

1963

CONTENTS

| No. of Act | Short Title | Page |
|------------|--|------|
| 1 | The Hindi Sahitya Sammelan (Amendment) Act, 1963 | 1 |
| 2 | The Representation of the People (Amendment) Act, 1963 REPEALED | |
| 3 | The Indian Tariff (Amendment) Act, 1963 REPEALED | 4 |
| 4 | The Delhi Rent Control (Amendment) Act, 1963 REPEALED | 11 |
| 5 | The Appropriation (Railways) Act, 1963 | 12 |
| 6 | The Appropriation (Railways) No. 2 Act, 1963 | 14 |
| 7 | The Appropriation Act, 1963 | 16 |
| 8 | The Central Sales Tax (Amendment) Act, 1963 REPEALED | 20 |
| 9 | The Appropriation (Vote on Account) Act, 1963 | 21 |
| *10 | The Agricultural Refinance Corporation Act, 1963 Not Corrected: See India Code | |
| *11 | The Marine Insurance Act, 1963 Not Corrected: See India Code | 55 |
| 12 | The Appropriation (No. 2) Act, 1963 | 88 |
| 13 | The Finance Act, 1963 | 99 |
| 14 | The Super Profits Tax Act, 1963 | 132 |
| 15 | The Bengal Finance (Sales Tax) (Delhi Amendment) Act, 1963 REPEALED | |
| 16 | The Appropriation (Railways) No. 3 Act, 1963 | 153 |
| 17 | The Appropriation (Railways) No. 4 Act, 1963 | 155 |
| 18 | The Appropriation (No. 3) Act, 1963 | 157 |
| *19 | The Official Languages Act, 1963 Not Corrected: See India Code | 159 |
| *20 | The Government of Union Territories Act, 1963 Not Corrected: See India Code | 162 |
| *21 | The Compulsory Deposit Scheme Act, 1963 Not Corrected: See India Code | 197 |
| *22 | The Export (Quality Control and Inspection) Act, 1963 Not Corrected: See India Code | 200 |
| 23 | The Indian Emigration (Amendment) Act, 1963 REPEALED | 215 |
| 24 | The Iron Ore Mines Labour Welfare Cess (Amendment) Act, 1963 REPEALED | 220 |
| 25 | The Appropriation (No. 4) Act, 1963 | 221 |
| 26 | The Code of Civil Procedure (Amendment) Act, 1963 REPEALED | 223 |

| No. of Act | Short Title | Page |
|------------|---|------|
| 27 | The All-India Services (Amendment) Act, 1963 REPEALED | 224 |
| 28 | The Employees' Provident Funds (Amendment) Act, 1963 REPEALED | 225 |
| 29 | The Institutes of Technology (Amendment) Act, 1963 | 234 |
| 30 | The Customs and Central Excises (Amendment) Act, 1963 REPEALED | 236 |
| 31 | The Appropriation (Railways) No. 5 Act, 1963 | 237 |
| 32 | The Special Marriage (Amendment) Act, 1963 REPEALED | 239 |
| 33 | The Indian Sale of Goods (Amendment) Act, 1963 REPEALED | 240 |
| 34 | The Warehousing Corporations (Amendment) Act, 1963 REPEALED | 242 |
| 35 | The Dramatic Performances (Delhi Repeal) Act, 1963 | 243 |
| X 36 | The Limitation Act, 1963 Not Corrected: See India Code | 244 |
| X 37 | The Personal Injuries (Compensation Insurance) Act, 1963 Not Corrected: See India Code | 275 |
| X 38 | The Major Port Trusts Act, 1963 Not Corrected: See India Code | 292 |
| 39 | The Industrial Employment (Standing Orders) Amendment Act, 1963 REPEALED | 352 |
| 40 | The Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1963 REPEALED | 355 |
| X 41 | The Textiles Committee Act, 1963 Not Corrected: See India Code | 359 |
| 42 | The Drugs and Magic Remedies (Objectionable Advertisements) Amendment Act, 1963 REPEALED | 369 |
| 43 | The Income-tax (Amendment) Act, 1963 REPEALED | 375 |
| 44 | The Appropriation (No. 5) Act, 1963 | 376 |
| X 45 | The Administrators-General Act, 1963 Not Corrected: See India Code | 378 |
| 46 | The Appropriation (Railways) No. 6 Act, 1963 | 402 |
| 47 | The Specific Relief Act, 1963 | 404 |
| 48 | The Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1963 REPEALED | 426 |
| 49 | The East Punjab Ayurvedic and Unani Practitioners (Delhi Amendment) Act, 1963 REPEALED | 427 |
| 50 | The Indian Tariff (Second Amendment) Act, 1963 REPEALED | 429 |
| 51 | The Preventive Detention (Continuance) Act, 1963 REPEALED | 433 |
| X 52 | The Unit Trust of India Act, 1963 Not Corrected: See India Code | 434 |
| 53 | The Companies (Amendment) Act, 1963 | 457 |

| No. of Act | Short Title | Page |
|---------------|---|------|
| 54 | The Central Boards of Revenue Act, 1963 | 472 |
| 55 | The Banking Laws (Miscellaneous Provisions) Act, 1963 REPEALED | 476 |
| 56 | The Delhi Development (Amendment) Act, 1963 | 494 |
| | The Constitution (Fifteenth Amendment) Act, 1963 | 510 |
| | The Constitution (Sixteenth Amendment) Act, 1963 | 513 |
| | INDEX | 517 |

THEY WERE

THEY WERE

THEY WERE

TABLE SHOWING EFFECT OF PARLIAMENTARY LEGISLATION OF 1963

Part L.—Central Acts amended, repealed or otherwise affected

| Year of Act | No. of Act | Short title of Act | How affected | No. and sec- tion of 1963 Act by which affected |
|-------------------|------------------|------------------------------------|---|--|
| 1 | 2 | 3 | 4 | 5 |
| 1876 | 12 | Dramatic Performances Act, 1876 | Repealed, as in force in Delhi (when Mad. Act 33 of 1954 is extended to Delhi). | 35, s. 2. |
| 1877 | 1 | Specific Relief Act, 1877 | Repealed (w.e.f. 1-3-1964). | 47, s. 44. |
| 1882 | 4 | Transfer of Property Act, 1882 | Ss. 130A and 135A omitted (w.e.f. 1-8-1963). | 11, s. 92. |
| 1882 | 5 | Indian Easements Act, 1882 | S. 15 amended (w.e.f. 1-1-1964). | 36, s. 28. |
| 1898 | 6 | Indian Post Office Act, 1898 | First Schedules substituted. | 13, s. 31. |
| 1899 | 4 | Indian Stamp Act, 1899 | S. 7 amended (w.e.f. 1-8-1963). | 11, s. 92. |
| 1908 | 5 | Code of Civil Procedure, 1908 | S. 60 and s. 80 (when notified) amended. | 26, ss. 2 and 3. |
| | | | S. 48 omitted (w.e.f. 1-1-1964). | 36, s. 28. |
| 1908 | 9 | Indian Limitation Act, 1908. | Repealed (w.e.f. 1-1-1964). | 36, s. 32. |
| 1913 | 3 | Administrator-General's Act, 1913. | Repealed (w.e.f. 1-3-1964). | 45, s. 64. |
| 1922 | 7 | Indian Emigration Act, 1922 | Throughout the Act references to airport added (w.e.f. 1-1-1964); | 23, s. 2. |
| | | | Ss. 1, 2, 4, 9, 15, 16, 24 to 27, 29, 30A, and 31 amended (w.e.f. 1-1-1964). | <i>Ibid.</i> , ss. 3 to 8, 10 to 13 and 15 to 17. |
| | | | S. 22 omitted (w.e.f. 1-1-1964). | <i>Ibid.</i> , s. 9. |
| | | | Ss. 27A, 27B and 27C inserted (w.e.f. 1-1-1964). | <i>Ibid.</i> , s. 14. |

| 1 | 2 | 3 | 4 | 5 |
|------|----|-------------------------------------|--|---|
| 1924 | 4 | Central Board of Revenue Act, 1924. | Repealed (w.e.f. 1-1-1964). | 54, s. 8. |
| 1930 | 3 | Indian Sale of Goods Act, 1930 | Ss. 1, 13 and 25 amended. S. 64A substituted. | 33, ss. 2 to 4 <i>Ibid.</i> , s. 5. |
| 1934 | 2 | Reserve Bank of India Act, 1934. | Ss. 2 and 17 amended (w.e.f. 1-5-1963). Ss. 2 and 17 52, s. 44 and amended (w.e.f. 1-2-1964). Ss. 34 and 38 55, ss. 2 and amended (w.e.f. 1-2-1964). S. 36 omitted (w.e.f. 1-2-1964). Chapter IIIB (ss. 45H, 45I, 45J, 45K, 45L, 45M, 45N, 45O, 45P and 45Q) inserted (w.e.f. 1-2-1964). | 10, s. 47 and Sch. II. Ss. 2 and 17 52, s. 44 and amended (w.e.f. 1-2-1964). 55, ss. 2 and 4. <i>Ibid.</i> , s. 3. <i>Ibid.</i> , s. 5. |
| 1934 | 32 | Indian Tariff Act, 1934 | S. 2A inserted (w.e.f. 2-2-1963). First Schedule amended (partly w.e.f. 25-1-1963 and partly w.e.f. 2-2-1963). S. 2A amended. First Schedule amended. First Schedule amended (w.e.f. 1-1-1964). | 3, s. 2. <i>Ibid.</i> , s. 3. w.e.f. 25-1-1963 and partly w.e.f. 2-2-1963). 13, s. 22. <i>Ibid.</i> , s. 22 and Sch. II 50, s. 2. |
| 1940 | 10 | Arbitration Act, 1940 | S. 32 amended (w.e.f. 1-3-1964). | 47, s. 43. |
| 1944 | 1 | Central Excises and Salt Act, 1944. | First Schedule amended. S. 3 amended (w.e.f. 1-10-1963). Throughout the Act certain words substituted (w.e.f. 1-1-1964). | 13, s. 26. 30, s. 3. 54, s. 5. |

Not Corrected: See India Code Vol. IV A, Pt. I, p. 117

THE AGRICULTURAL REFINANCE CORPORATION ACT, 1963

ARRANGEMENT OF SECTIONS

CHAPTER I

PRELIMINARY

SECTIONS

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

ESTABLISHMENT AND CAPITAL OF THE AGRICULTURAL REFINANCE CORPORATION

3. Establishment and incorporation of Agricultural Refinance Corporation.
4. Offices and agencies.
5. Share capital and shareholders.
6. Guarantee by Central Government.
7. Shares of Corporation to be deemed to be securities for certain purposes.
8. Register of shareholders.

CHAPTER III

MANAGEMENT OF THE CORPORATION

9. Management.
10. Board of directors.
11. Term of office and retirement of directors and payment of fees to them.
12. Disqualifications.
13. Vacation and resignation of office by directors.
14. Managing director.
15. Casual vacancies in the office of managing director.
16. Meetings of Board.
17. Committees of Corporation.
18. Member of Board or Committee thereof not to vote in certain cases.

CHAPTER IV

FUNDS AND BUSINESS OF THE CORPORATION

SECTIONS

19. Central Government to make a loan of five crores of rupees.
20. Borrowings by Corporation.
21. Loans in foreign currency.
22. Business which the Corporation may transact.
23. Limit of accommodation.
24. Power to impose conditions for accommodation.
25. Power to call for repayment before agreed period.
26. Deposit accounts and investments.

CHAPTER V

ACCOUNTS AND AUDIT

27. Preparation of balance-sheet, etc., of Corporation.
28. Disposal of profits.
29. Special deposit.
30. Audit.
31. General meetings.
32. Returns.

CHAPTER VI

MISCELLANEOUS

33. Power of Central Government to give directions.
34. Staff of Corporation.
35. Corporation to have access to records.
26. Act 18 of 1891 to apply to books of Corporation.
37. Liquidation of Corporation.
38. Indemnity of directors.
39. Defects in appointment not to invalidate acts, etc.
40. Protection of action taken under the Act.
41. Declaration of fidelity and secrecy.
42. Provisions relating to income-tax and super-tax.
43. Delegation of powers.
44. Penalties.

SECTIONS

- 45. Offences by companies.
- 46. Powers of Board to make regulations.
- 47. Amendment of certain enactments.

