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**TABLE SHOWING EFFECT OF PARLIAMENTARY
LEGISLATION OF 1959**

PART I.—CENTRAL ACTS AMENDED, REPEALED OR OTHERWISE AFFECTED

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1959 Act by which affected
1	2	3	4	5
1860	45	Indian Penal Code	S. 363A inserted	52, s. 2.
1866	21	Converts' Marriage Dissolution Act.	S. 35 amended	48, s. 3 and Sch. I.
1873	5	Government Savings Banks Act.	Ss. 3, 5 to 7 and 13 amended.	45, ss. 2, 4 to 6 and 8.
			Ss. 4 and 14 substituted	<i>Ibid.</i> , ss. 3 and 9.
			Ss. 9 and 11 omitted	<i>Ibid.</i> , s. 7.
1874	3	Married Women's Property Act.	Ss. 2 and 6 amended.	61, ss. 2 and 3.
1878	8	Sea Customs Act	Supplementary pro- vision (when noti- fied).	54, s. 34.
1878	11	Indian Arms Act	Repealed (when notified)	54, s. 46.
1890	9	Indian Railways Act	Ss. 40, 68, 108, 109, 112, 114, 116, 121 and 131 amended.	13, ss. 2 to 6 8, 9, 11 and 12.
			Ss. 113B and 120A inserted.	<i>Ibid.</i> , ss. 7 and 10.
1898	5	Code of Criminal Procedure.	Sch. II—entry inserted.	363A 52, s. 3.
1908	9	Indian Limitation Act	Supplementary pro- vision.	29, s. 3.
1909	7	Anand Marriage Act	S. 1 amended	48, s. 3 and Sch. I.

ii Table showing effect of Parliamentary Legislation of 1959

	1	2	3	4	5
1910	9 Indian Electricity Act		Throughout the Act, the words "over-head line" substituted for "aerial line", and the words "Electrical Inspector" substituted for "Electric Inspector".	32, s. 2.	
			Ss. 2 to 4, 8 to 10, 12, 13, 20, 21, 23 to 26, 28 to 31, 33, 34, 36A, 37, 38, 44, 47, 51, 52, 54 and 56 amended.	<i>Ibid.</i> , ss. 3 to 5, 8 to 14, 16 to 25, 27, 29, 30, 32, 33, 35 and 37 to 39.	
			Ss. 4A, 22A, 22B, 49A and 51A inserted.	<i>Ibid.</i> , ss. 6, 15, 34 and 36.	
			Ss. 5 to 7, 36 and 42 substituted.	<i>Ibid.</i> , ss. 7, 26 and 31.	
			S. 36B omitted.	<i>Ibid.</i> , s. 28.	
			Schedule amended	<i>Ibid.</i> , s. 40.	
1916	15 Hindu Disposition of Property Act.	S. 1 amended.		48, s. 3 and Sch. I.	
1921	8 Hindu Transfers and Bequests (City of Madras) Act.	Repealed.		48, s. 4 and Sch. II.	
1922	11 Indian Income-tax Act	S. 34 amended S. 49EE inserted	S. 34 amended Ss. 4, 10, 12, 15C (respectively), 16 to 18, 23A, 23B, 35, 51, 52 and 58 amended.	I, s. 2. <i>Ibid.</i> , s. 3. 12, ss. 3 to 9, 11 to 13 and 16 to 18.	
			Ss. 20 and 49C omitted S. 49B substituted	<i>Ibid.</i> , ss. 10 and 15. <i>Ibid.</i> , s. 14.	
1923	8 Workmen's Compensation Act.	Ss. 2 to 5, 8, 10, 10B, 15, 18A, 30 and 32 amended. Ss. 4A and 14A inserted.	8, ss. 2 to 4, 6 to 9, 11, 13, 15 and 16. <i>Ibid.</i> , ss. 5 and 10.		

Table showing effect of Parliamentary Legislation of 1959 iii

		1 2	3	4	5
1923	8	Workmen's Compensation Act— <i>contd.</i>	S. 18 omitted	.	8, s. 12.
			S. 24 substituted	.	<i>Ibid.</i> , s. 14.
			Sch. I substituted	.	<i>Ibid.</i> , s. 17.
			Sch. II amended	.	<i>Ibid.</i> , s. 18.
			Sch. III amended	.	<i>Ibid.</i> , s. 19.
			Sch. IV amended	.	<i>Ibid.</i> , s. 20.
1925	31	Coal Grading Board Act.	Repealed	.	17, s. 3.
1927	17	Indian Lighthouse Act	S. 10 amended	.	16, s. 2.
1928	12	Hindu Inheritance (Removal of Disabilities) Act.	Ss. 1 and 2 amended	.	48, s. 3 and Sch. I.
1930	30	Hindu Gains of Learning Act.	S. 1 amended	.	48, s. 3 and Sch. I.
1932	20	Port Haj Committees Act.	Repealed	.	51, s. 19.
1934	2	Reserve Bank of India Act.	S. 28A inserted	.	14, s. 2.
			S. 42 amended	.	33, s. 36.
			S. 17 amended	.	38, s. 64 and Sch. III.
			S. 45 substituted	.	<i>Ibid.</i>
			Second Schedule amended.	.	<i>Ibid.</i>
1934	32	Indian Tariff Act	First Schedule amended	.	12, s. 28 and Sch. II.
			First Schedule amended	.	60, s. 2.
1937	26	Muslim Personal Law (<i>Shariat</i>) Application Act.	S. 1 amended	.	48, s. 3 and Sch. I.
1939	8	Dissolution of Muslim Marriages Act.	S. 1 amended	.	48, s. 3 and Sch. I.
1942	6	Multi-unit Co-operative Societies Act.	S. 5A amended	.	56, s. 39.

iv Table showing effect of Parliamentary Legislation of 1959

		1	2	3
				4
1944	1	Central Excises and Salt Act.	First Schedule amended.	12, s. 30.
			First Schedule amended (w.e.f. 1st July, 1959).	37, s. 2.
1944	18	Public Debt Act	Ss. 9A, 9B and 9C inserted (when notified).	44, s. 2.
			S. 28 amended (when <i>Ibid.</i> , s. 3. notified).	
1947	14	Industrial Disputes Act	S. 2 amended . . .	38, s. 64 and Sch. III.
1948	8	Pharmacy Act	Ss. 1 to 3, 5 and 8 amended.	24, ss. 2 to 6.
			Ss. 19, 21, 31, 32, 34, 36, 41, 42 and 46 amended.	<i>Ibid.</i> , ss. 7 to 10, 12, 13 and 15 to 17.
			S. 32A inserted . . .	<i>Ibid.</i> , s. 11.
			S. 40 substituted . . .	<i>Ibid.</i> , s. 14.
1948	37	Census Act	S. 1 amended . . .	22, s. 2.
			S. 2 inserted . . .	<i>Ibid.</i> , s. 3.
1948	54	Electricity (Supply) Act.	S. 26 amended . . .	32, s. 41.
			S. 71 omitted . . .	<i>Ibid.</i>
			Sixth Schedule amended.	<i>Ibid.</i>
1949	1	Indian Tariff (Amendment) Act.	Ss. 4 and 5 amended . .	12, s. 29.
1949	10	Banking Companies Act.	Ss. 5 to 7, 10 to 12, 15, 19, 22, 24, 25, 27, 28, 32, 35, 35B, 36, 36A, 37, 39, 43A, 45O, 46 and 49 amended.	33, ss. 2, 4 to 8, 10, 12, 13, 15 to 22, 24, 25, 27, 29 and 32 to 34.
			Ss. 5A, 14A, 36A, 39A, 49A, 49B and 49C inserted.	<i>Ibid.</i> , ss. 3, 9, 23, 28 and 35.

