Liberalised Blacklisting Norms for Defence Procurements

Why in news?

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The government introduced new liberalised blacklisting policy for arms companies in its 'Guidelines of the Ministry of Defence for Penalties in Business Dealings with Entities'.

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Why liberalisation was necessary?

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- The blacklisting of companies in the past have heavily impacted the modernisation of our military. Some examples are –
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- Bofors Howitzers scandal and subsequent blacklisting led to derailment of the plans for technology transfer and indigenous manufacture. Army has not inducted a a single modern artillery gun in the last 30 years.
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- HDW Submarines Scandal led to the loss of the expertise gained in the construction of diesel-electric submarines and the delay in the induction of new subs.
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- VVIP Helicopter scandal led to the situation of President & PM without any modern/secure 3-engine choppers.
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What are the new norms?

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- The new rules will **apply to both Indian and foreign firms** and agents or employees of companies found to be directly involved in the corrupt act
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- India will now be open to doing business even with a banned firm **if there is**

no alternative available to its weapon system or equipment in the market.
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- This will be allowed, on the grounds of national security, operational military readiness and export obligations.
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- It will be allowed after the vice-chief of the Service concerned (Army, IAF or Navy), the chief of the integrated defence staff or the additional secretary (defence production) signs a certificate to that effect and gets permission from the "competent authority" (the Defence Minister).
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- It also makes it clear that India **will no longer impose blanket bans for 10 years** on erring. The earlier wholescale bans, of course, often proved counter-productive by derailing military modernisation projects.
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- Foreign companies will **initially be suspended for six months** if the defence ministry feels that allegations of corruption against them are serious. This ban will be reviewed every six months and would in most cases not extend beyond a total period of five years.
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- With a **review of the suspension order** being undertaken within six months, the defence minister will decide if the subsequent period of suspension has to be extended by six months at a time.
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- Banning of business dealings may be ordered only on the following three grounds,\n
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    - if a company accepts its misconduct,
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    - the CBI files a chargesheet against it or
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    - a court or tribunal finds it guilty.
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- This ban period **will not be less than five years** for the following grounds,\n
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    - if there is violation of the pre-contract integrity pact,
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    - the company is found resorting to corrupt practices,
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    - unfair means and illegal activities during any stage to bag a contract, or
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    - if national security considerations warrant the step.
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- But the ban period will not exceed three years for "non-performance or under-performance" or any other ground required in "public interest".
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- The company with which business dealings are suspended or banned will, however, **be allowed to take part in new tenders** for spares, upgrades and maintenance for weapon systems supplied earlier.
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- The order of suspension banning of business with an entity may be extended to its allied firms **only by a specific order of the defence minister**.
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- The entity with which business has been suspended or banned will not be permitted to transact contracts under a different name or division.
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Source: Times of India

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