THE FIRST SCHEDULE—DECLARATION OF FIDELITY AND SECRECY.

THE SECOND SCHEDULE—AMENDMENT OF CERTAIN ENACTMENTS.

Not Corrected: See India Code Vol. IV A, Pt. I, p. 117

THE AGRICULTURAL REFINANCE CORPORATION ACT, 1963

No. 10 OF 1963

[24th March, 1963]

An Act to provide for the establishment of a Corporation for granting medium and long term credit by way of refinance or otherwise, for the development of agriculture and for other matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Agricultural Refinance Corporation Act, 1963. Short title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "agriculture" includes animal husbandry, dairy farming, pisciculture and poultry farming;

(b) "Board" means the Board of directors of the Corporation;

(c) "central land mortgage bank" means the principal land mortgage bank in a State which is registered, or deemed to be registered, under the Co-operative Societies Act, 1912 or any other law for the time being in force in any State relating to co-operative societies and the primary object of which is the providing of long term finance for agricultural development:

2 of 1912.

¹ 11-5-1963, vide Notification No. G.S.R. 747, dated 26-4-1963, see Gazette of India, Pt. II, Sec. 3(i), p. 883.

Provided that in addition to such principal land mortgage bank in a State or where there is no such bank in a State, the State Government may, with the previous approval of the Reserve Bank, declare any one or more land mortgage banks registered or deemed to be registered as aforesaid and carrying on the business of providing long term finances for agricultural development in that State to be a central land mortgage bank or banks within the meaning of this definition;

(d) "co-operative society" means a society registered, or deemed to be registered, under the Co-operative Societies Act, 1912 or any other law for the time being in force in any State relating to co-operative societies; 2 of 1912

(e) "Corporation" means the Agricultural Refinance Corporation established under this Act;

(f) "eligible institution" means—

(i) a central land mortgage bank or a State co-operative bank or a scheduled bank, being in each case a shareholder of the Corporation; and

(ii) a co-operative society (other than a central land mortgage bank or a State co-operative bank) approved by the Reserve Bank in this behalf;

(g) "Life Insurance Corporation" means the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956;

31. of 1956.

(h) "prescribed" means prescribed by regulations made under this Act;

(i) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;

2 of 1934.

(j) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934; and

(k) "State co-operative bank" has the same meaning as in the Reserve Bank of India Act, 1934.

CHAPTER II

ESTABLISHMENT AND CAPITAL OF THE AGRICULTURAL REFINANCE CORPORATION

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act a Corporation to be known as the Agricultural Refinance Corporation.

Establishment and incorporation of Agricultural Refinance Corporation.

(2) The Corporation shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, and to contract, and may by that name sue and be sued.

4. The Corporation shall establish its head office in Bombay and may, with the previous approval of the Reserve Bank, establish offices or agencies in other places in India.

Offices and agencies.

5. (1) The authorised capital of the Corporation shall be twenty-five crores of rupees divided into twenty-five thousand fully paid-up shares of ten thousand rupees each of which five thousand shares of the total value of five crores of rupees shall be issued in the first instance, and the remaining shares may, with the sanction of the Central Government, be issued from time to time by the Corporation as and when the Corporation may deem fit.

Share capital and shareholders.

(2) Of the capital issued in the first instance and before such date as may be notified by the Central Government in the Official Gazette in this behalf—

(a) the Reserve Bank shall subscribe for two thousand five hundred shares;

(b) central land mortgage banks and State co-operative banks may subscribe for one thousand five hundred shares;

(c) scheduled banks, the Life Insurance Corporation, insurance and investment companies and such other classes of financial institutions as may be notified by the Central Government in the Official Gazette in this behalf may subscribe for one thousand shares.

(3) The allotment of shares to the institutions mentioned in clauses (b) and (c) of sub-section (2) shall be made by the Board in accordance with the regulations made in this behalf:

Provided that no such institution shall be allotted more than ten per cent. of the shares reserved for the class of institutions to which it belongs.

(4) If any shares referred to in clauses (b) and (c) of sub-section (2) remain unallotted, they shall be subscribed for by the Reserve Bank:

Provided that the Reserve Bank may dispose of the shares subscribed for by it in pursuance of this sub-section, to any institution mentioned in clauses (b) and (c) of sub-section (2), so however that—

(i) the institutions referred to in the said clause (b) shall not together hold more than one thousand five hundred shares and the institutions referred to in the said clause (c) shall not together hold more than one thousand shares, and

(ii) no institution shall hold more than ten per cent. of the shares reserved for the class of institutions to which it belongs.

(5) If and when the remaining shares or any part thereof are issued, the Reserve Bank shall, and the institutions referred to in clauses (b) and (c) of sub-section (2) may, subscribe for such shares in the same proportion as for the first issue and the provisions of sub-sections (3) and (4), except clause (ii) of the proviso to sub-section (4), shall also apply to such shares.

(6) Shares of the Corporation shall not be transferable except—

(a) to the institutions specified in clauses (a), (b) and (c) of sub-section (2), and

(b) in accordance with the regulations made in this behalf.

Guarantee
by Central
Govern-
ment.

6. Shares of the Corporation shall be guaranteed by the Central Government as to the repayment of the principal and the payment of a minimum annual dividend at such rate as may be fixed by the Central Government by notification in the Official Gazette at the time of issuing the shares.

Shares of
Corpora-
tion to be
deemed to
be securi-
ties for
certain
purposes.

7. Notwithstanding anything contained in the Acts hereinafter mentioned in this section, the shares of the Corporation shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, and be also deemed to be approved securities for the purposes of the Insurance Act, 1938 and the Banking Companies Act, 1949.

2 of 1882
4 of 1938
10 of 194

8. (1) The Corporation shall maintain at its head office a register of the shareholders and shall enter therein the following particulars so far as they may be available, namely:—

Register of shareholders.

(i) the names and addresses of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;

(ii) the date on which each person is entered as a shareholder;

(iii) the date on which any person ceases to be a shareholder; and

(iv) such other particulars as may be prescribed.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, no notice of any trust, express, implied or constructive, shall be entered on the register maintained under sub-section (1) or be receivable by the Corporation.

CHAPTER III

MANAGEMENT OF THE CORPORATION

9. (1) The general superintendence, direction and management of the affairs and business of the Corporation shall vest in a Board of directors which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation.

Management

(2) The Board, in discharging its functions, shall act on business principles with due regard to public interest.

10. The Board of directors shall consist of the following, namely:—

Board of directors.

(a) a Deputy Governor of the Reserve Bank nominated by that Bank, who shall be the Chairman of the Board;

(b) a director nominated by the Reserve Bank;

(c) three officers of the Central Government nominated by that Government;

(d) one director elected in the prescribed manner by such of the central land mortgage banks as are shareholders of the Corporation;

(e) one director elected in the prescribed manner by such of the State co-operative banks as are shareholders of the Corporation;

(f) one director elected in the prescribed manner by the Life Insurance Corporation, scheduled banks, insurance and investment companies and other financial institutions, which are shareholders of the Corporation; and

(g) a managing director to be appointed by the Reserve Bank and, except in the case of the first appointment, after consultation with the Board:

Provided that on the first constitution of the Board, the directors referred to in clauses (d), (e) and (f) shall be nominated by the Central Government and the directors so nominated shall, for the purposes of this Act, be deemed to be elected directors:

Provided further that the directors so nominated shall hold office until the conclusion of the first annual general meeting of the Corporation.

Term of
office and
retirement
of directors
and pay-
ment of
fees to
them.

11. (1) A nominated director shall hold office during the pleasure of the authority nominating him.

(2) An elected director, other than a director deemed to be elected under the first proviso to section 10, shall hold office for four years:

Provided that an elected director shall continue in office until his successor has been elected and shall also be eligible for re-election but shall not hold office for more than two consecutive terms.

(3) A casual vacancy in the office of an elected director shall be filled by election and a director so elected shall hold office for the unexpired portion of the term of his predecessor:

Provided that no casual vacancy occurring within three months of the date of expiry of the normal term of office of an elected director need be filled under this sub-section.

(4) Directors shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any of its committees and for attending to any other work of the Corporation:

Provided that no fees shall be payable to the Chairman, managing director or to any other director who is an officer of the Government or of the Reserve Bank.

of 1963]

Agricultural Refinance Corporation

39

12. No person shall be a director who—

Disquali-
fications.

(a) except in the case of the managing director, is a salaried official of the Corporation; or

(b) is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors; or

(c) is of unsound mind and stands so declared by a competent court; or

(d) is or has been convicted of any offence which, in the opinion of the Central Government, involves moral turpitude.

13. (1) If a director—

Vacation
and resig-
nation of
office by
directors.

(a) becomes subject to any of the disqualifications mentioned in section 12; or

(b) is absent without leave of the Board from more than three consecutive meetings thereof,

his seat shall thereupon become vacant.

(2) Any director elected under clause (d), or clause (e) or clause (f) of section 10 may resign his office by giving notice thereof in writing to the Board and, on such resignation being accepted, shall be deemed to have vacated his office.

14. (1) The managing director shall—

Managing
director.

(a) be a whole-time officer of the Corporation;

(b) perform such duties as the Board may entrust or delegate to him;

(c) hold office for such term not exceeding five years as the Reserve Bank may at the time of appointment specify and be eligible for re-appointment; and

(d) receive such salary and allowances and be governed by such terms and conditions of service as the Board, with the previous approval of the Reserve Bank, may determine:

Provided that the first managing director shall receive such salary and allowances and be governed by such terms and conditions of service as the Reserve Bank may determine.

(2) The Reserve Bank may at any time, after consultation with the Board, remove the managing director from office.

Casual
vacancies
in the
office of
managing
director.

15. If the managing director is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise, in circumstances not involving the vacation of his appointment, the Reserve Bank may, after consultation with the Board, appoint another person to act in his place during his absence.

Meetings
of Board.

16. (1) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The Chairman, or, if for any reason he is unable to attend any meeting, any other director elected by the directors present at the meeting shall preside at the meeting of the Board.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the members present and voting, and, in the event of an equality of votes, the Chairman or, in his absence, the person presiding, shall have a second or casting vote.

Committees
of Corpora-
tion

17. (1) The Board may constitute an Executive Committee consisting of such number of directors as may be prescribed.

(2) The Executive Committee shall discharge such functions as may be prescribed or may be delegated to it by the Board.

(3) The Board may constitute such other committees, whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons as it thinks fit and for such purposes as it may decide.

(4) A committee constituted under this section shall meet at such times and places and shall observe such rules and procedure in regard to the transaction of business of its meetings as may be prescribed.

(5) The members of a committee (other than the directors of the Board), shall be paid by the Corporation such fees and allowances as may be prescribed for attending its meetings and for attending to any other work of the Corporation.

18. A director of the Board or a member of a committee who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board or a committee thereof, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and the disclosure shall be recorded in the minutes of the Board or the committee, as the case may be, and the director or member shall not take any part in any deliberation or decision of the Board or the committee with respect to that matter.

Member of Board or Committee thereof not to vote in certain cases.

CHAPTER IV

FUNDS AND BUSINESS OF THE CORPORATION

19. The Central Government shall, after due appropriation made by Parliament by law in this behalf, make to the Corporation an interest-free loan of five crores of rupees, repayable in fifteen equal annual instalments commencing on the expiry of a period of fifteen years from the date of receipt of the loan:

Central Government to make a loan of five crores of rupees.

Provided that the Central Government may, on a request being made to it by the Corporation, increase the number of instalments or alter the amount of any instalment or vary the date on which any instalment is payable.

20. (1) The Corporation may, for the purpose of carrying out its functions under this Act, with the previous approval of the Central Government—

Borrowings by Corporation.

(a) issue and sell bonds and debentures carrying interest, which bonds and debentures shall be guaranteed by the Central Government as to the repayment of principal and payment of interest at such rates as may be fixed by the Central Government at the time the bonds or debentures are issued;

(b) borrow money from the Reserve Bank repayable on the expiry of fixed periods not exceeding eighteen months from the date of the making of the loan or advance, against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;

(c) borrow money from the Central Government and from any other authority or organisation or institution approved by that Government, on such terms and conditions as may be agreed upon; and

(d) accept from the Central Government, a State Government, a local authority, a central land mortgage bank, a State

co-operative bank, a scheduled bank or any person, deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit and on such other terms as the Corporation may, with the prior approval of the Reserve Bank, fix.