Table showing effect of Parliamentary Legislation of 1959 v

1	2	3	4	5
1949	10	Banking Companies Act— <i>contd.</i>	Ss., 17, 18, 23, 38 and 44 substituted. S. 45K omitted . . . Supplementary provi- sion. S. 51 amended . . .	33, ss. 11, 14, 26 and 30. <i>Ibid.</i> , s. 31. 38, s. 55. <i>Ibid.</i> , s. 64 and Sch. III.
1949	38	Chartered Accountants Act.	Long title and pre- amble amended. Ss. 2, 5 to 9, 12 to 19, 23, 26, 27 and 30 amended. Ss. 10, 20 and 31 sub- stituted. Chapter V substituted Ss. 24A and 30A in- serted. Schedule substituted.	15, s. 2. <i>Ibid.</i> , ss. 3 to 8, 10 to 17, 20, 22 and 23. <i>Ibid.</i> , ss. 9, 18 and 25. <i>Ibid.</i> , s. 19. <i>Ibid.</i> , ss. 21 and 24. <i>Ibid.</i> , s. 26.
1949	46	Banking Companies (Legal Practitioners' Clients' Accounts) Act.	S. 2 amended . . .	38, s. 64 and Sch. III.
1950	19	Parliament (Prevention of Disqualification) Act.	Repealed . . .	10, s. 5.
1950	30	Union Territories (Laws) Act.	Schedule amended.	61, s. 4.
1950	43	Representation of the People Act.	Second Schedule amended.	56, s. 12.
1950	64	Road Transport Cor- porations Act.	Ss. 6, 12, 19, 26, 30, 32, 35, 37, 44 and 45 amended. S. 33 substituted . . . S. 41 omitted . . .	28, ss. 2 to 7, 9, 10, 12 and 13. <i>Ibid.</i> , s. 8. <i>Ibid.</i> , s. 11.
1951	68	Parliament (Prevention of Disqualification) Act.	Repealed . . .	10, s. 5.

vi Table showing effect of Parliamentary Legislation of 1959

		1	2	3	4	5
1952	35	Mines Act		Ss. 2, 7, 12, 14, 17 to 19, 23, 24, 30, 33, 38, 40, 42, 45, 48, 57 to 60, 64 to 67, 69, 77, 79, 82, 83 and 85 amended.	62, ss. 2, 5 to 10, 12 to 14, 17, 20, 22, 23, 26, 29, 31 to 39, 42, 43, 45, 46 and 47.	
				Ss. 3, 6, 21, 22, 31, 32, 34, 35, 39, 43, 44, 46, 49 to 56, 73, 74, and 76 substituted.	<i>Ibid.</i> , ss. 3, 4, 11, 15, 16, 18, 19, 21, 24, 25, 27, 30, 40 and 41.	
				S. 47 omitted	<i>Ibid.</i> , s. 28.	
				Ss. 80A and 85A inserted.	<i>Ibid.</i> , ss. 44 and 48.	
1952	37	Cinematograph Act		Ss. 1, 2 and 8 amended	3, ss. 2, 3 and 6.	
				Ss. 3 to 6 substituted	<i>Ibid.</i> , s. 4.	
				Ss. 7A, 7B, 7C, 7D, 7E and 7F inserted.	<i>Ibid.</i> , s. 5.	
1954	1	Prevention of Disqualification Act, 1953.		Repealed	10, s. 5.	
1954	29	Wakf Act		Ss. 1 and 10 amended	30, ss. 2 and 3.	
				Ss. 66A and 66B inserted.	<i>Ibid.</i> , s. 4.	
1954	44	Displaced Persons (Compensation and Rehabilitation) Act.		S. 30 amended	21, s. 2.	
1955	23	State Bank of India Act		Ss. 22, 23, 33 to 36, 41, 42 and 50 amended.	26, ss. 2 to 10.	
				Ss. 2, 18, 32, 33 and 36	38, s. 64 and Sch. III.	
1956	1	Companies Act		Supplementary provision	38, s. 55.	
1956	42	Securities Contracts (Regulation) Act.		S. 7A inserted	49, s. 2.	
				S. 28 substituted	<i>Ibid.</i> , s. 3.	
1956	79	State Bank of Hyderabad Act.		Ss. 2 to 4 amended	38, s. 64 and Sch. III.	
				Ss. 9, 10 and 27 substituted.	<i>Ibid.</i>	

Table showing effect of Parliamentary Legislation of 1959 viii

1	2	3	4	5
1956	79	State Bank of Hyderabad Act—Contd.	Ss. 11 to 26, 28 to 40, 42, 43, 45 and 46 omitted. First Schedule omitted. Second Schedule omitted.	38, s. 64 and Sch. III <i>Ibid.</i> <i>Ibid.</i>
1957	27	Wealth-tax Act .	S. 2 amended (retrospectively). Schedule amended	12, s. 20. <i>Ibid.</i> , s. 21.
1957	29	Expenditure-tax Act	Ss. 2 to 6 amended	12, ss. 22 to 26.
1958	18	Gift-tax Act .	S. 2 amended	12, s. 27.
1958	27	Mineral Oils (Additional Duties of Excise and Customs) Act.	Ss. 3 and 5 amended	59, ss. 2 and 3.

PART II.—CENTRAL ORDINANCES AMENDED, REPEALED OR OTHERWISE AFFECTED

Year of Ordinance	No. of Ordinance	Short title of Ordinance	How affected	No. and section of 1959 Act by which affected
1	2	3	4	5
1944	38	Criminal Law Amendment Ordinance.	S. 2 amended (w.e.f. 26th January, 1950).	41, s. 2.
1944	42	Post Office National Savings Certificates Ordinance.	Repealed (w.e.f. 1st August, 1960).	46, s. 13.
1945	47	International Monetary Fund and Bank Ordinance.	Throughout the Ordinance, the word "Act" substituted for "Ordinance". Preamble and enacting formula amended. Ss. 2 and 7 amended.	25, s. 2. <i>Ibid.</i> , s. 3. <i>Ibid.</i> , ss. 4 and 5.

viii Table showing effect of Parliamentary Legislation of 1959

	1	2	3	4	5
1959	1	Indian Income-tax (Amendment) Or- dinance.	Repealed	.	I, s. 5.
1959	2	Public Wakfs (Ex- tension of Limita- tion) Ordinance.	Repealed	.	29, s. 4.
1959	3	Sugar (Special Excise Duty) Ordinance.	Repealed (w. e. f. 25th October, 1959).	.	58, s. 5.

PART III.—CONSTITUTION OF INDIA AND ORDERS AMENDED OR OTHERWISE
AFFECTED

A.—Constitution of India

How affected	No. and section of 1959 Act by which affected
1	2
First Schedule amended	47, s. 4.
First Schedule amended	56, s. 6.
Fourth Schedule amended	<i>Ibid.</i> , s. 8.

B.—Orders

Year of Order	No. of Order	Short title of Order	How affected	No. and section of 1959 Act by which affected
1	2	3	4	5
1954	19	Delimitation Com- mission's Final Order No. 19, dated the 4th October, 1954.	Table modified. Schedule modified.	56, s. 14 and Sch. VI. <i>Ibid.</i>

Table showing effect of Parliamentary Legislation of 1959 ix

	I	2	3	4	5
1956	..	Delimitation of Parliamentary and Assembly Constituencies Order.	First Schedule modified. Second Schedule <i>Ibid.</i> modified.	47, s. 5 and Sch. II.	
			First Schedule 56, s. 10 and modified.	56, s. 10 and modified.	Sch. IV.
			Second Schedule <i>Ibid.</i> , s. 13 and modified.	<i>Ibid.</i> , s. 13 and modified.	Sch. V.
1957	..	Delimitation of Council Constituencies (Madhya Pradesh) Order.	Table modified	47, s. 5 and Sch. II.	

