

Comparison of Oct. (“original”) and Dec. (“new”) India BD Act

Annette Lin, UCLA

Original (3)(3): “The recipient **of the grant** shall,”

New (3)(3): “The recipient shall,”

Original (5)(right before(2)): “Provided that where the Government...”

New (5)(right before(2)): “Provided also that where the Government...”

Original (5)(4): “Where the recipient does not make a **written election** to retain the title to the IP or is refused the retention of title to the IP by the govt, and where more than one govt authorities are party to the funding agreement, the IP shall be jointly owned by the govt authorities on terms agreed upon by such govt authorities.”

New (5)(4): “Where the recipient does not make a **written submission** to retain the title to the IP or is refused the retention of title to the IP by the govt, and where more than one govt authorities are party to the funding agreement, the IP shall be jointly owned by the govt authorities on terms agreed upon by such govt authorities.”

Original (9)(2): “The intellectual property creator shall cooperate in all respects with the recipient or the govt, as the case may be, in the process of protection and utilization of the **public funded IP created.**”

New (9)(2): “The intellectual property creator shall cooperate in all respects with the recipient or the govt, as the case may be, in the process of protection and utilization of the **public funded IP so created.**”

Original (10)(1): “Every recipient shall within 180 days of the receipt of the funds under section 3 constitute an IP management committee within its organization.”

New (10)(1): “Every recipient shall, **within 180 days of the receipt of the funds under section 3**, constitute an IP management committee within its organization.”

Original (10)(2)(a): “identify, assess, document and protect public funded IP **with** commercial potential;”

New (10)(2)(a): “identify, assess, document and protect public funded IP **having** commercial potential;”

Original (11)(1)(a): “subject to the provisions of any agreement which may be entered into b/t the IP creator and the recipient, not less than 30% of such income or royalties after deducting the expenses incurred in protection and utilization shall be given to the creator of the IP;”

New (11)(1)(a): “subject to the provisions of any agreement which may be entered into b/t the IP creator and the recipient, not less than 30% of such income or royalties, **after deducting the expenses incurred in protection and utilization**, shall be given to the creator of the IP;”

Original (12): “Notwithstanding anything contained in this Act no recipient who has retained title to any public funded IP and no assignee of any such recipient shall grant, to any person, the exclusive right to use or sell any public funded IP in India, **subject to the condition that** such person manufactures products using such public funded IP substantially in India.”

New (12): “Notwithstanding anything contained in this Act no recipient who has retained title to any public funded IP and no assignee of any such recipient shall grant, to any person, the exclusive right to use or sell any public funded IP in India, **unless** such person manufactures products using such public funded IP substantially in India.”

Original (14)(3): “The Comptroller and Auditor General of India shall have the same rights and privileges and authority as in connection with the audit of the govt accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, other documents and paper and inspection of offices of the recipient.”

New (14)(3): “The Comptroller and Auditor General of India shall have the same rights and privileges and authority as **he has** in connection with the audit of the govt accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers, other documents and paper and inspection of offices of the recipient.”

Original (18)(d)(explanation): “...the expression ‘interest of security of India’ means any action for the security of India **which** relates to the use of public funded IP for making a product”

New (18)(d)(explanation): “...the expression ‘interest of security of India’ means any action for the security of India **that** relates to the use of public funded IP for making a product”

Original (23)(2): “Every order made under this **clause** shall be laid, as soon as may be, after it is made, before each House of Parliament.”

New (23)(2): “Every order made under this **section** shall be laid, as soon as may be, after it is made, before each House of Parliament.”