(2) The amount of loan granted by the Central Government under section 19 and outstanding, together with the amount of bonds and debentures issued under clause (a) of sub-section (1) and outstanding, the amounts borrowed by the Corporation and outstanding under clauses (b) and (c) of that sub-section and the amount of deposits accepted under clause (d) of that sub-section, shall not at any time in the aggregate exceed twenty times the amount of the paid-up share capital and the reserve fund of the Corporation.

Loans in
foreign
currency.

21. (1) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1947, or in any other law for the time being 7 of 1947. in force relating to foreign exchange, the Corporation may, for the purpose of granting loans and advances to eligible institutions, borrow, with the previous consent of the Central Government, foreign currency from any bank or financial institution in India or elsewhere.

(2) The Central Government may guarantee loans taken by the Corporation under sub-section (1) as to the repayment of principal and the payment of interest thereon and other incidental charges.

(3) All loans and advances made to eligible institutions out of foreign currency borrowed under sub-section (1) shall be granted in Indian currency and shall be repayable by such institutions in Indian currency.

(4) Any loss occurring or profit accruing in connection with any borrowing of foreign currency under sub-section (1) for the purpose of granting loans or advances to any eligible institution or its repayment, on account of any fluctuations in the rates of exchange shall be reimbursed by, or paid to, the eligible institution.

Business
which the
Corpora-
tion may
transact.

22. (1) The Corporation may provide such financial assistance to eligible institutions as it considers necessary for promoting the development of agriculture in India and shall not—

(a) transact any business except for that purpose, and

granted, or debentures subscribed for or to be subscribed for, by such Government; and

(f) generally, the doing of all such matters and things as may be incidental to or consequential upon the discharge of its functions under this Act.

(4) No accommodation shall be granted under clauses (a), (b) and (d) of sub-section (3) to an eligible institution unless it is fully and unconditionally guaranteed as to the repayment of principal and payment of interest by Government:

Provided that no such guarantee shall be required in cases in which an eligible institution makes available other security to the satisfaction of the Board:

Provided further that any sums received by a scheduled bank in repayment or realisation of loans and advances refinanced either wholly or partly by the Corporation shall, to the extent of the accommodation granted by the Corporation remaining outstanding, be deemed to have been received by the scheduled bank in trust for the Corporation, and shall accordingly be paid by such scheduled bank to the Corporation.

(5) The Corporation shall not grant any loan or advance on the security of its own shares, bonds or debentures or for the purpose of providing working capital.

(6) The Corporation may receive, for the rendering of any of the services mentioned in sub-section (3), such commission or other consideration as may be agreed upon.

(7) If any question arises whether a transaction undertaken by the Corporation is for the purpose of providing finance or refinance for the development of agriculture in India, the matter shall be referred to the Reserve Bank and the decision of the Reserve Bank thereupon shall be final.

Limit of
accommodation.

23. The Corporation shall not, without the prior approval in writing of the Reserve Bank, enter into any transaction under clause (a) or clause (b) or clause (c) of sub-section (3) of section 22 involving an amount exceeding fifty lakhs of rupees.

Power to
impose
conditions for
accommodation.

24. In entering into any transaction under section 22 with an eligible institution, the Corporation may impose such conditions as it may think necessary or expedient for protecting the interests of the Corporation.

(b) grant, except as hereinafter provided, loans and advances otherwise than by way of refinance.

(2) No institution other than an eligible institution shall be entitled to assistance under sub-section (1).

(3) Subject to the provisions of sub-sections (1) and (2), the Corporation may transact the several kinds of business hereinafter specified, namely:—

(a) the granting of loans and advances by way of refinance to an eligible institution mentioned in sub-clause (i) of clause (f) of section 2, repayable within a period not exceeding twenty-five years from the dates on which they are granted;

(b) the granting of loans and advances otherwise than by way of refinance to an eligible institution mentioned in sub-clause (ii) of clause (f) of section 2 repayable within a period not exceeding twenty-five years from the dates on which they are granted;

(c) the subscribing to the debentures of any eligible institution repayable within a period not exceeding twenty-five years from the dates on which they are issued:

Provided that repayment of principal and payment of interest thereon are fully and unconditionally guaranteed by Government;

(d) the guaranteeing, with the prior approval of the Central Government and on such terms and conditions as may be agreed upon, of deferred payments in connection with the purchase of capital goods from outside India,

(i) due from an eligible institution mentioned in sub-clause (ii) of clause (f) of section 2; or

(ii) due from any other person and guaranteed to the Corporation by one of the eligible institutions mentioned in sub-clause (i) of clause (f) of section 2;

(e) acting as agent for the Central Government or a State Government in the transaction of any business with an eligible institution in respect of loans and advances granted or to be

Not Corrected. See [unclear]

OF 1963]

Agricultural Refinance Corporation

45

25. Notwithstanding anything to the contrary contained in any agreement, the Corporation may, by notice in writing, require any eligible institution to which it has granted any loan or advance to discharge forthwith in full its liabilities to the Corporation:—

Power to call for re-payment before agreed period.

(a) if it appears to the Board that false or misleading information in any material particular was given in the application for the loan or advance; or

(b) if the eligible institution has failed to comply with any of the terms of its contract with the Corporation in the matter of the loan or advance; or

(c) if there is a reasonable apprehension that the eligible institution is unable to pay its debts or that proceedings for liquidation may be commenced in respect thereof; or

(d) if for any reason it is necessary to do so to protect the interests of the Corporation.

26. All moneys belonging to the Corporation which may not for the time being be required by it shall be invested in promissory notes, stock or securities of the Central Government and all other moneys shall be deposited with the Reserve Bank or with any agency of the Reserve Bank or, in consultation with the Reserve Bank, with a State co-operative bank or a scheduled bank.

Deposit accounts and investments.

CHAPTER V

ACCOUNTS AND AUDIT

27. (1) The balance-sheet and accounts of the Corporation shall be prepared and maintained in such form and manner as may be prescribed.

Preparation of balance-sheet, etc., of Corporation.

(2) The Board shall cause the books and accounts of the Corporation to be balanced and closed as on the thirtieth day of June, each year.

28. (1) The Corporation shall establish a reserve fund by transferring such sums as it may deem fit out of its net annual profits before declaring a dividend.

Disposal of profits.

(2) After making provision for bad and doubtful debts, depreciation of assets and all other matters which are usually provided for by

bankers, the Corporation may out of its net annual profits declare a dividend:

Provided that for so long as the reserve fund is less than the paid-up share capital of the Corporation and until there have been repaid to the Central Government such sums, if any, as that Government may have paid under the guarantee given in pursuance of section 6 or under any guarantee given in pursuance of sub-section (1) of section 20 or sub-section (2) of section 21, the rate of such dividend shall not exceed the rate guaranteed by the Central Government under section 6.

Special
deposit.

29. (1) For a period of fifteen accounting years following the accounting year during which the Corporation is established, all dividends accruing on the shares of the Corporation held by the Reserve Bank shall, instead of being paid to that Bank, be held by the Corporation as a special deposit in a separate account and no interest shall be payable on such deposit.

(2) On the expiry of the period referred to in sub-section (1), the Corporation shall, if so required by the Reserve Bank, pay to it the said special deposit and in case the Reserve Bank does not require the same to be paid to it, continue the said special deposit on such terms and on such conditions, including payment of interest, and for such period as may be mutually agreed upon between the Corporation and the Reserve Bank.

(3) No shareholder of the Corporation other than the Reserve Bank shall have any claim to the special deposit referred to in sub-section (1).

Audit.

30. (1) The affairs of the Corporation shall be audited by an auditor duly qualified to act as auditor under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Board with the previous approval of the Reserve Bank and shall receive such remuneration from the Corporation as the Board may, with the approval of the Reserve Bank, fix:

Provided that the first auditor shall be appointed by the Reserve Bank within one month from the establishment of the Corporation on such terms and conditions as the Reserve Bank may determine.

(2) The auditor so appointed shall hold office from the conclusion of an annual general meeting of the Corporation until the conclusion of the next annual general meeting:

Provided that the first auditor shall hold office until the conclusion of the first annual general meeting.

(3) The auditor shall be supplied with a copy of the annual balance-sheet of the Corporation and it shall be his duty to examine it together with the accounts and vouchers relating thereto and he shall have a list delivered to him of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Corporation.

(4) The auditor may, in relation to the accounts of the Corporation, examine any director of the Board or any officer or employee of the Corporation, and shall be entitled to require from the officers of the Corporation such information and explanation as he may think necessary for the performance of his duties.

(5) The auditor shall make a report to the Corporation upon the annual balance-sheet and accounts examined by him and in every such report he shall state whether in his opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Corporation and in case he had called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(6) Without prejudice to anything contained in the preceding subsections, the Central Government may at any time appoint the Comptroller and Auditor-General of India to examine and report upon the accounts of the Corporation, and any expenditure incurred by him in connection with such examination and report shall be payable by the Corporation to the Comptroller and Auditor-General of India.

31. (1) A general meeting shall be held annually (hereinafter referred to as the annual general meeting) at a place in India where there is an office of the Corporation within three months from the date on which the annual accounts of the Corporation are closed, and any other general meeting may be convened by the Board at any other time: General meetings.

Provided that the Central Government may extend the time within which any annual general meeting shall be held, by a period not exceeding one month.

(2) The shareholders present at the annual general meeting shall be entitled to discuss the annual accounts, the report of the Board on the working of the Corporation throughout the year and the auditor's report on the annual balance sheet and accounts.

Returns.

32. (1) The Corporation shall furnish, from time to time, to the Central Government and to the Reserve Bank such returns as the Central Government or the Reserve Bank may require.

(2) The Corporation shall furnish to the Central Government and the Reserve Bank within fifteen days of the conclusion of the annual general meeting in respect of any year, a copy of its balance-sheet as on the close of that year together with a profit and loss account for the year and a report of the working of the Corporation during the year, and copies of the said balance-sheet, profit and loss account and report shall be published in the Official Gazette and shall be laid before each House of Parliament.

CHAPTER VI

MISCELLANEOUS

Power of
Central
Govern-
ment to
give direc-
tions.

33. In the discharge of its functions under this Act, the Corporation shall be guided by such directions in matters of policy involving public interest as the Central Government may after consulting the Reserve Bank give to it in writing, and if any question arises whether the direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

Staff of
Corpora-
tion.

34. (1) The Corporation may appoint such number of staff as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Corporation to utilise, and for the Reserve Bank to make available the services of, such staff of the Reserve Bank on such terms and conditions as may be agreed upon between the Corporation and the Reserve Bank.

Corpora-
tion to
have ac-
cess to
records.

35. (1) The Corporation shall have free access to all such records of an eligible institution or any person availing of a loan or advance from such eligible institution perusal whereof may appear to the Corporation to be necessary in connection with the providing of finance or other assistance to such eligible institution or the refinancing of the loan or advance made to such person by the eligible institution.

(2) The Corporation may require any eligible institution or person referred to in sub-section (1) to furnish to it copies of any of the records referred to in that sub-section and the eligible institution or the person, as the case may be, shall be bound to comply with such requisition.

Not Corrected: See India Code

of 1963]

Agricultural Refinance Corporation

49

36. The Corporation shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

Act 18 of 1891 to apply to books of Corporation.

37. No provision of law relating to the winding up of companies or corporations shall apply to the Corporation, and the Corporation shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

Liquidation of Corporation.

38. (1) Every director shall be indemnified by the Corporation against all losses and expenses incurred by him in, or in relation to, the discharge of his duties, except such as are caused by his own wilful act or default.

Indemnity of directors.

(2) A director shall not be responsible for any other director or for any officer or other employee of the Corporation or for any loss or expenses resulting to the Corporation from the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation or the insolvency or wrongful act of any debtor or any person under obligation to the Corporation or anything done in good faith in the execution of the duties of his office in relation thereto.

39. (1) No act or proceeding of the Board or of any committee of the Corporation shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or committee or on the ground of any director or member of any committee having acted or taken part in any proceeding in contravention of section 18.

Defects in appointment not to invalidate acts, etc.

(2) No act done by any person acting in good faith as a director of the Board or as a member of a committee of the Corporation shall be deemed to be invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his appointment.