PART IV.—STATE ACTS AND ORDINANCES AMENDED, REPEALED OR OTHERWISE AFFECTED

Year of Act or Ordinance	No. of Act or Ordinance	Short title of Act or Ordinance	How affected	No. and section of 1959 Act by which affected
I	2	3	4	5
<i>Andhra Pradesh</i>				
1944-F	5	Hyderabad Hindu Gains of Learning Act.	Repealed.	48, s. 4 and Sch. II.
1952	48	Hyderabad (Application of Central Acts) Act.	Repealed (partly).	48, s. 4 and Sch. II.
1958	23	Andhra Pradesh (Extension of Laws) Act.	Repealed (partly).	48, s. 4 and Sch. II.

x Table showing effect of Parliamentary Legislation of 1959

		I	2	3	4	5
<i>Bombay</i>						
1948	25	Saurashtra State (Application of Central and Bom- bay Acts) Ordin- nance.	Repealed (partly)	48, s. 4 and Sch. II.		
1950		Saurashtra State Banks (Amalgama- tion) Ordinance.	Long title, preamble and enacting for- mula substituted. Ss. 1, 1A and 4 to 8 substituted.	38, s. 64 and Sch. III.		
				Ss. 2 and 3 amended.	<i>Ibid.</i>	
1952	26	Saurashtra Dissolu- tion of Muslim Marriages Act.	Repealed.	48, s. 4 and Sch. II.		
<i>Kerala</i>						
1908	11	Travancore Muslim Succession Act.	Repealed.	48, s. 4 and Sch. II.		
1908	15	Cochin Muslim Suc- cession Act.	Repealed.	48, s. 4 and Sch. II.		
1914	18	Travancore Hindu Inheritance (Remo- val of Disabilities) Act.	Repealed.	48, s. 4 and Sch. II.		
1917	3	Travancore Hindu Gains of Learning Act.	Repealed.	48, s. 4 and Sch. II.		
1920	22	Cochin Muslim Mar- riages Dissolution Act.	Repealed.	48, s. 4 and Sch. II.		
1950	2	Travancore-Cochin Panchayats Act.	S. 57A inserted.	27, s. 6.		
1950	14	Travancore-Cochin Vehicles Taxation Act.	Schedule I amended (w.e.f. 24th Sep- tember, 1957).	42, s. 2.		

	1	2	3	4	5
<i>Kerala—contd.</i>					
1958	43	Municipal Laws (Amendment) Act.	Repealed (w.e.f. 1st September, 1959).	27, s. 7.	
1958	44	Madras District Municipalities (Amendment) Act.	Repealed (w.e.f. 1st September, 1959).	27, s. 7.	
1959	4	Travancore-Cochin Vehicles Taxation (Amendment and Validation) Ordinance.	Repealed	42, s. 4.	
<i>Madhya Pradesh</i>					
1953	1	Madhya Bharat (Adoption of Laws) Act, Samvat 2009.	Repealed (partly).	48, s. 4 and Sch. II.	
1956	14	Madhya Bharat Dissolution of Muslim Marriages Act.	Repealed.	48, s. 4 and Sch. II.	
<i>Madras</i>					
1914	1	Madras Hindu Transfers and Bequests Act.	Repealed.	48, s. 4 and Sch. II.	
<i>Mysore</i>					
1866	21	Mysore Converts' Marriage Dissolution Act.	Repealed as extended to Mysore.	48, s. 4 and Sch. II.	
1933	10	Mysore Hindu Law (Women's Rights) Act.	S. 6 repealed.	48, s. 4 and Sch. II.	
1938	5	Mysore Hindu Inheritance (Removal of Disabilities) Act.	Repealed.	48, s. 4 and Sch. II.	
1943	43	Mysore Dissolution of Muslim Marriages Act.	Repealed.	48, s. 4 and Sch. II.	

xii Table showing effect of Parliamentary Legislation of 1959

	1	2	3	4	5
<i>Rajasthan</i>					
1949	14	United State of Rajasthan Muslim Personal Law (<i>Shariat</i>) Application Ordinance.	Repealed.		48, s. 4 and Sch. II.
1950	4	Rajasthan (Adaptation of Central Laws) Ordinance.	Repealed, (partly).	48, s. 4 and Sch. II.	

PART V.—ACTS IN FORCE IN THE UNION TERRITORY OF DELHI AMENDED, REPEALED OR OTHERWISE AFFECTED

Year of Act	No. of Act	Short title of Act	How affected	No. and section of 1959 Act by which affected
1	2	3	4	5
1941	6	Bengal Finance (Sales Tax) Act.	Throughout the Act, the words "Union territory" substituted for "State" except in the expression "State Government", and the words "Central Government" substituted for "State Government" except in s. 25(3)(b). Ss. 2, 4, 5, 8, 8B, 11, <i>Ibid.</i> , ss. 3 to 5, 21, 21A, 22 and 26 amended, 7, 8, 10 to 13 and 16.	20, s. 2.
			Ss. 5A, 5B, 10A, 22A and 23A inserted.	<i>Ibid.</i> , ss. 6, 9, 14 and 15.
			S. 27 substituted .	<i>Ibid.</i> , s. 17.
			Third Schedule inserted.	<i>Ibid.</i> , s. 18.

Table showing effect of Parliamentary Legislation of 1959 xiii

1	2	3	4	5
1954	8	Delhi Land Reforms Act.	Ss. 1, 3, 5, 7, 11, 15, 18, 26, 28, 45, 88, 150, 153, 187 and 191. S. 16A inserted Ss. 33 and 151 substituted. Sch. I amended	4, ss. 2 to 7, 9 to 11, 13 to 15 and 17 to 19. <i>Ibid.</i> , s. 8. <i>Ibid.</i> , ss. 12 and 16. <i>Ibid.</i> , s. 20.
1955	3	Delhi Panchayat Raj Act, 1954.	Ss. 2, 8, 16, 18, 30, 41, 42, 44, 45, 49 to 51, 53, 62 to 66, 68, 71, 72, 74, 75, 77, 88 and 102 amended. Ss. 4 to 6, 56, 67, 69, 70, 76 and 80 substituted. S. 9 omitted. Ss. 53A, 53B, 53C, 53D, 53E, 53F, 53G, 53H, 53I, 53J, 75A and 83A inserted.	9, ss. 2, 4, 6 to 15, 18, 19, 21 to 24, 29 and 30. <i>Ibid.</i> , ss. 3, 17, 20, 26 and 27. <i>Ibid.</i> , s. 5. <i>Ibid.</i> , ss. 16, 25 and 28.

THE RESERVE BANK OF INDIA (AMENDMENT)

ACT, 1959

No. 14 OF 1959

[1st May, 1959]

An Act further to amend the Reserve Bank of India Act, 1934.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Q/ Short title

Insertion of
new section
28A in Act
2 of 1934.

Issue of
special bank
notes and
special one
rupee notes
in certain
cases.

1. This Act may be called the Reserve Bank of India (Amendment) Act, 1959.

2. After section 28 of the Reserve Bank of India Act, 1934, the following section shall be inserted, namely:—

'28A. (1) For the purpose of controlling the circulation of bank notes without India, the Bank may, notwithstanding anything contained in any other provision of this Act, issue bank notes of such design, form and material as may be approved under sub-section (3) (hereinafter in this section referred to as special bank notes) of the denominational values of five rupees, ten rupees and one hundred rupees.

(2) For the purpose of controlling the circulation of Government of India one rupee notes without India, the Central Government may, notwithstanding anything contained in any other provision of this Act or in the Currency Ordinance, 1940, issue Government of India notes of the denominational value of one rupee of such design, form and material as may be adopted under sub-section (3) (hereinafter in this section referred to as special one rupee notes).

(3) The design, form and material of the special bank notes shall be such as may be approved by the Central Government after consideration of the recommendations made by the Governor and of the special one rupee notes shall be such as the Central Government may think fit to adopt.

(4) Neither the special bank notes nor the special one rupee notes shall be legal tender in India.

(5) The special one rupee note shall be deemed to be included in the expression "rupee coin" for all the purposes of this Act except section 39, but shall be deemed not to be a currency note for any of the purposes of this Act.

(6) Where a special bank note is on its face expressed to be payable at a specified office or branch of the Bank, the obligation imposed by section 39 shall be only on the specified office or branch and, further, shall be subject to such regulations as may be made under this section.

(7) The Bank may, with the previous sanction of the Central Government, make regulations to provide for all matters for which provisions is necessary or convenient for the purpose of giving effect to the provisions of this section, and, in particular, the manner in which, and the conditions or limitations subject to which—

(i) bank notes and one rupee notes in circulation in any country outside India may be replaced by special notes issued under this section;

(ii) any such special notes may be exchanged for any other bank notes or one rupee notes.'

THE INDIAN LIGHTHOUSE (AMENDMENT) ACT, 1959

No. 16 OF 1959

[8th May, 1959]

An Act further to amend the Indian Lighthouse Act, 1927.

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

Short title. 1. This Act may be called the Indian Lighthouse (Amendment) Act, 1959.

Amendment of section 10. 2. In sub-section (1) of section 10 of the Indian Lighthouse Act, 1927, for the words "four annas", the words "fifty naye paise" shall be substituted.

THE COAL GRADING BOARD (REPEAL) ACT, 1959

No. 17 OF 1959

[9th May, 1959]

An Act to repeal the Coal Grading Board Act, 1925, and to provide for certain matters incidental thereto.

