act and section 87C of the Presidency Small Cause Courts Act should be limited by a statutory ceiling and by criteria, so that the legislature, and not the executive, determines the substance of the sanction. The ten per cent pre-deposit in section 25C(4) of the Mines and Minerals Act should be made subject to a power to waive or reduce it on grounds of undue hardship. Where a provision, such as section 46 of the Road Transport Corporations Act, converts a fine into a penalty but identifies no adjudicator, Parliament should supply one, rather than leaving the gap to be filled through the removal-of-difficulties power in section 5.

The seventh reform concerns commencement. Section 1(2) allows each amendment to commence on a separate date, which is reasonable in principle, because different ministries must prepare rules and appoint officers. But the risk is that an offence is removed before the penalty machinery exists, leaving conduct effectively unsanctionable, or that the machinery is improvised. The Government should adopt, by direction or by amendment, the rule that no amendment is brought into force until its adjudicating officers and appellate authorities have been notified and the rules prescribing the manner of inquiry and appeal are in force. A short transitional provision should also say what happens to pending prosecutions for decriminalised offences, for instance by permitting them to be compounded or converted into penalty proceedings, so that persons are not treated differently for the same conduct only because of the date of the act.

The eighth reform is transparency and evaluation. The Act's justification rests on empirical claims, namely that decriminalisation reduces the burden on courts, improves compliance and proportionately deters, and that adjudication is faster and fairer. None of these claims can be tested without data. A statutory duty on each ministry to publish annual figures on penalties imposed, appeals filed, outcomes on appeal, time taken and sums recovered, together with the number of prosecutions on the retained criminal tracks, would allow Parliament, the courts and researchers to assess whether the model delivers what is promised and where it fails. Such a duty would also create an institutional incentive for adjudicators to apply consistent standards, because their decisions would be visible and comparable across ministries.

XI. Conclusion

The Jan Vishwas (Amendment of Provisions) Act, 2026 is a significant legislative event. It reduces the reach of the criminal law over technical and procedural lapses, which is a defensible and overdue objective. It also moves the power to determine and punish contraventions, on a very large scale, from courts to executive officers. The question posed in the title has a two-part answer. The Act has not created a new constitutional architecture: it amends no constitutional text, builds no designed institution, and states no constitutional principle with operative force. It has created a new statutory architecture, a template repeated across 79 Acts, which carries constitutional consequences it does not acknowledge.

The consequence is that the legitimacy of the system will be determined by the courts, case by case, applying the principles of proportionality, independence, procedural fairness and effective review that this article has sought to consolidate. Where the Act applies those principles, as in the Petroleum Pipelines Act's tribunal appeal or the culpability carve-outs in the Court Fees and Works of Defence provisions, it will stand on firm ground. Where it does not, as with imprisonment for non-payment, the combination of executive adjudicator and executive appellate authority, mandatory floors, unbounded delegated penalty-setting and the indeterminate escalation clause, it invites challenge. It would be better for Parliament to complete the architecture itself, by a framework statute, than to leave the work to litigation. Decriminalisation delivered with proportionality and independent review would earn the 'trust' its title invokes. Decriminalisation that merely relocates punishment would not.