40. No suit or other legal proceeding shall lie against the Corporation or any director or any officer of the Corporation or any other person authorised by the Corporation to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act.

Protection of action taken under the Act.

41. Every director, auditor, officer, or other employee of the Corporation or an employee of the Reserve Bank, whose services are utilised by the Corporation under sub-section (2) of section 34, shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule to this Act.

Declaration of fidelity and secrecy.

Provisions
relating
to income-
tax and
super-tax.

42. Any sum paid by the Central Government under the guarantee given in pursuance of section 6 or, under any guarantee given in pursuance of sub-section (1) of section 20 or sub-section (2) of section 21 shall not be treated as the income, profits and gains of the Corporation, and any interest paid by the Corporation on debentures or bonds or on foreign currency borrowed under sub-section (1) of section 21 out of such sum shall not be treated for the purpose of income-tax or super-tax as expenditure incurred by it:

Provided that in the case of any shareholder such portion of a dividend as has been paid out of any such sum advanced by the Central Government shall be deemed to be his income from interest on securities declared to be income-tax free within the meaning of clause (i) of section 86 of the Income-tax Act, 1961.

43 of 1961

Delegation
of powers.

43. The Board may, by general or special order, delegate to any committee of the Board or to the Chairman or managing director or any other officer of the Corporation, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

Penalties.

44. (1) Whoever in any return, balance-sheet, or other document or in any information required or furnished by or under or for the purposes of any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(2) If any person fails to produce any book, account or other document, or to furnish any statement or information which, under the provisions of this Act, it is his duty to produce or furnish, he shall be punishable with a fine which may extend to two thousand rupees in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to one hundred rupees for every day during which the failure continues after conviction for the first such failure.

Offences
by com-
panies.

45. (1) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he

proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

46. (1) The Board may, with the previous approval of the Reserve Bank make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

Powers of Board to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the manner in which and the conditions subject to which the first allotment of shares of the Corporation shall be made;

(b) the manner in which and the conditions subject to which the shares of the Corporation may be held and transferred, and generally all matters relating to the rights and duties of the shareholders;

(c) the holding and conduct of elections under this Act, including the final decision on doubts or disputes regarding the validity of elections;

(d) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which voting rights may be exercised;

(e) the fees or allowances that may be paid to the directors;

(f) the times and places of the meetings of the Board or of any committee constituted under this Act and the procedure to be followed at such meetings including the quorum necessary for the transaction of business;

(g) the number of directors constituting the Executive Committee, and the functions that such committee shall discharge;

(h) the functions which any other committee may discharge under this Act;

(i) the fees and allowances that may be paid to the members of a committee other than directors;

(j) the manner and terms of issue and redemption of bonds and debentures by the Corporation;

(k) the conditions which the Corporation may impose in granting loans and advances;

(l) the manner and conditions subject to which the Corporation may borrow in foreign currency;

(m) the form and manner in which the balance-sheet and the accounts of the Corporation shall be prepared or maintained;

(n) the forms of returns and statements required under this Act;

(o) the duties and conduct, salaries, allowances and conditions of service of officers and other employees;

(p) the establishment and maintenance of provident or other benefit funds for employees of the Corporation; and

(q) generally, the efficient conduct of the affairs of the Corporation.

(3) Any regulation which may be made by the Board under this Act may be made by the Reserve Bank within three months of the establishment of the Corporation; and any regulation so made may be altered or rescinded by the Board in the exercise of its powers under this Act.

(4) No regulations made under this Act shall have effect until they are published in the Official Gazette.

(5) All regulations made under this Act shall be placed before each House of Parliament.

Amend-
ment of
certain
enactments.

47. The enactments specified in the Second Schedule to this Act shall be amended in the manner provided therein.

~~Not Corrected: See India Code~~

of 1963]

Agricultural Refinance Corporation

53

THE FIRST SCHEDULE

(See section 41)

Declaration of fidelity and secrecy

I do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director, auditor, officer or other employee (as the case may be) of the Agricultural Refinance Corporation and which properly relate to the office or position held by me in the said Corporation.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Agricultural Refinance Corporation or to the affairs of any person having any dealing with the said Corporation; nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Agricultural Refinance Corporation and relating to the business of the said Corporation or the business of any person having any dealing with the said Corporation.

(Signature.)

Signed before me.

THE SECOND SCHEDULE

(See section 47)

Amendment of certain enactments

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934 (2 OF 1934)

Amendments

1. In section 2, for clause (a), substitute the following clauses, namely:—

“(a) “Agricultural Refinance Corporation” means the Agricultural Refinance Corporation established under section 3 of the Agricultural Refinance Corporation Act, 1963;

54 *Agricultural Refinance Corporation* [ACT 10 OF 1963]

(aa) "the Bank" means the Reserve Bank of India constituted by this Act;.

2. In section 17,—

(a) after clause (4D), insert the following clause, namely:—

"(4E) the making to the Agricultural Refinance Corporation of loans and advances repayable on the expiry of fixed periods not exceeding eighteen months from the date of the making of the loan or advance, against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India.";

(b) in clause (8A), after the words "the capital of", insert the words "the Agricultural Refinance Corporation,".

PART II

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947 (14 OF 1947)

In section 2, in sub-clause (i) of clause (a), after the words "to any industrial dispute concerning" insert the words "the Agricultural Refinance Corporation established under section 3 of the Agricultural Refinance Corporation Act, 1963, or".

Not Corrected: See India Code, Vol IV A, Pt I p 139.

THE UNIT TRUST OF INDIA ACT, 1963

ARRANGEMENT OF SECTIONS

SECTIONS

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

ESTABLISHMENT OF THE UNIT TRUST OF INDIA AND THE INITIAL CAPITAL THEREOF

3. Establishment and incorporation of Unit Trust of India.
4. Initial capital of Trust.
5. Maintenance of register of contributories.
6. Issue of contribution certificates.
7. Right of transfer of contribution certificates in certain cases.
8. Rights and liabilities of holders of contribution certificates.

CHAPTER III

MANAGEMENT OF THE TRUST

9. Management.
10. Board of trustees.
11. Term of office of trustees.
12. Disqualification for being a trustee.
13. Vacation and resignation of office of trustee.
14. Chairman and executive trustee.
15. Casual vacancy in office of chairman or executive trustee.
16. Fees and allowances of certain trustees.
17. Meetings of Board.
18. Executive Committee and other committees.

SECTIONS

CHAPTER IV

POWERS AND FUNCTIONS OF THE TRUST

19. Business of Trust.
20. Borrowing powers.
21. Unit scheme.

CHAPTER V

ALLOCATION AND DISTRIBUTION OF INCOME

22. Allocation of income, interest and other expenses.
23. Distribution of income.
24. Distribution of income after refund of initial capital.
25. Definition of year.

CHAPTER VI

ACCOUNTS AND AUDIT

26. Preparation of balance-sheet, etc., of Trust.
27. Audit.
28. Publication of annual accounts and reports.
29. Furnishing of information to Reserve Bank.

CHAPTER VII

MISCELLANEOUS

30. Power of Reserve Bank to give directions.
31. Staff of Trust.
32. Income-tax and other taxes.
33. Act 18 of 1891 to apply in relation to Trust.
34. Declaration of fidelity and secrecy.
35. Defects in appointments not to invalidate acts, etc.
36. Indemnity of trustees.
37. Protection of action taken under this Act.
38. Delegation of powers.
39. No trust to be taken notice of and protection from attachment.
40. Repayment of contribution in case of winding up of contributing institution.

Not Corrected: See India Code

436

Unit Trust of India

[ACT 52 OF 1963]

SECTIONS

41. Power of Central Government to reconstitute Board.
42. Liquidation of Trust.
43. Regulations.
44. Amendment of certain enactments.

THE FIRST SCHEDULE.—DECLARATION OF FIDELITY AND SECRECY.

THE SECOND SCHEDULE.—AMENDMENT OF CERTAIN ENACTMENTS.

Not Corrected: See India Code, Vol IV-A, Pt I, P 139.

THE UNIT TRUST OF INDIA ACT, 1963

No. 52 OF 1963

[30th December, 1963]

An Act to provide for the establishment of a Corporation with a view to encouraging saving and investment and participation in the income, profits and gains accruing to the Corporation from the acquisition, holding, management and disposal of securities.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Unit Trust of India Act, 1963.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Board" means the Board of trustees constituted under section 10 or section 41;

(b) "contributing institution" means an institution which is, for the time being, a contributory to the initial capital of the Trust under section 4;

(c) "contribution certificate" means a certificate issued under section 6;

(d) "initial capital" means the capital of the Trust referred to in section 4;

¹1-2-1964: vide Notification No. G.S.R. 172, dated 31-1-1964, Gazette of India, Extraordinary, Pt. II, Sec. 3(i), p. 47.

(e) "Life Insurance Corporation" means the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956; 11, A 4 1-4

31 of 1956.

(f) "prescribed" means prescribed by regulations made under this Act;

(g) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;

2 of 1934.

(h) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934;

2 of 1934.

(i) "securities" means shares, debentures, bonds and other stock of any company or other body corporate, whether incorporated in India or outside, and securities issued by any local authority in India, or by the Government of, or a local authority in, any such country outside India as may be approved by the Reserve Bank and includes Government security as defined in section 2 of the Public Debt Act, 1944, but does not include mortgages on immovable property;

18 of 1944.

(j) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955;

23 of 1955.

(k) "subsidiary bank" has the same meaning as in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959;

38 of 1959.

(l) "Trust" means the Unit Trust of India established under section 3;

(m) "trustee" means a trustee appointed, nominated or elected under section 10 or section 41;

(n) "unit" means a unit issued under the unit scheme;

(o) "unit capital" means the aggregate of the face value of the units sold under the unit scheme and outstanding for the time being;

(p) "unit certificate" means a certificate issued to the purchaser of a unit under the unit scheme;

(q) "unit holder" means a person for the time being recognised by the Trust as the holder of a unit certificate under the unit scheme;

(r) "unit scheme" means a scheme made under section 21.

CHAPTER II

ESTABLISHMENT OF THE UNIT TRUST OF INDIA AND THE INITIAL CAPITAL THEREOF

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Corporation by the name of the Unit Trust of India which shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose of property and to contract, and may, by the said name, sue or be sued.

Establishment and incorporation of Unit Trust of India.

(2) The head office of the Trust shall be at Bombay or at such other place as the Reserve Bank may, by notification in the Official Gazette, specify.

(3) The Trust may establish local offices, branches or agencies at any places in or outside India.

4. (1) Subject to the provisions of this Act, the initial capital of the Trust shall be five crores of rupees divided in the form of certificates each of which shall be of such face value as may be prescribed and contributed in the manner hereinafter provided.

Initial capital of Trust.

(2) Before such date as the Central Government may, by notification in the Official Gazette, specify in this behalf—

(a) the Reserve Bank shall contribute two and a half crores of rupees;

(b) the Life Insurance Corporation shall contribute seventy-five lakhs of rupees;

(c) the State Bank and the subsidiary banks shall contribute seventy-five lakhs of rupees, the amount which the State Bank and each subsidiary bank shall contribute being determined by the State Bank;

(d) other institutions, namely, scheduled banks other than those referred to in clause (c) and such classes of financial institutions as may be notified by the Central Government in the Official Gazette in this behalf may contribute one crore of rupees.

(3) If the aggregate of the contributions made by the institutions referred to in clause (d) of sub-section (2) exceeds one crore of rupees, the Board shall refund the excess amount to such institu-

tions, so however, that the amount to be refunded to each such institution bears, as far as possible, - the same proportion to the contribution made by it as the excess amount bears to the aggregate of the contributions made by such institutions.

(4) If the aggregate of the contributions made by the institutions referred to in clause (d) of sub-section (2) is less than one crore of rupees, the Reserve Bank shall contribute the deficiency within thirty days of the date specified under sub-section (2):

Provided that the Reserve Bank may, thereafter, transfer the whole or any part of its contribution under this sub-section to any institution referred to in clause (d) of sub-section (2).