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

1. (1) This Act may be called the Coal Grading Board (Repeal) Act, 1959. Short title and commencement.

(2) 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) "appointed day" means the date on which this Act comes into force;

^{12 of 1952.} (b) "Coal Board" means the Coal Board established under section 4 of the Coal Mines (Conservation and Safety) Act, 1952;

^{31 of 1925.} (c) "Coal Grading Board" means the Coal Grading Board constituted under section 3 of the Coal Grading Board Act, 1925.

^{31 of 1925.} 3. On the appointed day, the Coal Grading Board Act, 1925, shall stand repealed, and the Coal Grading Board shall stand dissolved. Repeal of Act 31 of 1925 and dissolution of Coal Grading Board.

4. (1) All moneys and other property, of whatever kind, owned by or vested in, the Coal Grading Board immediately before the appointed day and all debts, liabilities and obligations of that Board then existing shall, on the appointed day, stand transferred to and vested in the Coal Board. Consequential provisions.

^{12 of 1952.} (2) Anything done or any action taken before the appointed day by the Coal Grading Board shall, so far as it is not inconsistent with any of the provisions of the Coal Mines (Conservation and Safety) Act, 1952, or the rules made thereunder, be as valid and effectual as if it had been done or taken by the Coal Board.

¹14th August, 1959, vide S. O. 1771, dt. 7-8-59, see Gazette of India, 1959, Ex., Pt. II, Sec. 3(ii), p-439.

THE APPROPRIATION (No. 3) ACT, 1959

No. 18 OF 1959

[12th May, 1959]

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services during the financial year ended on the 31st day of March, 1956, in excess of the amounts granted for those services and for that year.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Appropriation (No. 3) Act, 1959.

Issue of Rs. 1,07,16,271
out of the Consolidated Fund of India to meet certain excess expenditure for the year ended on the 31st March, 1956.

2. From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of one crore, seven lakhs, sixteen thousand, two hundred and seventy-one rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of the services specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1956, in excess of the amounts granted for those services and for that year.

Appropriation.

3. The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1956.

[ACT 18 OF 1959]

Appropriation (No. 3)

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THE SCHEDULE

(See sections 2 and 3)

1 No. of Vote	Services and purposes	3		
		Voted Portion	Excess Charged Portion	Total
6	Indian Posts and Telegraphs Departments	Rs. 1,01,173	..	Rs. 1,01,173
24	Miscellaneous Expenditure under the Ministry of External Affairs	19,772	..	19,772
30	Stamps	11,95,551	..	11,95,551
39	Miscellaneous Adjustments between the Union and State Governments	76,147	..	76,147
40	Pre-partition Payments	..	1,25,305	1,25,305
51	Cabinet	58,742	..	58,742
62	Ministry of Information and Broadcasting	4,16,808	..	4,16,808
64	Miscellaneous Departments and Expenditure under the Ministry of Information and Broadcasting	2,57,163	..	2,57,163
86	Salt	..	8,950	8,950
88	Government Collieries	..	51,432	51,432
97	Communications (including National Highways)	68,994	..	68,994
100	Supplies	..	3,117	3,117
101	Other Civil Works	77,86,191	4,96,225	82,82,416
	CHARGED—Staff Household and Allowances of the President	..	238	238
	CHARGED—Union Public Service Commission	..	2,991	2,991
117	Commuted Value of Pensions	..	47,472	47,472
	TOTAL	99,80,541	7,35,730	1,07,16,271

THE APPROPRIATION (RAILWAYS) No. 3 ACT, 1959

No. 19 OF 1959

[12th May, 1959]

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1959-60 for the purposes of Railways.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Appropriation (Railways) No. 3 Act, 1959.

Issue of Rs. 21,00,000 out of the Consolidated Fund of India for the financial year 1959-60. 2. From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of twenty-one lakh rupees towards defraying the several charges which will come in course of payment during the financial year 1959-60, in respect of the services relating to railways specified in column 2 of the Schedule.

Appropriation. 3. The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

[ACT 19 OF 1959]

Appropriation (Railways) No. 3

125

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	Total
		Rs.	Rs.	Rs.
2	Miscellaneous Expenditure.	3,00,000	..	3,00,000
15	Construction of New Lines.	18,00,000	..	18,00,000
	Total	21,00,000	..	21,00,000

THE BENGAL FINANCE (SALES TAX) (DELHI
AMENDMENT) ACT, 1959

No. 20 OF 1959

[12th May, 1959]

An Act further to amend the Bengal Finance (Sales Tax) Act
1941, as in force in the Union territory of Delhi.

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

Short title and commencement. 1. (1) This Act may be called the Bengal Finance (Sales Tax)
(Delhi Amendment) Act, 1959.

(2) It shall come into force on such date¹ as the Chief Commissioner, Delhi, may, by notification in the Official Gazette, appoint.

Amendment of reference to State and State Government. 2. Throughout the Bengal Finance (Sales Tax) Act, 1941, as in force in the Union territory of Delhi (hereinafter referred to as the ^{Bengal} ~~VL of 1941~~ principal Act), unless otherwise expressly stated,—

(a) for the word "State" except where it occurs in the expression "State Government", the words "Union territory" shall be substituted;

(b) for the words "State Government", except in clause (b) of sub-section (3) of section 25, the words "Central Government" shall be substituted.

Amendment of section 2. 3. In section 2 of the principal Act,—

(a) clause (b) shall be omitted;

(b) in clause (d),—

(i) after the words "does not include", the word "newspapers" shall be inserted;

(ii) the *Explanation* shall be omitted;

(c) for clause (g), the following clause shall be substituted, namely:—

(g) "sale", with its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or for deferred payment or for any other valuable consideration, and includes a

¹1st October, 1959, *vide* Delhi Administration Notfn. No. F. 4(54)/59 Fin. (E) (ii), dt. 24-9-59.

transfer of goods on hire-purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of or a charge or pledge on goods.

Explanation.—A sale or purchase of goods shall be deemed to take place inside the Union territory of Delhi if the goods are within that territory—

(i) in the case of specific or ascertained goods, at the time the contract of sale is made; and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer, whether assent of the other party is prior or subsequent to such appropriation;

(d) for clause (h), the following clause shall be substituted, namely:—

(h) "sale price" means the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof other than the cost of freight or delivery or the cost of installation in cases where such cost is separately charged;

4. In section 4 of the principal Act,—

A mendment
of section 4.

(a) in sub-section (1),—

(i) the first proviso shall be omitted;

(ii) in the second proviso, the word "further" shall be omitted and for the word "Schedule", the words "Second Schedule" shall be substituted;

(b) after sub-section (4A), the following sub-section shall be inserted, namely:—

"(4B) Every dealer shall, notwithstanding that he is not liable to pay tax under any of the sub-sections (1) to (4A), be liable to pay tax under this Act so long as he is registered under the Central Sales Tax Act, 1956, on all sales effected by him or on his behalf within the Union territory of Delhi on or after the date of his liability or the date of his registration, whichever is earlier, under the Central Sales Tax Act aforesaid.";

(c) for clause (a) of sub-section (5), the following clause shall be substituted, namely:—

"(a) in relation to any dealer who imports for sale any goods into the Union territory of Delhi or manufac-

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tures or produces any goods for sale, regardless of the
value of the goods imported, manufactured or produced,
ten thousand rupees;".

Amendment
of section 5.

