Aadhaar and Other Laws (Amendment) Bill, 2018

Why in news?

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The Lok Sabha recently passed The Aadhaar and Other Laws (Amendment) Bill, 2018.

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What is the need?

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- **Verdict** - The changes follow the recent Supreme Court’s verdict in regards with Aadhaar.
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- It upheld Aadhaar but limited its use for only certain subsidies and schemes funded by the Consolidated Fund of India.
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- The court disallowed private companies from asking for Aadhaar for authentication.
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- The amendments now seek to work on some of the restrictions imposed by the court.
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- **Regulation** - Over 122 crore Aadhaar numbers were issued over the period.
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- So, given the widespread use of Aadhaar, it is essential to have a regulatory framework for its operation.
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- Also, UIDAI needed to be empowered to take enforcement actions against errant entities.
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What is the Bill's objective?

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- The objective is to amend the laws relating to the use of Aadhaar and the powers of the Unique Identification Authority of India.
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- The Bill seeks to amend at least 27 sections of three existing laws. These are:
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1. The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016
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2. The Indian Telegraph Act, 1885
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3. The Prevention of Money Laundering Act, 2002
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- The most important changes are to
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i. allow children the chance to exit the Aadhaar ecosystem once they turn 18 years old
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ii. expand the scope of Aadhaar being used by entities that was restricted by the Supreme Court
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iii. create a UIDAI fund
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iv. provide legal backing for Aadhaar to be used voluntarily as proof of identity to open bank accounts and for mobile phone SIM cards
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What are the major provisions?

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- **Aadhaar for authentication** - The Aadhaar Act allowed for the state and any body corporate, Aadhaar-based authentications.
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- But the SC had said that Aadhaar can only be sought for welfare schemes and subsidies mentioned in Section 7 of the Aadhaar Act.

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- The amendments now say the central government can allow Aadhaar-based authentications, in consultation with the UIDAI.
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- But this is only -
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i. if the entity is compliant with certain standards of privacy and security specified by the UIDAI
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ii. if it is permitted by law
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iii. for any purpose that the central government feels is in the interest of the state
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- The changes to The Indian Telegraph Act and The Prevention of Money Laundering Act allow banks and telecom companies to use Aadhaar.
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- But this is only in case if it is offered voluntarily by a person as a Know Your Customer (KYC) document or the only KYC document.
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- But neither of the entities can make it mandatory.
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- A person will have the choice to use any other valid document for KYC.
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- The central government can, through a notification, allow a non-banking company too, if necessary, to perform such authentications.
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- **Aadhaar for children** - The amendments say that at the time of enrolment the parents or guardians of the children would have to provide consent.
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- The agency must apprise them of how the information will be used, whom it will be shared with, and other rights.
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- They also allow for the children to apply for cancellation of their Aadhaar number within 6 months of achieving adulthood.
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- **Complaints and penalties** - The original Act permitted only the UIDAI or officers authorised by it to make complaints in case of violations.
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- With the amendments, individuals will be able to register complaints in certain cases.
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- This can include impersonation, or if their Aadhaar information is disclosed without their consent.
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- The amendments also give UIDAI the power to issue directions to entities in the Aadhaar ecosystem.
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- The penalties to be decided by an adjudicating officer appointed by UIDAI for violations have been increased to a maximum of Rs 1 crore in certain cases.
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- In case of a continuing failure, additional penalty may extend to ten lakh rupees for every day.
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- The Telecom Disputes Settlement and Appellate Tribunal has been made the Appellate Tribunal for such cases.
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- **Offline verification, voluntary use** - The Aadhaar Act only allowed Aadhaar to be used "subject to authentication".
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- It works when a person's biometric information results in a positive match with the Central Identities Data Recovery information.
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- This has now been changed to use it by authentication or even offline verification.
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- The verification can be done "offline", using a digitally signed copy of the Aadhaar card.
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- This contains the person's photograph, selected information and a QR code, but not the biometric information, and need not include the Aadhaar number.
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- Also, people can use Aadhaar as an ID proof voluntarily, without having to authenticate.
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- **UIDAI Fund** - Currently, the UIDAI deposits whatever revenue it collects in the Consolidated Fund of India.
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- The amendments create a UIDAI Fund, which will now receive its revenues from fees, grants and charges.
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- The revenue will be used for UIDAI's expenses.
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- **Other amendments** - In compliance with the SC's order, only High Courts (not district courts) can ask for disclosure of Aadhaar-related information.
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- Only an officer of the rank of Secretary (not Joint Secretary, as earlier provisioned) can issue directions for such information in the “interest of national security”.
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- The changes have made provisions for the use of virtual IDs to conceal the actual Aadhaar number of an individual.
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- Section 57 of the Aadhaar Act relating to use of Aadhaar by private entities has been omitted, as it was struck down by the SC.
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Source: Indian Express

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