(5) If at any time the Board is of opinion that the amount of the initial capital is in excess of the requirements of the Trust, it may refund the whole or any part of such capital to the contributing institutions:

Provided that where only a part is so refunded the amount to be refunded to each such institution shall bear, as far as possible, the same proportion to the contribution made by it as such part bears to the initial capital:

Provided further that for the purpose of any refund, the value of the initial capital shall be determined by the Board on such basis as the Central Government may specify in this behalf, regard being had to the real or exchangeable value thereof.

Mainten-
ance of
register of
contribu-
tories.

5. The Board shall maintain in such manner as may be prescribed a register containing the names of the contributing institutions, the amount contributed by each such institution and such other particulars as may be prescribed.

Issue of
contribu-
tion certi-
ficates.

6. (1) As soon as may be after the contribution has been made by any contributing institution under section 4, the Board shall issue to such contributing institution a contribution certificate or contribution certificates in such form and containing such particulars as may be prescribed.

(2) Where the whole or any part of the contribution has been refunded to any institution under sub-section (5) of section 4, that institution shall, as soon as may be after the refund has been made, forward the contribution certificate or certificates to the Board for cancellation or amendment, as the case may be, and the Board shall cancel or amend the certificate or certificates accordingly.

7. (1) Any contributing institution referred to in clause (d) of sub-section (2) of section 4 may, in the prescribed manner, transfer a contribution certificate to any other institution referred to in that clause and thereupon such other institution shall be deemed to be a contributing institution for the purposes of this Act.

Right of transfer of contribution certificates in certain cases.

(2) Save as provided in sub-section (1), a contribution certificate shall not be transferred.

8. Every holder of a contribution certificate shall have all the rights and be subject to all the liabilities conferred or imposed on a contributing institution by or under this Act.

Rights and liabilities of holders of contribution certificates.

CHAPTER III

MANAGEMENT OF THE TRUST

9. (1) The general superintendence, direction and management of the affairs and business of the Trust shall vest in a Board of trustees which may exercise all powers and do all acts and things which may be exercised or done by the Trust.

Management.

(2) The Board shall, in discharging its functions under this Act, act on business principles, regard being had to the interest of the unit holders.

10. The Board of trustees shall consist of the following, namely:—

Board of trustees

(a) the Chairman to be appointed by the Reserve Bank;

(b) four trustees to be nominated by the Reserve Bank, of whom not less than three shall be persons having special knowledge of, or experience in, commerce, industry, banking, finance or investment;

(c) one trustee to be nominated by the Life Insurance Corporation;

(d) one trustee to be nominated by the State Bank;

(e) two trustees to be elected in the prescribed manner by the contributing institutions referred to in clause (d) of sub-section (2) of section 4; and

(f) an executive trustee to be appointed by the Reserve Bank :

Provided that if the appointment of the Chairman is whole-time, it shall not be necessary to appoint an executive trustee:

Provided further that on the first constitution of the Board, the trustees referred to in clause (e) shall be nominated by the Reserve

Bank and shall hold office for a period of twelve months from the date of their nomination or until two trustees are elected under the said clause, whichever may be earlier.

**Term of
office of
trustees.**

11. (1) A trustee nominated under clause (b) of section 10, if he is an officer of the Reserve Bank, or a trustee nominated under clause (c) or clause (d) of that section shall hold office during the pleasure of the authority nominating him.

(2) A trustee nominated under clause (b) of section 10, if he is not an officer of the Reserve Bank, or a trustee elected under clause (e) of that section shall hold office for four years and thereafter until his successor is duly nominated or elected.

(3) A casual vacancy in the office of a trustee referred to in sub-section (2) or in the office of a trustee nominated under the second proviso to section 10 shall be filled by election or nomination, as the case may be, and the trustee so elected or nominated shall hold office for the unexpired portion of the term of his predecessor:

Provided that no such vacancy occurring within three months of the date of the expiry of the normal term of office of such trustee need be filled under this sub-section.

(4) A trustee nominated under the second proviso to section 10 or a trustee nominated in his place under sub-section (3) of this section shall be deemed to be a trustee elected under clause (e) of section 10.

(5) A person who holds, or who has held, office as a trustee shall, subject to the other provisions of this Act, be eligible for re-nomination or re-election, as the case may be.

**Disquali-
fication
for being
a trustee.**

12. A person shall not be capable of being nominated or elected as a trustee if—

(a) he is, except in the case of the Chairman or the executive trustee, an officer or other employee of the Trust; or

(b) he is, or at any time has been, adjudicated as insolvent or has suspended payment of his debts or has compounded with his creditors; or

(c) he is of unsound mind and stands so declared by a competent court; or

(d) he has been convicted of an offence which, in the opinion of the Reserve Bank, involves moral turpitude.

13. (1) If a trustee—

(a) becomes subject to any of the disqualifications mentioned in section 12; or

(b) is absent without leave of the Board from more than three consecutive meetings thereof; or

(c) being a trustee elected or deemed to be elected under clause (e) of section 10 becomes an officer or other employee of Government or of the Reserve Bank, State Bank, a subsidiary bank or the Trust,

his office shall thereupon become vacant.

(2) A trustee nominated under clause (b) of section 10 who is not an officer of the Reserve Bank or a trustee elected or deemed to be elected under clause (e) of that section may by letter addressed to the Board resign his office and on such resignation being accepted by the Board shall be deemed to have vacated his office.

Vacation and resignation of office of trustee.

14. (1) The appointment of a Chairman or of an executive trustee may be either whole-time or part-time:

Chairman and executive trustee.

Provided that if the appointment of the Chairman is part-time, the appointment of the executive trustee shall be whole-time.

(2) The Chairman or the executive trustee shall—

(a) hold office for such term not exceeding five years as the Reserve Bank may specify;

(b) receive such salary or allowances or both from the Trust and be governed by such terms and conditions of service as the Reserve Bank may determine; and

(c) perform such functions as the Board may entrust or delegate to him.

15. If the Chairman or the executive trustee is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise, in circumstances not involving the vacation of his appointment, the Reserve Bank may nominate another person to act in his place until the date on which the Chairman or the executive trustee, as the case may be, resumes his duties.

Casual vacancy in office of Chairman or executive trustee.

16. Trustees, other than the Chairman and the executive trustee, shall be paid such fees and allowances for attending the meetings of the Board or of any of its committees and for attending to any other work of the Trust, as may be prescribed:

Fees and allowances of certain trustees.

Provided that no fees shall be payable to a trustee who is an officer of Government or of any corporation established by any law for the time being in force.

Meetings
of Board

17. (1) The Board shall meet not less than six times a year and at least once every two months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(2) The Chairman, or, if for any reason he is unable to attend any meeting of the Board, any other trustee nominated by him in this behalf or, in the event of such nominated trustee also being unable to attend the meeting or no such nomination having been made by the Chairman, any other trustee elected by the trustees present at the meeting from among themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the trustees present and voting, and, in the event of equality of votes, the Chairman or, in his absence, the person presiding, shall have a second or casting vote.

Executive
Committee
and other
committees

18. (1) There shall be an Executive Committee which shall consist of—

(a) the Chairman of the Board,

(b) where an executive trustee has been appointed by the Reserve Bank, such executive trustee, and

(c) two other trustees nominated in this behalf by the Reserve Bank.

(2) The Chairman of the Board shall be the Chairman of the Executive Committee.

(3) Subject to such general or special directions as the Board may, from time to time, give the Executive Committee shall be competent to deal with any matter within the competence of the Board.

(4) The Board may constitute such other committees whether consisting wholly of trustees or wholly of other persons or partly of trustees and partly of other persons as it thinks fit and for such purpose as it may decide.

(5) The Executive Committee or any other committee constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(6) The members of a committee (other than the trustees) shall be paid such fees and allowances for attending its meetings and for attending to any other work of the Trust, as may be prescribed:

Provided that no fees shall be payable to a member who is an officer of Government or of any corporation established by any law for the time being in force.

CHAPTER IV

POWERS AND FUNCTIONS OF THE TRUST

19. (1) The Trust may carry on and transact any of the following kinds of business, namely:— Business of Trust.

(a) selling and purchasing units;

(b) investing in, acquiring, holding or disposing of, securities and exercising and enforcing all powers and rights incidental thereto;

(c) keeping money on deposit with scheduled banks or with such other institutions as may be prescribed;

(d) generally, doing all such matters and things as may be incidental to or consequential upon the discharge of its functions under this Act.

(2) The Trust shall not take on lease, purchase or otherwise acquire except for its own use any immovable property or any interest therein.

20. (1) The Trust may borrow from any authority or person, not being Government or the Reserve Bank, against such security and on such terms and conditions as may be agreed upon. Borrowing powers.

(2) The Trust may borrow money from the Reserve Bank repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date on which the money is so borrowed against stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India.

(3) If the Board is of opinion that a situation has arisen in which it is necessary or expedient for the Trust to borrow money from the Reserve Bank against securities other than those mentioned in sub-section (2), the Trust may borrow money from that bank repayable on demand or within a period not exceeding eighteen months from the date on which the money is so borrowed against its own bonds which the Trust may issue with the approval of the Central Government.

(4) The bonds issued by the Trust under sub-section (3) shall be guaranteed by the Central Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Central Government at the time the bonds are issued.

21. (1) For the purpose of providing facilities for participation in the income, profits and gains arising out of the acquisition, holding, Unit scheme.

management or disposal of securities by the Trust, the Board shall make a unit scheme.

(2) Subject to the provisions of this Act, and the regulations made under section 43, a scheme made under sub-section (1) may provide for—

(a) the issue of units and the face value of each unit, which shall not be less than ten rupees or more than one hundred rupees;

(b) the form and manner in which an application may be made for the purchase of a unit from the Trust;

(c) the manner in which payment may be made for purchasing a unit from the Trust;

(d) the issue of unit certificates and the form and manner in which such certificates may be issued;

(e) the issue of duplicate of any unit certificate in the event of loss or destruction of the original and the fee on the payment of which such duplicate may be issued;

(f) the procedure for determining the value at which the units may be sold or purchased, from time to time, by the Trust;

(g) the recognition of persons as unit holders;

(h) the persons to whom, the time at which and the manner in which any payments in respect of a unit shall be made by the Trust;

(i) the preparation and maintenance of a register, if any, of unit holders;

(j) the conditions, if any, subject to which a unit holder may transfer the unit;

(k) any other matter which the Trust may consider to be necessary or proper for the effective implementation of the scheme.

(3) The Board may, from time to time, add to or otherwise amend the scheme made under sub-section (1).

(4) The scheme made under sub-section (1) and every amendment thereof under sub-section (3) shall be notified in the Official Gazette.

CHAPTER V

ALLOCATION AND DISTRIBUTION OF INCOME

22. (1) The total gross income of the Trust in any year shall be allocated to the initial capital and the unit capital in the same proportion as the former bears to the latter at the end of that year.

Allocation of income, interest and other expenses.

(2) The interest payable for any year for any borrowings made by the Trust and the total amount of other expenses incurred by the Trust in that year shall be allocated and charged to the initial capital and the unit capital in the same proportion as is referred to in sub-section (1):

Provided that if the amount of expenses other than interest allocated to the unit capital is more than five per cent. of the gross income allocated to the unit capital in that year, only an amount equal to such five per cent. shall be charged to the unit capital and the rest of the total amount of expenses other than interest shall be charged to the initial capital.

23. (1) The gross income allocated to the initial capital in any year reduced by the interest and the amount of other expenses charged for that year to the initial capital may be distributed in the prescribed manner among the contributing institutions in proportion to their contributions to the initial capital.

Distribution of income.

(2) The gross income allocated to the unit capital in any year reduced by the interest and the amount of other expenses charged for that year to the unit capital may, but not less than ninety per cent. of the gross income so reduced shall, be distributed to the unit holders in respect of that year.

24. Notwithstanding anything contained in section 22 or section 23, where the whole of the initial capital has been refunded to the contributing institutions, the gross income in any year reduced by the interest payable for that year for any borrowings made by the Trust and the total amount of other expenses incurred by the Trust in that year may, but not less than ninety per cent. of the gross income so reduced shall, be distributed to the unit holders in respect of that year.

Distribution of income after refund of initial capital.

25. In this Chapter "year" means the period in respect of which the books and accounts of the Trust are balanced and closed under sub-section (2) of section 26.

Definition of year.

CHAPTER VI

ACCOUNTS AND AUDIT

Preparation
of balance-
sheet, etc.,
of Trust.