5. In section 5 of the principal Act,—

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

"(1) The tax payable by a dealer under this Act shall
be levied,—

(a) in the case of taxable turnover in respect of
the goods specified in the First Schedule, at the rate of
seven *naye paise* in the rupee;

(b) in the case of taxable turnover in respect of
the goods specified in the Third Schedule, at the rate
of two *naye paise* in the rupee;

(c) in the case of taxable turnover in respect of
any other goods, at the rate of four *naye paise* in the
rupee:

Provided that the Chief Commissioner, with the pre-
vious approval of the Central Government, may, by notifica-
tion in the Official Gazette, add to, or omit from, or
otherwise amend the First and the Third Schedules:

Provided further that if in respect of any goods or
class of goods the Chief Commissioner is of opinion that
it is expedient in the interest of the general public so to
do, the Chief Commissioner, with the previous approval
of the Central Government, may, by notification in the
Official Gazette, direct that the tax in respect of the tax-
able turnover of such goods or class of goods shall, subject
to such conditions as may be specified, be levied at such
modified rate not exceeding the rate applicable under this
sub-section as may be specified in the notification.";

(b) in sub-section (2),—

(1) for sub-clause (ii) of clause (a), the following
sub-clause shall be substituted, namely:—

"(ii) sales to a registered dealer—

of goods of the class or classes specified in the
certificate of registration of such dealer, as being
intended for re-sale by him, or for use by him as
raw materials in the manufacture of goods for
sale; and

of containers or other materials for the packing of goods of the class or classes so specified for sale:

Provided that in the case of such sales a declaration duly filled up and signed by the registered dealer to whom the goods are sold and containing the prescribed particulars on a prescribed form obtainable from the prescribed authority is furnished in the prescribed manner by the dealer who sells the goods:

Provided further that where any goods specified in the certificate of registration are purchased by a registered dealer as being intended for re-sale by him or for use by him as raw materials in the manufacture of goods for sale, but are utilised by him for any other purpose, the price of the goods so purchased shall be allowed to be deducted from the gross turnover of the selling dealer but shall be included in the taxable turnover of the purchasing dealer;"

(2) the word "and" at the end of clause (a) and clause (b) shall be omitted.

6. After section 5 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 5A and 5B.

"5A. Notwithstanding anything to the contrary in this Act, the Chief Commissioner may, by notification in the Official Gazette, specify the point in the series of sales by successive dealers at which any goods or class of goods may be taxed.

5B. The burden of proving that in respect of any sale effected by a dealer he is not liable to pay tax under this Act shall lie on him."

7. In section 8 of the principal Act, in sub-section (1), for the word "Schedule", the words "Second Schedule" shall be substituted. Amendment of section 8.

8. In section 8B of the principal Act, in sub-section (1), the brackets and letter "(a)" and the words, brackets and letter "or (b)" executing contracts the value of which is likely to exceed thirty thousand rupees per year," shall be omitted.

9. After section 10 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 10A.

"10A. No person who is not a registered dealer shall collect in respect of any sale by him of goods in the Union territory of Delhi any amount by way of tax under this Act, and no dealers.

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registered dealer shall make any such collection except in accordance with this Act and the rules made thereunder.]

Amendment
of section
11.

10. In section 11 of the principal Act,—

(a) to sub-section (2a), the following proviso shall be added, namely:—

“Provided that where such assessment is made in consequence of or to give effect to any order of an appellate or revisional authority or of a court, the period of four years or six years, as the case may be, shall be reckoned from the date of such order.”;

(b) in sub-section (3), after the words “under any of the provisions of this section”, the words, figures and letter “or section 22A” shall be inserted;

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

“(3a) When a dealer is in default in making a payment of the tax, the Commissioner or any person appointed to assist him under sub-section (1) of section 3, may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the dealer by way of penalty.”.

Amendment
of section 21.
11. In sub-section (1) of section 21 of the principal Act, for the words “such dealer may, by application in writing accompanied by a fee of one hundred rupees”, the words “such dealer or the Commissioner may, by application in writing, and accompanied in the case of an application by a dealer by a fee of one hundred rupees,” shall be substituted.

Amendment
of section
21A.
12. Section 21A of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit, any books of account or other documents produced before it, in any proceedings under this Act:

Provided that a person appointed to assist the Commissioner under sub-section (1) of section 3 shall not—

(a) impound any books of account or other documents without recording his reasons for so doing; or

(b) retain in his custody any such books or documents for a period exceeding thirty days without obtaining the approval of the Commissioner therefor."

13. In sub-section (1) of section 22 of the principal Act,—
(a) after clause (d), the following clause shall be inserted, namely:—

"(dd) contravenes the provisions of section 10A; or";
(b) in the proviso, after the word and figures "section 11", the words, figures and letter "or section 22A" shall be inserted.

14. After section 22 of the principal Act, the following section shall be inserted, namely:—
Insertion of new section 22A.

"22A. (1) If the Commissioner or any person appointed under sub-section (1) of section 3 to assist him, in the course of any proceedings under this Act is satisfied that a dealer has concealed the particulars of his sales or has furnished inaccurate particulars of his sales and has thereby returned figures below the real amount, he may, after giving the dealer a reasonable opportunity of being heard, direct that the dealer shall, in addition to the tax payable by him under this Act, pay, by way of penalty, a sum not exceeding one and a half times the amount of tax which would have been avoided if the figures returned by the dealer were accepted as correct.
Penalty for concealment of sales or furnishing inaccurate particulars or making false representations.

(2) If any person purchasing goods is guilty of an offence under clause (c) or clause (d) of sub-section (1) of section 22, the authority which granted to him or as the case may be, is competent to grant to him a certificate of registration under this Act may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times the tax which would have been levied under this Act in respect of the sale to him of the goods, if the offence had not been committed."

15. After section 23 of the principal Act, the following section shall be inserted, namely:—
Insertion of new section 23A.

"23A. (1) The Chief Commissioner may, by notification in the Official Gazette, set up check-posts or barriers at any place in the Union territory of Delhi with a view to preventing evasion of sales tax and other dues payable under this Act.
Setting up of check-posts and barriers.

(2) Every person transporting such goods as may be notified shall, at any check-post or barrier referred to in sub-section (1), file before such officer as may be authorised by the Chief Commissioner in this behalf a declaration in such form and in such manner as may be prescribed.

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(3) The officer authorised by the Chief Commissioner under sub-section (2) or any other officer who may be authorised in this behalf may, for the purpose of satisfying himself that the provisions of sub-section (2) are not being contravened, and subject to such restrictions as may be prescribed, intercept and search any vehicle which may be suspected of contravening the said provisions.”.

Amendment
of section 26.

16. In section 26 of the principal Act,—

- (i) in sub-section (2), clauses (a), (aa) and (c) shall be omitted;
- (ii) after sub-section (3), the following sub-section shall be added, namely:—

“(4) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.”.

Substitution
of new sec.
tion for sec.
tion 27.

17. For section 27 of the principal Act, the following section shall be substituted, namely:—

Savings.

“27. Nothing in this Act or the rules made thereunder shall be deemed to impose, or authorise the imposition of a tax on any sale or purchase of any goods when such sale or purchase takes place—

- (i) in the course of inter-State trade or commerce;
- (ii) outside the Union territory of Delhi; or
- (iii) in the course of import of the goods into, or export of the goods out of, the territory of India.

Explanation.—Sections 3, 4 and 5 of the Central Sales Tax Act, 1956, shall apply for determining whether or not a particular sale or purchase takes place in the manner indicated in clause (i), clause (ii) or clause (iii).".

Insertion of
new Third Schedule
Schedule.

18. After the Second Schedule to the principal Act, the following

“THE THIRD SCHEDULE

[See section 5(1) (b)]

1. Coal including coke in all its forms.
2. Cotton as defined in section 14 of the Central Sales Tax Act, 1956.

74 of 1956.

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74 of 1956.

3. Iron and steel as defined in section 14 of the Central Sales Tax Act, 1956.

74 of 1956.

4. Jute as defined in section 14 of the Central Sales Tax Act, 1956.

74 of 1956.

5. Oil-seeds as defined in section 14 of the Central Sales Tax Act, 1956.".

THE DISPLACED PERSONS (COMPENSATION AND
REHABILITATION) AMENDMENT ACT, 1959

NO. 21 OF 1959

[19th May, 1959]

An Act further to amend the Displaced Persons (Compensation and Rehabilitation) Act, 1954.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Displaced Persons (Compensation and Rehabilitation) Amendment Act, 1959.

Amendment of section 30. 2. Section 30 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, shall be re-numbered as sub-section (1) thereof, ~~44 of 1954.~~ and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1) if the Chief Settlement Commissioner is of opinion that a person is refusing or neglecting, or has refused or neglected, to pay any sum due under this Act, he may, after giving such person an opportunity of being heard, by order in writing stating the grounds therefor, direct that the provisions of sub-section (1) shall not apply to him, and thereupon such person shall cease to be entitled to the exemption conferred by that sub-section.”

THE CENSUS (AMENDMENT) ACT, 1959

No. 22 OF 1959

[19th May, 1959]

An Act further to amend the Census Act, 1948.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. This Act may be called the Census (Amendment) Act, 1959. Short title.