26. (1) The balance-sheet and accounts of the Trust shall be prepared and maintained in such form and manner as may be prescribed.

(2) The Board shall cause the books and accounts of the Trust to be balanced and closed each year as on such date as may be prescribed.

Audit.

27. (1) The affairs of the Trust shall be audited by an auditor duly qualified to act as an auditor under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Trust and shall receive such remuneration as the Trust may fix.

(2) The auditor shall be supplied with a copy of the annual balance-sheet of the Trust and it shall be his duty to examine it together with the accounts and vouchers relating thereto and he shall have a list delivered to him of all books kept by the Trust and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Trust.

(3) The auditor may, in relation to such accounts, examine any trustee or any officer or other employee of the Trust and shall be entitled to require from the Board or officers or other employees of the Trust such information and explanation as he may think necessary for the performance of his duties.

(4) The auditor shall make a report to the Trust upon the annual balance-sheet and accounts examined by him and in every such report he shall state whether in his opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Trust and in case he had called for any information or explanation from the Board or any officer or other employee of the Trust, whether it has been given and whether it is satisfactory.

Publication
of annual
accounts
and
reports.

28. The Trust shall furnish to each of the contributing institutions within four months from the date on which its accounts are balanced and closed in respect of any year a copy of the balance-sheet and accounts together with a copy of the auditor's report and shall publish the same in the Official Gazette.

Furnishing
of informa-
tion to Re-
serve Bank.

29. The Trust shall furnish, from time to time, to the Reserve Bank such information as the Reserve Bank may require.

OF 1963]

Unit Trust of India

449

CHAPTER VII

MISCELLANEOUS

30. In the discharge of its functions under this Act, the Trust shall be guided by such directions in matters of policy involving public interest as the Reserve Bank may give to it in writing, and if any question arises whether the direction relates to a matter of policy involving public interest, the decision of the Reserve Bank thereon shall be final.

Power of Reserve Bank to give directions.

31. (1) The Trust may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

Staff of Trust.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the Trust to utilise, and for the Reserve Bank to make available, the services of such staff of the Reserve Bank on such terms and conditions as may be agreed upon between the Trust and the Reserve Bank.

43 of 1961.
14 of 1963.

32. (1) Notwithstanding anything contained in the Income-tax Act, 1961, the Super Profits Tax Act, 1963, or in any other enactment for the time being in force relating to income-tax, super-tax or super profits tax, or any other tax on income, profits or gains—

Income-tax and other taxes.

(a) the Trust shall not be liable to pay income-tax, super-tax, super profits tax or any other tax in respect of any income, profits or gains derived by it from any source;

~~(b) where the income received by a unit holder, being an individual, from the Trust in respect of units does not exceed one thousand rupees, such income, and where such income exceeds one thousand rupees, a sum of one thousand rupees, shall be excluded in computing the total income of the unit holder for purposes of income-tax and in the case of any such unit holder who would not be liable to super-tax but for the inclusion of such income in his total income, also for purposes of super-tax; and~~

13 of 1

14 of 1963.

(c) where a contributing institution is liable to be assessed to super profits tax under the Super Profits Tax Act, 1963, in respect of its own income, profits or gains and receives any sum from the Trust under this Act in respect of its contribution to the initial capital, such sum as reduced by the amount of any income-tax and super-tax payable in respect thereof shall be excluded from the total income of the said institution in computing its chargeable profits for the purposes of super profits tax.

3. Subs by Act 10 of 1965, s. 73 (w.e.f. 1-4-65)

(2) Notwithstanding anything contained in section 193 or section 194 of the Income-tax Act, 1961—

43 of 1961.

(a) no deduction of income-tax or super-tax shall be made on any interest or dividend payable to the Trust in respect of any securities or shares owned by it or in which it has full beneficial interest; ~~and~~ (4) xxx

(b) no deduction of income-tax shall be made by the Trust from the income distributed by it to a unit holder being an individual, ~~[who is resident; and]~~ (4)

(3) Subject to the foregoing sub-sections, for the purposes of the Income-tax Act, 1961,—

43 of 1961.

(a) any distribution of income received by a unit holder from the Trust shall be deemed to be his income by way of dividends; and

(b) the Trust shall be deemed to be a company.

Act 18 of
1891 to
apply in
relation to
Trust.

33. The Bankers' Books Evidence Act, 1891 shall apply in relation to the Trust as if it were a bank as defined in section 2 of the said Act.

Declaration
of fidelity
and secrecy.

34. Every trustee, auditor, officer or other employee of the Trust or any employee of the Reserve Bank whose services are utilised by the Trust under section 31 shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule to this Act.

Defects in
appointments
not to
invalidate
acts, etc.

35. (1) No act or proceeding of the Board or of any committee of the Trust shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or committee.

(2) No act done by any person acting in good faith as a trustee shall be deemed to be invalid merely on the ground that he was disqualified to be a trustee or that there was any other defect in his appointment.

Indemnity
of trustees.

36. (1) Every trustee shall be indemnified by the Trust against all losses and expenses incurred by him in, or in relation to, the discharge of his duties except such as are caused by his own wilful act or default.

(2) A trustee of the Board shall not be responsible for any other trustee, or for any officer or other employee of the Trust, or for any loss or expenses resulting to the Trust from the insufficiency or deficiency of value of or title to any property or security acquired or taken on behalf of the Trust or the insolvency or wrongful act of any debtor or any person under obligation to the Trust or anything done

4 omitted and ins. by Act 10 of 1965 s 73
(u.e.b. 1-4-65)

in good faith in the execution of the duties of his office or in relation thereto.

37. No suit or other legal proceeding shall lie against the Trust or the Reserve Bank or any trustee or any officer or other employee of the Trust or the Reserve Bank or any other person authorised by the Trust to discharge any functions under this Act for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act.

Protection of action taken under this Act.

38. The Board may, by general or special order, delegate to any officer of the Trust, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and duties under this Act as it may deem necessary.

Delegation of powers.

39. (1) No notice of a trust, express, implied or constructive, shall be receivable by the Trust.

No trust to be taken notice of and protection from attachment.

(2) The amount standing to the credit of a contributing institution shall not be liable to attachment under any decree or order of any court in respect of any debt or liability incurred by the contributing institution.

40. (1) In the event of a contributing institution referred to in clause (d) of sub-section (2) of section 4 being wound up, the Trust shall, on a demand in that behalf made by the authority in charge of the winding up, pay to such authority an amount equivalent to the value of the contribution to the initial capital made by that institution.

Repayment of contribution in case of winding up of contributing institution.

(2) The value of the contribution shall be determined by the Board on such basis as the Central Government may specify, regard being had to the real or exchangeable value of such contribution.

41. (1) Notwithstanding anything contained in section 10 or section 11, where the whole of the initial capital has been refunded to the contributing institutions, the Central Government may, after consultation with the Reserve Bank, by order, provide for the reconstitution of the Board.

Power of Central Government to reconstitute Board.

(2) An order made under sub-section (1) may provide for all or any of the following matters, namely:—

- (a) the number of trustees that will constitute the Board;
- (b) the manner in which they shall be chosen;
- (c) their term of office;
- (d) filling of casual vacancies;

(e) such incidental, consequential and supplementary matters as may be necessary to give effect to the order including the reconstitution of the executive committee or other committees.

(3) Every order made under this section shall be published in the Official Gazette and a copy thereof shall be laid before each House of Parliament as soon as may be after it is made.

Liquidation
of trust.

42. (1) The Trust shall not be placed in liquidation save by order of the Central Government and in such manner as it may direct.

(2) In making such order, the Central Government shall, if the initial capital has not been wholly refunded, direct, among other things, that—

(i) the value of the net assets of the Trust after paying off all its liabilities, other than those in respect of the initial capital and the unit capital shall be divided into two parts in the same proportion as the aggregate face value of all the units immediately prior to the date on which the Trust is placed in liquidation bears to the initial capital as on that date; and

(ii) the first part shall be distributed among the contributing institutions in proportion to their respective contributions to the initial capital as on that date and the second part shall be distributed among the unit holders in proportion to the face value of the units held by them as on that date.

Regulation.

43. (1) The Board may, with the previous approval of the Reserve Bank, make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the form and manner of maintenance of the register of contributing institutions and the particulars to be contained therein;

(b) the face value of a contribution certificate, its form and the particulars to be contained therein;

(c) the manner of transfer of a contribution certificate;

(d) the rights and liabilities of a contributing institution;

(e) the holding and conduct of elections under this Act, including the final decision on doubts or disputes regarding the validity of elections;

(f) the fees and allowances that may be paid to the trustees;

(g) the times and places of the meetings of the Board or of any committee constituted under this Act and the procedure to be followed at such meetings including the quorum necessary for the transaction of business;

(h) the fees and allowances that may be paid to the members of a committee, other than trustees;

(i) the institutions with which money may be kept on deposit;

(j) the manner of distribution of income to the contributing institutions;

(k) the form and manner in which the balance-sheet and the accounts of the Trust shall be prepared and maintained;

(l) the date on which the books of accounts of the Trust shall be balanced and closed each year;

(m) the duties and conduct, salaries and allowances, and other conditions of service of officers and other employees of the Trust;

(n) the establishment and maintenance of provident or other benefit funds for officers and other employees of the Trust; and

(o) any other matter which is to be, or may be, prescribed.

(3) Any regulation which may be made by the Board under this Act may be made by the Reserve Bank within three months of the establishment of the Trust and any regulation so made may be altered or rescinded by the Board in the exercise of its powers under this Act.

44. The enactments specified in the Second Schedule to this Act shall be amended in the manner provided therein.

Amendment
of certain
enactments.

THE FIRST SCHEDULE

(See section 34)

DECLARATION OF FIDELITY AND SECRECY

I do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as trustee, auditor, officer or other employee (as the case may be) of the Unit Trust of India and which properly relate to the office or position held by me in the said Trust.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Unit Trust of India or to the affairs of any person having any dealing with the said Trust; nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the Unit Trust of India and relating to the business of the said Trust or the business of any person having any dealing with the said Trust.

Signed before me:

(Signature)

THE SECOND SCHEDULE

(See section 44)

AMENDMENT OF CERTAIN ENACTMENTS

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

Amendments

Amend-
ment of
section 2.

1. In section 2, after clause (f), insert the following clause, namely:—

‘(g) “Unit Trust” means the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963.’

Amend-
ment of
section 17.

2. In section 17,—

(a) after clause (4BB), insert the following clause, namely:—

“(4BBB) the making to the Unit Trust of loans and advances—

(i) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date of

Not Corrected: See India Code

of 1963]

Unit Trust of India

455

such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India, or

(ii) repayable on demand or within a period of eighteen months from the date of such loan or advance against the security of the bonds of the Unit Trust issued with the approval of and guaranteed by the Central Government;";

(b) after clause (4E), insert the following clause, namely:—

"(4F) contributing to the initial capital of the Unit Trust."

PART II

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947

(14 of 1947)

Amendment

In section 2, in sub-clause (i) of clause (a), after "Deposit Insurance Corporation Act, 1961 or" insert the following, namely:— Amend-
ment of
section 2.

"the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963, or".

PART III

AMENDMENT TO THE INDUSTRIAL FINANCE CORPORATION ACT, 1948

(15 of 1948)

Amendment

For section 20, substitute the following, namely:—

Substitu-
tion of new
section for
section 20.

"20. The Corporation may invest its funds in the securities of the Central Government or of any State Government and may, with the approval of the Central Government, contribute to the initial capital of the Unit Trust of India established under the Unit Trust of India Act, 1963". Investment
of funds.

Not Corrected: See India Code

456

Unit Trust of India

[ACT 52 OF 1963]

PART IV

AMENDMENT TO THE STATE BANK OF INDIA ACT, 1955

(23 OF 1955)

Amendment

Amend-
ment of
section 33.

In section 33, after clause (xix), insert the following clause,
namely:—

“(xixaa) contributing to the initial capital of the Unit Trust
of India established under the Unit Trust of India Act, 1963;”.

Rep. by Act 56 of 1974, s. 2 & Sch I

THE BANKING LAWS (MISCELLANEOUS PROVISIONS)
ACT, 1963

No. 55 of 1963

[30th December, 1963]

An Act further to amend the Reserve Bank of India Act, 1934, the Banking Companies Act, 1949 and the ~~Satte~~ State Bank of India (Subsidiary Banks) Act, 1959.