37 of 1948. 2. In sub-section (2) of section 1 of the Census Act, 1948 (hereinafter referred to as the principal Act), the words "except the State of Jammu and Kashmir" shall be omitted. Amendment of section 1.

45 of 1860. 3. After section 1 of the principal Act, the following section shall be inserted, namely:—
1 of 1872.

“2. Any reference in this Act to the Indian Penal Code or Rule of the Indian Evidence Act, 1872, shall, in relation to the State of Jammu and Kashmir, be construed as a reference to the corresponding enactment in force in that State.”

Insertion of new section 2.

Rule of construction respecting enactments not extending to Jammu and Kashmir.

THE COST AND WORKS ACCOUNTANTS ACT, 1959

ARRANGEMENT OF SECTIONS

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THE FIRST SCHEDULE.

THE SECOND SCHEDULE.

THE COST AND WORKS ACCOUNTANTS ACT, 1959

No. 23 OF 1959

[19th May, 1959]

An Act to make provision for the regulation of the profession of cost and works accountants.

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Cost and Works Accountants Act, 1959. Short title,
extent and
commencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint. ⑥

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

Definitions
and inter-
pretation.

(a) "associate" means an associate member of the Institute;

(b) "cost accountant" means a person who is a member of the Institute;

(c) "Council" means the Council of the Institute;

(d) "dissolved company" means the Institute of Cost and Works Accountants registered under the Companies Act, 1956;

(e) "fellow" means a fellow of the Institute;

(f) "Institute" means the Institute of Cost and Works Accountants of India constituted under this Act;

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

(h) "President" means the President of the Council;

¹28th May, 1959, vide G.S.R. 610, dt. 25-5-59, See Gazette of India, Pt. II See. 3 (i), p. 259.

(i) "Register" means the Register of members maintained under this Act;

(j) "Vice-President" means the Vice-President of the Council;

(k) "year" means the period commencing on the 1st day of April of any year and ending on the 31st day of March of the succeeding year.

(2) Save as otherwise provided in this Act, a member of the Institute shall be deemed "to be in practice" when, individually or in partnership with one or more members of the Institute in practice, he, in consideration of remuneration received or to be received,—

(i) engages himself in the practice of cost and works accountancy; or

(ii) offers to perform or performs services involving the costing or pricing of goods or services or the preparation, verification or certification of cost accounting and related statements or holds himself out to the public as a cost accountant in practice; or

(iii) renders professional services or assistance in or about matters of principle or detail relating to cost accounting procedure or the recording, presentation or certification of costing facts or data; or

(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a cost accountant in practice;

and the words "to be in practice", with their grammatical variations and cognate expressions, shall be construed accordingly.

Explanation.—A member of the Institute who is a whole-time salaried employee of any person shall not be deemed to be in practice within the meaning of this sub-section.

CHAPTER II

THE INSTITUTE OF COST AND WORKS ACCOUNTANTS

Incorpora-
tion of the
Institute.

3. (1) All persons whose names are entered in the Register at the commencement of this Act and all persons who may hereafter have their names entered in the Register under the provisions of this Act, so long as they continue to have their names borne on the said Register, are hereby constituted a body corporate by the name of the

Institute of Cost and Works Accountants of India, and all such persons shall be known as members of the Institute.

(2) The Institute shall have perpetual succession and a common seal, and shall have power to acquire, hold and dispose of property, both movable and immovable, and shall by its name sue or be sued.

4. (1) Any of the following persons shall be entitled to have his name entered in the Register, namely:

Entry of
names in the
Register.

(i) any person who was an associate or a fellow of the dissolved company (other than an honorary associate or honorary fellow thereof) immediately before the commencement of this Act, except any such person who is not a permanent resident of India and is not at such commencement practising as a cost accountant in India;

(ii) any person who has passed such examination and completed such training as may be prescribed for members of the Institute;

(iii) any person who, at the commencement of this Act, is engaged in the practice of cost accountancy in India and who fulfils such conditions as the Central Government or the Council may specify in this behalf;

(iv) any person who has passed such other examination and completed such other training without India as is recognised by the Central Government or the Council as being equivalent to the examination and training prescribed for members of the Institute:

Provided that in the case of any person who is not permanently residing in India, the Central Government or the Council may impose such further conditions as it may deem fit;

(v) any person domiciled in India, who at the commencement of this Act is studying for any foreign examination and is at the same time undergoing training, whether within or without India, or, who, having passed such examination, is at such commencement undergoing training whether within or without India:

Provided that such foreign examination and training are recognised by the Central Government or the Council in this behalf:

Provided further that the person passes the examination and completes his training within five years from the commencement of this Act.

(2) Every person belonging to the class mentioned in clause (i) of sub-section (1) shall have his name entered in the Register without the payment of any entrance fee.

(3) Every person belonging to any of the classes mentioned in clauses (ii), (iii), (iv) and (v) of sub-section (1) shall have his name entered in the Register on application being made and granted in the prescribed manner and on payment of the prescribed entrance fee, which shall not exceed rupees three hundred in any case.

(4) The Central Government shall take such steps as may be necessary for the purpose of having the names of all persons belonging to the class mentioned in clause (i) of sub-section (1) entered in the Register at the commencement of this Act.

Fellows and Associates. 5. (1) The members of the Institute shall be divided into two classes designated respectively as associates and fellows.

(2) Any person other than a person to whom the provisions of sub-section (3) apply shall, on his name being entered in the Register, be deemed to have become an associate member of the Institute and so long as his name remains so entered, shall be entitled to use the letters AICWA after his name to indicate that he is an associate member of the Institute of Cost and Works Accountants.

(3) Any person who was a fellow of the dissolved company and who is entitled to have his name entered in the Register under clause (i) of sub-section (1) of section 4, shall be entered in the Register as a fellow of the Institute.

(4) A member, being an associate who has been in continuous practice in India for at least five years, whether before or after the commencement of this Act, or whether partly before and partly after the commencement of this Act, and a member who has been an associate for a continuous period of not less than five years and who possesses such qualifications as the Council may prescribe with a view to ensuring that he has experience equivalent to the experience normally acquired as a result of continuous practice for a period of five years as a cost accountant shall, on payment of the prescribed entrance fee, which shall not exceed rupees two hundred in any case, and on application made and granted in the prescribed manner, be entered in the Register as a fellow of the Institute.

Explanation I.—For the purposes of this sub-section, a person shall be deemed to have practised in India for any period for which he has held a certificate of practice under section 6, notwithstanding that he did not actually practise during that period.

Explanation 11.—In computing the continuous period during which a person has been an associate of the Institute, there shall be included any continuous period during which the person has been an associate of the dissolved company immediately before he became an associate of the Institute.

(5) Any person whose name is entered in the Register as a fellow of the Institute and so long as his name remains so entered, shall be entitled to use the letters FICWA after his name to indicate that he is a fellow of the Institute of Cost and Works Accountants.

6. (1) No member of the Institute shall be entitled to practise, Certificate of whether in India or elsewhere, unless he has obtained from the practice Council a certificate of practice.

(2) Every such member shall make application in such form and pay such annual fee, for his certificate as may be prescribed, and such fee shall be payable on or before the 1st day of April in each year:

Provided that if a member of the Institute who was in practice immediately before the commencement of this Act has made within one month of such commencement an application for the grant of certificate of practice, he shall not be deemed to have contravened the provisions of sub-section (1) by reason of his having practised during the period between such commencement and the disposal of the application.

7. Every member of the Institute in practice shall, and any other member may, use the designation of a cost accountant and no member using such designation shall use any other description, whether in addition thereto or in substitution therefor:

Provided that nothing in this section shall be deemed to prohibit any such member from adding any other description or letters to his name, if entitled thereto, to indicate membership of such other Institute of accountancy, whether in India or elsewhere, as may be recognised in this behalf by the Council, or any other qualification that he may possess, or to prohibit a firm, all the partners of which are members of the Institute and in practice, from being known by its firm name as cost accountants.

8. Notwithstanding anything contained in section 4, a person shall not be entitled to have his name entered in, or borne on, the Register if he—

(i) has not attained the age of twenty-one years at the time of his application for the entry of his name in the Register; or

- (ii) is of unsound mind and stands so adjudged by a competent court; or
- (iii) is an undischarged insolvent; or
- (iv) being a discharged insolvent, has not obtained from the court a certificate stating that his insolvency was caused by misfortune without any misconduct on his part; or
- (v) has been convicted by a competent court whether within or without India, of an offence involving moral turpitude and punishable with imprisonment or of an offence, not of a technical nature, committed by him in his professional capacity unless in respect of the offence committed he has either been granted a pardon or, on an application made by him in this behalf, the Central Government has, by an order in writing removed the disability; or
- (vi) has been removed from membership of the Institute on being found on inquiry to have been guilty of professional or other misconduct:

Provided that a person who has been removed from membership for a specified period, shall not be entitled to have his name entered in the Register until the expiry of such period.

CHAPTER III

COUNCIL OF THE INSTITUTE

Constitution of the Council of the Institute 9. (1) There shall be a Council of the Institute for the management of the affairs of the Institute and for discharging the functions assigned to it by or under this Act.

(2) The Council shall be composed of—

(a) not more than twelve persons elected by members of the Institute from amongst the fellows of the Institute chosen in such manner and from such regional constituencies as may be specified in this behalf by the Central Government by notification in the Official Gazette; and

(b) not more than four persons nominated by the Central Government.

Mode of election to Council. 10. (1) Elections under clause (a) of sub-section (2) of section 9 shall be conducted in the prescribed manner:

Provided that the first election under the said clause shall be held in such manner as the Central Government may specify in this behalf.

(2) Where any dispute arises regarding any such election, the matter shall be referred by the Council to a Tribunal appointed by

the Central Government in this behalf and the decision of such Tribunal shall be final:

Provided that no such reference shall be made except on an application made to the Council by an aggrieved party within thirty days from the date of the declaration of the result of the election.

(3) The expenses of the Tribunal shall be borne by the Council.

11. If the members of the Institute fail to elect any member under clause (a) of sub-section (2) of section 9 from any of the regional constituencies that may be specified under that clause, the Central Government may nominate any duly qualified person from such constituency to fill the vacancy, and any person so nominated shall be deemed to be a duly elected member of the Council.

12. (1) The Council at its first meeting shall elect two of its members to be respectively the President and the Vice-President thereof, and so often as the office of the President or the Vice-President becomes vacant, the Council shall choose a person to be the President or the Vice-President, as the case may be:

Provided that on the first constitution of the Council a member of the Council nominated in this behalf by the Central Government shall discharge the functions of the President, until such time as a President is elected under the provisions of this sub-section.

(2) The President shall be the Chief Executive Authority of the Council.

(3) The President or the Vice-President shall hold office for a period of one year from the date on which he is chosen but so as not to extend beyond his term of office as a member of the Council, and, subject to his being a member of the Council at the relevant time, he shall be eligible for re-election:

Provided that the President of the Council at the time of the expiration of its duration shall continue to hold office until a new Council is constituted in accordance with the provisions of this Act.

13. (1) Any member of the Council may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall become vacant when such resignation is notified in the Official Gazette.

(2) A member of the Council shall be deemed to have vacated his seat if he is declared by the Council to have been absent without sufficient excuse from three consecutive meetings of the Council, or if his name is, for any cause, removed from the Register under the provisions of section 20.

(3) A casual vacancy in the Council shall be filled by fresh election from the constituency concerned or by nomination by the Central Government, as the case may be, and the person elected or nominated to fill the vacancy shall hold office until the dissolution of the Council:

Provided that no election shall be held to fill a casual vacancy occurring within six months prior to the date of the expiration of the duration of the Council, but such a vacancy may be filled by nomination by the Central Government after consultation with the President of the Council.

(4) No act done by the Council shall be called in question on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Council.

**Duration
and
dissolution
of Council.**

14. (1) The duration of any Council constituted under this Act shall be three years from the date of its first meeting.

(2) Notwithstanding the expiration of the duration of a Council (hereinafter referred to as the former Council), the former Council shall continue to exercise its functions under this Act until a new Council is constituted in accordance with the provisions of this Act, and on such constitution, the former Council shall stand dissolved.

**Functions of
the Council.** 15. (1) The duty of carrying out the provisions of this Act shall be vested in the Council.

(2) In particular, and without prejudice to the generality of the foregoing power, the duties of the Council shall include—

(a) the examination of candidates for enrolment and the prescribing of fees therefor;

(b) the registration and training of students;

(c) the prescribing of qualifications for entry in the Register;

(d) the recognition of foreign qualifications and training for purposes of enrolment;

(e) the granting or refusal of certificates of practice under this Act;

(f) the maintenance and publication of a Register of persons qualified to practise as cost accountants;

- (g) the levy and collection of fees from members, examinees and other persons;
- (h) the removal of names from the Register and restoration to the Register of names which have been removed;
- (i) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;
- (j) the carrying out, by financial assistance to persons other than members of the Council or in any other manner, of research in accountancy;
- (k) the maintenance of libraries and publication of books and periodicals relating to cost accountancy and allied subjects; and
- (l) the exercise of disciplinary powers conferred by this Act.

16. (1) For the efficient performance of its duties, the Council Staff, may—
remuneration and allowances.

- (a) appoint a Secretary who may also, if so decided by the Council, act as Treasurer;
- (b) appoint such other persons on its staff as it deems necessary;
- (c) require and take from the Secretary or from any other employee of the Council such security for the due performance of his duties as the Council considers necessary;
- (d) fix the salaries, fees, allowances and other conditions of service of the Secretary and other employees of the Council;
- (e) with the previous sanction of the Central Government fix the allowances of the President, Vice-President and other members of the Council and its Committees.

(2) The Secretary of the Council shall be entitled to participate in the meetings of the Council and the Committees thereof but shall not be entitled to vote thereat.

17. (1) The Council shall constitute from amongst its members the following Standing Committees, namely:— Committees of the Council.

- (i) an Executive Committee;
- (ii) a Disciplinary Committee; and
- (iii) an Examination Committee.

(2) The Council may also form a Training and Educational Facilities Committee and such other Committees from amongst its members as it deems necessary for the purpose of carrying out the provisions of this Act.

(3) The Executive Committee shall consist of the President, and the Vice-President, *ex officio*, and three other members of the Council elected by the Council.

(4) The Disciplinary Committee shall consist of the President, *ex officio*, one member to be nominated by the Central Government from amongst the members nominated to the Council by that Government and one member to be elected by the Council.

(5) The Examination Committee shall consist of the President or the Vice-President, *ex officio*, as the Council may decide, and two other members of the Council elected by the Council.

(6) Notwithstanding anything contained in this section, any Committee formed under sub-section (2), may, with the sanction of the Council, co-opt such other members of the Institute not exceeding two-thirds of the total membership of the Committee as the Committee thinks fit, and any member so co-opted shall be entitled to exercise all the rights of a member of the Committee.

(7) The President shall be the Chairman of every Committee of which he is a member, and in his absence, the Vice-President, if he is a member of the Committee, shall be the Chairman.

(8) The Standing Committees and other Committees formed under this section shall exercise such functions and be subject to such conditions in the exercise thereof as may be prescribed.

Finances of the Council. 18. (1) There shall be established a fund under the management and control of the Council into which shall be paid all moneys received by the Council and out of which shall be met all expenses and liabilities properly incurred by the Council.

(2) The Council may invest any money for the time being standing to the credit of the fund in any Government security or in any other security approved by the Central Government.

(3) The Council shall keep proper accounts of the funds distinguishing capital from revenue.

(4) The annual accounts of the Council shall be subject to audit by a chartered accountant in practice within the meaning of the Chartered Accountants Act, 1949, to be appointed annually by the ^{38 of 1949.} Council:

Provided that no member of the Council who is a chartered accountant or a person who is in partnership with such member shall be eligible for appointment as an auditor under this sub-section.

(5) As soon as may be practicable at the end of each year, but not later than the 30th day of September of the year next following,

the Council shall cause to be published in the Gazette of India a copy of the audited accounts and the Report of the Council for that year and copies of the said accounts and Report shall be forwarded to the Central Government and to all the members of the Institute.

^{z of 1934.} (6) The Council may borrow from a scheduled bank as defined in the Reserve Bank of India Act, 1934, or from the Central Government—

- (a) any money required for meeting its liabilities on capital account on the security of the fund or on the security of any other assets for the time being belonging to it; or
- (b) for the purpose of meeting current liabilities pending the receipt of income by way of temporary loan or over-draft.