BE it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:—

CHAPTER I

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Banking Laws (Miscellaneous Provisions) Act, 1963.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

CHAPTER II

AMENDMENT OF THE RESERVE BANK OF INDIA ACT, 1934

Amend-
ment of
section 34.

2. In section 34 of the Reserve Bank of India Act, 1934 (herein- 2 of 1934,
after in this Chapter referred to as the principal Act), sub-section
(2) shall be omitted.

Omission
of section
36.

3. Section 36 of the principal Act shall be omitted.

Amendment
of section 38.

4. In section 38 of the principal Act, the words and figures "to re-issue any rupee coin delivered under section 36 nor" and the words "or by delivery to the Central Government under that section" shall be omitted.

¹ 1-2-1964; vide Notification No. S.O. 343, dated 21-1-1964, Gazette of India, Pt. II, Sec. 3(ii), p. 361.

5. After Chapter IIIA of the principal Act, the following Chapter and sections shall be inserted, namely:—

Insertion
of new
Chapter
after
Chapter
III A.

“CHAPTER IIIB

PROVISIONS RELATING TO NON-BANKING INSTITUTIONS RECEIVING DEPOSITS AND FINANCIAL INSTITUTIONS

10 of 1949.

45H. The provisions of this Chapter shall not apply to the State Bank or a banking company as defined in section 5 of the Banking Companies Act, 1949 or a banking institution notified under section 51 of that Act:

Chapter
IIIB not
to apply
in certain
cases.

Provided that for the purposes of this Chapter, the Madras Industrial Investment Corporation Limited shall not be deemed to be a banking company.

45I. In this Chapter, unless the context otherwise requires,—

1 of 1956.

(a) “company” means a company as defined in section 3 of the Companies Act, 1956 and includes a foreign company within the meaning of section 591 of that Act;

(b) “corporation” means a corporation incorporated by an Act of any legislature;

(c) “financial institution” means any non-banking institution—

(i) which carries on as its business or part of its business the financing, whether by way of making loans or advances or otherwise, of trade, industry, commerce or agriculture; or

(ii) which carries on as its business or part of its business the acquisition of shares, stock, bonds, debentures or debenture stock or securities issued by a Government or local authority or other marketable securities of a like nature; or

(iii) which carries on as its principal business hire-purchase transactions or the financing of such transactions;

9 of 1932.

(d) “firm” means a firm as defined in the Indian Partnership Act, 1932, of which the capital subscribed by its partners exceeds one lakh of rupees;

(e) "non-banking institution" means a company, corporation, or firm.

Bank to regulate or prohibit issue of prospectus or advertisement soliciting deposits of money.

45J. The Bank may, if it considers necessary in the public interest so to do, by general or special order,—

(a) regulate or prohibit the issue by any non-banking institution of any prospectus or advertisement soliciting deposits of money from the public; and

(b) specify the conditions subject to which any such prospectus or advertisement, if not prohibited, may be issued.

Power of Bank to collect information from non-banking institutions as to deposits and to give directions.

45K. (1) The Bank may at any time direct that every non-banking institution shall furnish to the Bank, in such form, at such intervals and within such time, such statements, information or particulars relating to or connected with deposits received by the non-banking institution, as may be specified by the Bank by general or special order.

(2) Without prejudice to the generality of the power vested in the Bank under sub-section (1), the statements, information or particulars to be furnished under sub-section (1) may relate to all or any of the following matters, namely, the amount of the deposits, the purposes and periods for which, and the rates of interest and other terms and conditions on which, they are received.

(3) The Bank may, if it considers necessary in the public interest so to do, give directions to non-banking institutions either generally or to any non-banking institution or group of non-banking institutions in particular, in respect of any matters relating to or connected with the receipt of deposits, including the rates of interest payable on such deposits, and the periods for which deposits may be received.

(4) If any non-banking institution fails to comply with any direction given by the Bank under sub-section (3), the Bank may prohibit the acceptance of deposits by that non-banking institution.

(5) If any question arises whether any amount borrowed or proposed to be borrowed by a non-banking institution is or is not a deposit, it shall be referred to the Bank whose decision thereon shall be final.

(6) Every non-banking institution receiving deposits shall, if so required by the Bank and within such time as the Bank may specify, cause to be sent at the cost of the non-banking institution a copy of its annual balance-sheet and profit and loss account or other annual accounts to every person from whom the non-banking institution holds, as on the last day of the year to which the accounts relate, deposits higher than such sum as may be specified by the Bank.

45L: (1) If the Bank is satisfied that for the purpose of enabling it to regulate the credit system of the country to its advantage it is necessary so to do, it may—

Power of Bank to call for information from Financial institutions and to give directions.

(a) require financial institutions either generally or any group of financial institutions or financial institution in particular, to furnish to the Bank in such form, at such intervals and within such time, such statements, information or particulars relating to the business of such financial institutions or institution, as may be specified by the Bank by general or special order;

(b) give to such institutions either generally or to any such institution in particular, directions relating to the conduct of business by them or by it as financial institutions or institution.

(2) Without prejudice to the generality of the power vested in the Bank under clause (a) of sub-section (1), the statements, information or particulars to be furnished by a financial institution may relate to all or any of the following matters, namely, the paid-up capital, reserves or other liabilities, the investments whether in Government securities or otherwise, the persons to whom, and the purposes and periods for which, finance is provided and the terms and conditions, including the rates of interest, on which it is provided.

(3) In issuing directions to any financial institution under clause (b) of sub-section (1), the Bank shall have due regard to the conditions in which, and the objects for which, the institution has been established, its statutory responsibilities, if any, and the effect the business of such financial institution is likely to have on trends in the money and capital markets.

Duty of
non-banking
institutions
to furnish
statements,
etc., requir-
ed by Bank.

45M. It shall be the duty of every non-banking institution to furnish the statements, information or particulars called for, and to comply with any direction given to it, under the provisions of this Chapter.

Inspection.

45N. (1) The Bank may, at any time, for the purpose of verifying the correctness or completeness of any statement, information or particulars furnished to it by a non-banking institution or for the purpose of obtaining any information or particulars which a non-banking institution has failed to furnish on its being called upon to do so, cause an inspection to be made by one or more of its officers or employees or other persons (hereinafter in this section referred to as the inspecting authority), of any such institution and its books and accounts.

(2) It shall be the duty of every director or member of any committee or other body for the time being vested with the management of the affairs of the non-banking institution or other officer or employee thereof to produce to the inspecting authority all such books, accounts and other documents in his custody or power and to furnish that authority with any statements and information relating to the business of the institution as that authority may require of him, within such time as may be specified by that authority.

(3) The inspecting authority may examine on oath any director or member of any committee or body for the time being vested with the management of the affairs of the non-banking institution or other officer or employee thereof, in relation to its business and may administer an oath accordingly.

Penalties.

45O. (1) Whoever in any return, statement or information required or furnished by or under or for the purposes of any provision of this Chapter, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) If any person fails to produce any book, account or other document or to furnish any statement, information or particulars, which under this Chapter it is his duty to produce or furnish, or to answer any question relating to the business of a

non-banking institution which he is asked by the inspecting authority under this Chapter, he shall be punishable with fine which may extend to two thousand rupees in respect of each offence, and, if he persists in such refusal, with a further fine which may extend to one hundred rupees for every day during which the offence continues.

(3) If any non-banking institution—

(a) receives any deposits in contravention of any direction given to it under this Chapter; or

(b) issues any prospectus or advertisement otherwise than in accordance with any order made under section 45J; or

(c) fails to comply with the provisions of sub-section (6) of section 45K or with the directions issued under sub-section (3) of that section or clause (b) of sub-section (1) of section 45L,

every director or member of any committee or other body for the time being vested with the management of the affairs of the non-banking institution, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent it, shall be punishable with fine which may extend—

(a) in the case of a contravention falling under clause (a), to twice the amount of the deposits received;

(b) in the case of a contravention falling under clause (b), to twice the amount of the deposits called for by the prospectus or advertisement; and

(c) in any other case, to two thousand rupees.

45P. No court shall take cognisance of any offence punishable under section 45O except upon a complaint in writing made by an officer of the Bank, generally or specially authorised in writing in this behalf by the Bank, and no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any such offence.

Cognisance of offence.

45Q. The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law."

Chapter IIIB to override other laws.

CHAPTER III

AMENDMENT OF THE BANKING COMPANIES ACT, 1949

Amend-
ment of
section 5.

6. In section 5 of the Banking Companies Act, 1949 (hereinafter 10 of 1949.
in this Chapter referred to as the principal Act), for the brackets,
figure and words "(1) In this Act", the words "In this Act" shall be
substituted.

Substitu-
tion of new
section for
section 7.

7. For section 7 of the principal Act, the following section shall
be substituted, namely:—

Use of
words
"bank",
"banker",
"banking",
or "bank-
ing com-
pany".

"7. (1) No company other than a banking company shall use
as part of its name any of the words 'bank', 'banker' or 'banking'
and no company shall carry on the business of banking in India
unless it uses as part of its name at least one of such words.

(2) No firm, individual or group of individuals shall, for the
purpose of carrying on any business, use as part of its or his
name any of the words 'bank', 'banking' or 'banking company'.

(3) Nothing in this section shall apply to—

(a) a subsidiary of a banking company formed for one
or more of the purposes mentioned in sub-section (1) of
section 19, whose name indicates that it is a subsidiary of
that banking company;

(b) any association of banks formed for the protection
of their mutual interests and registered under section 25 of
the Companies Act, 1956." 1 of 1956.

Amend-
ment of
section 10.

8. In section 10 of the principal Act,—

(a) in sub-section (1), in sub-clause (iii) of clause (c)—

(i) for the words "who has a contract with the company
for its management", the words "whose term of office as a
person managing the company is" shall be substituted;

(ii) for the first proviso, the following provisos shall be
substituted, namely:—

"Provided that the term of office of any such person
may be renewed or extended by further periods not
exceeding five years on each occasion subject to the con-
dition that such renewal or extension shall not be sanc-
tioned earlier than two years from the date on which
it is to come into force:

Provided also that where the term of office of such person is for an indefinite period, such term, unless it otherwise comes to an end earlier, shall come to an end immediately on the expiry of five years from the date of his appointment or on the expiry of three months from the date of commencement of section 8 of the Banking Laws (Miscellaneous Provisions) Act, 1963, whichever is later.”;

(b) sub-sections (3), (4) and (5) shall be omitted.

9. In section 12 of the principal Act, in sub-section (2), for the words “in excess of five per cent.”, the words “in excess of one per cent.” shall be substituted. Amendment of section 12.

10. In section 18 of the principal Act, in clause (b) of the *Explanation*, the brackets and word “(Private)” shall be omitted. Amendment of section 18.

11. In section 20 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 20.

“(1) Notwithstanding anything to the contrary contained in section 77 of the Companies Act, 1956, no banking company shall—

(a) make any loans or advances on the security of its own shares; or

(b) grant unsecured loans or advances—

(i) to any of its directors; or

(ii) to firms or private companies in which any of its directors is interested as partner or managing agent or guarantor or to individuals in cases where any of its directors is a guarantor; or

(iii) to any company in which the chairman of the board of directors of the banking company (where the appointment of a chairman is for a fixed term) is interested as chairman or managing director of the company if such company has no managing agent or as the managing agent or director or partner of the managing agent of such company:

Provided that nothing in clause (b) shall apply to the grant of unsecured loans or advances made by the banking company—

(i) against bills for supplies or services made or rendered to Government or bills of exchange arising out of *bona fide* commercial or trade transactions, or

(ii) in respect whereof trust-receipts are furnished to the banking company.”;

(b) in sub-section (2), for the words “granted by it to companies in which it or”, the words, brackets and figure “granted by it to companies in cases (other than those in which the banking company is prohibited under sub-section (1) to make unsecured loans and advances) in which” shall be substituted.

Insertion
of new
section
after sec-
tion 20.

12. After section 20 of the principal Act, the following section shall be inserted, namely:—

Restric-
tions on
power to
remit debts.

“20A. (1) Notwithstanding anything to the contrary con-
tained in section 293 of the Companies Act, 1956, a banking com-
pany shall not, except with the prior approval of the Reserve
Bank, remit in whole or in part any debt due to it by—

(a) any of its directors, or

(b) any firm or company in which any of its directors
is interested as director, partner, managing agent or gua-
rantor, or

(c) any individual if any of its directors is his partner or
guarantor.

(2) Any remission made in contravention of the provisions
of sub-section (1) shall be void and of no effect.”.

Amend-
ment of
section 21.

13. In section 21 of the principal Act,—

(a) in sub-section (1), after the words “public interest”,
the words “or in the interests of depositors” shall be inserted;

(b) in sub-section (2), for the words beginning with “as
to the purposes” and ending with “directions as so given.”, the
following shall be substituted, namely:—

“as to—

(a) the purposes for which advances may or may
not be made,

(b) the margins to be maintained in respect of secured advances,

(c) the maximum amount of advances or other financial accommodation which, having regard to the paid-up capital, reserves and deposits of a banking company and other relevant considerations, may be made by that banking company to any one company, firm, association of persons or individual,

(d) the maximum amount up to which, having regard to the considerations referred to in clause (c), guarantees may be given by a banking company on behalf of any one company, firm, association of persons or individual, and

(e) the rate of interest and other terms and conditions on which advances or other financial accommodation may be made or guarantees may be given.”;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Every banking company shall be bound to comply with any directions given to it under this section.”.

14. In section 26 of the principal Act, the words “giving particulars of the deposits standing to the credit of each such account” shall be omitted. Amendment of section 26.

15. In section 30 of the principal Act, in clause (d) of sub-section (3), for the words “of profit and loss”, the words “of profit or loss” shall be substituted. Amendment of section 30.

16. In section 34A of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:— Amendment of section 34A.

“(3) For the purposes of this section, “banking company” includes the Reserve Bank, the State Bank of India and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959.”.

38 of 1959.

17. In section 35 of the principal Act, in sub-section (2) and in sub-section (3), after the words “director or other officer”, the words “or employee” shall be inserted. Amendment of section 35.

Insertion
of new
Part after
Part II.

18. After Part II of the principal Act, the following Part and sections shall be inserted, namely:—

"PART IIA

CONTROL OVER MANAGEMENT

Power of
Reserve
Bank to
remove
managerial
and other
persons
from office.

36AA. (1) Where the Reserve Bank is satisfied that in the public interest or for preventing the affairs of a banking company being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of any banking company it is necessary so to do, the Reserve Bank may, for reasons to be recorded in writing, by order, remove from office, with effect from such date as may be specified in the order, any director, chief executive officer (by whatever name called) or other officer or employee of the banking company.

(2) No order under sub-section (1) shall be made unless the director or chief executive officer or other officer or employee concerned has been given a reasonable opportunity of making a representation to the Reserve Bank against the proposed order:

Provided that if, in the opinion of the Reserve Bank, any delay would be detrimental to the interests of the banking company or its depositors, the Reserve Bank may, at the time of giving the opportunity aforesaid or at any time thereafter, by order direct that, pending the consideration of the representation aforesaid, if any, the director or, as the case may be, chief executive officer or other officer or employee, shall not, with effect from the date of such order—

(a) act as such director or chief executive officer or other officer or employee of the banking company;

(b) in any way, whether directly or indirectly, be concerned with, or take part in the management of, the banking company.

(3) (a) Any person against whom an order of removal has been made under sub-section (1) may, within thirty days from the date of communication to him of the order, prefer an appeal to the Central Government.

(b) The decision of the Central Government on such appeal, and subject thereto, the order made by the Reserve Bank under sub-section (1), shall be final and shall not be called into question in any court.

(4) Where any order is made in respect of a director or chief executive officer or other officer or employee of a banking company under sub-section (1), he shall cease to be a director or, as the case may be, chief executive officer or other officer or employee of the banking company and shall not, in any way, whether directly or indirectly, be concerned with, or take part in the management of, any banking company for such period not exceeding five years as may be specified in the order.

(5) If any person in respect of whom an order is made by the Reserve Bank under sub-section (1) or under the proviso to sub-section (2) contravenes the provisions of this section, he shall be punishable with fine which may extend to two hundred and fifty rupees for each day during which such contravention continues.

(6) Where an order under sub-section (1) has been made, the Reserve Bank, may, by order in writing, appoint a suitable person in place of the director or chief executive officer or other officer or employee who has been removed from his office under that sub-section, with effect from such date as may be specified in the order.

(7) Any person appointed as director or chief executive officer or other officer or employee under this section, shall—

(a) hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify;

(b) not incur any obligation or liability by reason only of his being a director or chief executive officer or other officer or employee or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto.

(8) Notwithstanding anything contained in any law or in any contract, memorandum or articles of association, on the removal of a person from office under this section, that person shall not be entitled to claim any compensation for the loss or termination of office.

36AB. (1) If the Reserve Bank is of opinion that in the interests of the banking company or its depositors it is necessary so to do, it may, from time to time by order in writing, appoint, with effect from such date as may be specified in the order, one or more persons to hold office as additional directors of the banking company:

Power of Reserve Bank to appoint additional directors.

Provided that the number of additional directors so appointed shall not at any time exceed five or one-third of the maximum strength fixed for the Board by the articles, whichever is less.

(2) Any person appointed as additional director in pursuance of this section—

(a) shall hold office during the pleasure of the Reserve Bank and subject thereto for a period not exceeding three years or such further periods not exceeding three years at a time as the Reserve Bank may specify;

(b) shall not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the execution of the duties of his office or in relation thereto; and

(c) shall not be required to hold qualification-shares in the banking company.

(3) For the purpose of reckoning any proportion of the total number of directors of the banking company, any additional director appointed under this section shall not be taken into account.

Part IIA
to over-
ride other
laws.

36AC. Any appointment or removal of a director, chief executive officer or other officer or employee in pursuance of section 36AA or section 36AB shall have effect notwithstanding anything to the contrary contained in the Companies Act, 1956, or any other law for the time being in force or in any contract or any other instrument.”

Amendment
of section
44A.

19. In section 44A of the principal Act,—

(a) sub-section (5) shall be omitted;

(b) in sub-section (6), for the words “the terms of the order sanctioning the scheme”, the words “the provisions of the scheme as sanctioned” shall be substituted;

(c) after sub-section (6), the following sub-sections shall be inserted, namely:—

“(6A) Where a scheme of amalgamation is sanctioned by the Reserve Bank under the provisions of this section, the Reserve Bank may, by a further order in writing, direct that on such date as may be specified therein the banking company (hereinafter in this section referred to as the amalgamated banking company) which by reason of the

amalgamation will cease to function, shall stand dissolved and any such direction shall take effect notwithstanding anything to the contrary contained in any other law.

(6B) Where the Reserve Bank directs a dissolution of the amalgamated banking company, it shall transmit a copy of the order directing such dissolution to the Registrar before whom the banking company has been registered and on receipt of such order the Registrar shall strike off the name of the company.

(6C) An order under sub-section (4) whether made before or after the commencement of section 19 of the Banking Laws (Miscellaneous Provisions) Act, 1963 shall be conclusive evidence that all the requirements of this section relating to amalgamation have been complied with, and a copy of the said order certified in writing by an officer of the Reserve Bank to be a true copy of such order and a copy of the scheme certified in the like manner to be a true copy thereof shall, in all legal proceedings (whether in appeal or otherwise and whether instituted before or after the commencement of the said section 19), be admitted as evidence to the same extent as the original order and the original scheme."

20. In section 44B of the principal Act, in sub-section (1), for the words "unless the compromise or arrangement", the words "or sanction any modification in any such compromise or arrangement unless the compromise or arrangement or modification, as the case may be", shall be substituted.

Amend-
ment of
section
44B.

21. In section 45 of the principal Act, after sub-section (7), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 45.

"(7A) The sanction accorded by the Central Government under sub-section (7), whether before or after the commencement of section 21 of the Banking Laws (Miscellaneous Provisions) Act, 1963, shall be conclusive evidence that all the requirements of this section relating to reconstruction, or, as the case may be, amalgamation have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Central Government to be a true copy thereof, shall, in all legal proceedings (whether in appeal or otherwise and whether instituted before or after the commencement of the said section 21), be admitted as evidence to the same extent as the original scheme."

Amend-
ment of
section
45F.

22. In section 45F of the principal Act,—

(i) in sub-section (1), for the words “proceedings by or against the banking company”, the words “legal proceedings” shall be substituted;

(ii) in sub-section (2)—

(a) after the word “directors”, the words “officers and other employees” shall be inserted, and

(b) the words, brackets and figures “before the commencement of the Banking Companies (Amendment) Act, 1953” shall be omitted.

Amend-
ment of
section
45S.

23. In section 45S of the principal Act,—

(a) in sub-section (1)—

(i) the words “which has been ordered to be wound up” shall be omitted;

(ii) for the words beginning with “take possession of such property” and ending with “special officer”, the following shall be substituted, namely:—

“(a) take possession of such property, books of accounts or other documents, and

(b) forward them to the official liquidator or the special officer.”;

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) Where any such property and effects are in the possession of the Chief Presidency Magistrate or the District Magistrate, as the case may be, such Magistrate shall, on request in writing being made to him by the official liquidator or the special officer referred to in sub-section (1), sell such property and effects and forward the net proceeds of the sale to the official liquidator or the special officer:

Provided that such sale shall, as far as practicable, be effected by public auction.

(3) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Presidency Magistrate or the District Magistrate may take or cause to be taken such steps and use or cause to be used such force as may, in his opinion, be necessary.

(4) No act of the Chief Presidency Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority."

24. In section 45T of the principal Act,—

Amend-
ment of
section
45T.

(a) in sub-section (3), for the words "in the same manner as an arrear of land revenue", the following shall be substituted, namely:—

"by the liquidator in the same manner as an arrear of land revenue and for the purpose of such recovery the liquidator may forward to the Collector within whose jurisdiction the property of the person against whom any order or decision of the High Court has been made is situate, a certificate under his signature specifying the amount so due and the person by whom it is payable";

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) On receipt of a certificate under sub-section (3), the Collector shall proceed to recover from such person the amount specified therein as if it were an arrear of land revenue:

Provided that without prejudice to any other powers of the Collector, he shall, for the purposes of recovering the said amount, have all the powers, which, under the Code of Civil Procedure, 1908, a civil court has for the purpose of the recovery of an amount due under a decree."

5 of 1908.

25. In section 46 of the principal Act, for sub-section (4), the following sub-sections shall be substituted, namely:—

Amend-
ment of
section 46.

"(4) If any other provision of this Act is contravened or if any default is made in complying with any requirement of this Act or of any order, rule or direction made or condition imposed thereunder, any person guilty of such contravention or default shall be punishable with fine which may extend to two thousand rupees, and where a contravention or default is a continuing one, with a further fine which may extend to one hundred rupees for every day during which the contravention or default continues.

(5) Where a contravention or default has been committed by a company, every person who, at the time the contravention or default was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention or default and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the contravention or default was committed without his knowledge or that he exercised all due diligence to prevent the contravention or default.

(6) Notwithstanding anything contained in sub-section (5), where a contravention or default has been committed by a company, and it is proved that the same was committed with the consent or connivance of, or is attributable to any gross negligence on the part of, any director, manager, secretary or other officer of the Company, such director, manager, secretary or other officer shall also be deemed to be guilty of that contravention or default and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.”.

Amendment of section 47. 26. In section 47 of the principal Act, after the words “punishable under”, the words, brackets, figures and letters “sub-section (5) of section 36AA or” shall be inserted.

Amendment of section 49. 27. In section 49 of the principal Act, for the figures “384”, the figures and letter “388A” shall be substituted.

Amendment of section 49A. 28. In section 49A of the principal Act, for the words “banking institution notified by the Central Government in this behalf”, the words “banking institution, firm or other person notified by the Central Government in this behalf on the recommendation of the Reserve Bank” shall be substituted.

Amendment of section 53. 29. In section 53 of the principal Act, after the words “any banking company”, the words “or institution” shall be inserted.

CHAPTER IV

AMENDMENT OF THE STATE BANK OF INDIA (SUBSIDIARY BANKS) ACT,
1959

30. In section 19 of the State Bank of India (Subsidiary Banks) Act, 1959, in sub-section (2), for the words "in excess of five per cent", the words "in excess of one per cent" shall be substituted. Amendment of section 19