CHAPTER IV

REGISTER OF MEMBERS

19. (1) The Council shall maintain in the prescribed manner a Register of the members of the Institute.

(2) The Register shall include the following particulars about every member of the Institute, namely:—

- (a) his full name, date of birth, domicile, residential and professional addresses;
- (b) the date on which his name is entered in the Register;
- (c) his qualifications;
- (d) whether he holds a certificate of practice; and
- (e) any other particulars which may be prescribed.

(3) The Council shall cause to be published in such manner as may be prescribed a list of members of the Institute as on the 1st day of April of each year, and shall, if requested to do so by any such member, send him a copy of such list.

(4) Every member of the Institute shall, on his name being entered in the Register, pay such annual membership fee differing in amount according as he is an associate or a fellow as may be prescribed.

20. (1) The Council may remove from the Register the name of any member of the Institute,—

Removal
from the
Register.

- (a) who is dead; or

(b) from whom a request has been received to that effect;
or

(c) who has not paid any prescribed fee required to be paid by him; or

(d) who is found to have been subject at the time when his name was entered in the Register, or who at any time thereafter has become subject, to any of the disabilities mentioned in section 8, or who for any other reason has ceased to be entitled to have his name borne on the Register.

(2) The Council shall remove from the Register the name of any member in respect of whom an order has been passed under this Act removing him from membership of the Institute.

CHAPTER V

MISCONDUCT

Procedure in 21. (1) Where on receipt of information by, or a complaint made inquiries relating to it, the Council is *prima facie* of opinion that any member of the misconduct Institute has been guilty of any professional or other misconduct, of members the Council shall refer the case to the Disciplinary Committee constituted under section 17, and the Disciplinary Committee shall thereupon hold such inquiry and in such manner as may be prescribed and shall report the result of its inquiry to the Council.

(2) If on receipt of such report the Council finds that the member of the Institute is not guilty of any professional or other misconduct, it shall record its finding accordingly and direct that the proceedings shall be filed, or the complaint shall be dismissed, as the case may be.

(3) If on receipt of such report the Council finds that the member of the Institute is guilty of any professional or other misconduct, it shall record a finding accordingly, and shall proceed in the manner laid down in the succeeding sub-sections.

(4) Where the finding is that a member of the Institute has been guilty of a professional misconduct specified in the First Schedule, the Council shall afford to the member an opportunity of being heard before orders are passed against him on the case, and may thereafter make any of the following orders, namely:—

(a) reprimand the member;

(b) remove the name of the member from the Register for such period, not exceeding five years, as the Council thinks fit:

Provided that where the Council is of opinion that the case is one in which the name of the member ought to be removed from the Register for a period exceeding five years or permanently, it shall not make any order referred to in clause (a) or clause (b), but shall forward the case to the High Court with its recommendations thereon.

(5) Where the misconduct in respect of which the Council has found any member of the Institute guilty is a misconduct other than any such misconduct as is referred to in sub-section (4), it shall forward the case to the High Court with its recommendations thereon.

(6) On receipt of any case under sub-section (4) or sub-section (5), the High Court shall fix a date for the hearing of the case and shall cause notice of the date so fixed to be given to the member of the Institute concerned, the Council and to the Central Government, and shall afford such member, the Council and the Central Government an opportunity of being heard and may thereafter make any of the following orders, namely:—

- (a) direct that the proceedings be filed, or dismiss the complaint, as the case may be;
- (b) reprimand the member;
- (c) remove him from membership of the Institute either permanently or for such period as the High Court thinks fit;
- (d) refer the case to the Council for further inquiry and report.

(7) Where it appears to the Court that the transfer of any case pending before it to another High Court, will promote the ends of justice or tend to the general convenience of the parties, it may so transfer the case, subject to such conditions, if any, as it thinks fit to impose, and the High Court to which such case is transferred shall deal with it as if the case had been forwarded to it by the Council.

Explanation I.—In this section “High Court” means the highest civil court of appeal, not including the Supreme Court, exercising jurisdiction in the area in which the person whose conduct is being inquired into carries on business, or has his principal place of business at the commencement of the inquiry:

Provided that where the cases relating to two or more members of the Institute have to be forwarded by the Council to different High Courts, the Central Government shall, having regard to the ends of justice and the general convenience of the parties, determine which of the High Courts to the exclusion of others shall hear the cases against all the members.

Explanation II.—For the purposes of this section “member of the Institute” includes a person who was a member of the Institute on the date of the alleged misconduct although he has ceased to be a member of the Institute at the time of the inquiry.

(8) For the purposes of any inquiry under this section the Council and the Disciplinary Committee shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, ⁵ of 1908, in respect of the following matters:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) the discovery and production of any document; and
- (c) receiving evidence on affidavits.

Misconduct defined.

22. For the purposes of this Act, the expression “professional misconduct” shall be deemed to include any act or omission specified in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Council under sub-section (1) of section 21 to inquire into the conduct of any member of the Institute under any other circumstances.

CHAPTER VI

REGIONAL COUNCILS

Constitution and functions of Regional Councils.

23. (1) For the purpose of advising and assisting it on matters concerning its functions, the Council may constitute such Regional Councils as and when it deems fit for one or more of the regional constituencies that may be specified by the Central Government under clause (a) of sub-section (2) of section 9.

(2) The Regional Councils shall be constituted in such manner and exercise such functions as may be prescribed.

CHAPTER VII

PENALTIES

Penalty for falsely claiming to be a member, etc.

24. Any person who,—

(i) not being a member of the Institute—

- (a) represents that he is a member of the Institute; or
- (b) uses the designation cost accountant; or

(ii) being a member of the Institute, but not having a certificate of practice, represents that he is in practice or practises as a cost accountant;

shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

25. (1) Save as otherwise provided in this Act, no person shall,—

(i) use a name or a common seal which is identical with the name or the common seal of the Institute or so nearly resembles it as to deceive or as is likely to deceive the public; or

(ii) award any degree, diploma or certificate or bestow any designation which indicates or purports to indicate the position or attainment of any qualification or competence in cost accountancy similar to that of a member of the Institute; or

(iii) seek to regulate in any manner whatsoever the profession of cost and works accountants.

(2) Any person contravening the provisions of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

(3) Nothing contained in this section shall apply to any University established by law or to any body affiliated to the Institute.

(4) If the Central Government is satisfied that any diploma or certificate or any designation granted or conferred by any person other than the Institute, which purports to be a qualification in cost accountancy but which, in the opinion of the Central Government, falls short of the standard of qualifications prescribed for cost accountants and does not in fact indicate or purport to indicate the position or attainment of any qualification or competence in cost accountancy similar to that of a member of the Institute, it may, by notification in the Official Gazette and subject to such conditions as it may think fit to impose, declare that this section shall not apply to such diploma or certificate or designation.

26. (1) No company, whether incorporated in India or elsewhere, shall practise as cost accountants.

(2) Any contravention of the provisions of sub-section (1) shall be punishable on first conviction with fine which may extend to one thousand rupees, and on any subsequent conviction to five thousand rupees.

Unqualified persons not to sign documents.

27. (1) No person other than a member of the Institute shall sign any document on behalf of a cost accountant in practice or a firm of such cost accountants in his or its professional capacity.

(2) Any person contravening the provision of sub-section (1) shall, without prejudice to any other proceedings which may be taken against him, be punishable with fine which may extend on first conviction to one thousand rupees, and on any subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Offences by companies.

28. (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence 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 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 that the commission of the offence 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/ (a) "company", with respect to an offence under section 24, section 25 or section 27, means any body corporate and includes a firm or other association of individuals; and with respect to an offence under section 28 means a body corporate; and

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

Sanction to prosecute.

29. No person shall be prosecuted under this Act except on a complaint made by or under the order of the Council or of the Central Government.

CHAPTER VIII

**DISSOLUTION OF THE INSTITUTE OF COST AND WORKS ACCOUNTANTS
REGISTERED UNDER THE COMPANIES ACT, 1956 (1 OF 1956) —**

30. On the commencement of this Act,—

(a) the company known as the Institute of Cost and Works Accountants registered under the Companies Act, 1956, shall be dissolved and thereafter no person shall make, assert or take any claims, demands or proceedings against the dissolved company or against any officer thereof in his capacity as such officer except in so far as may be necessary, for enforcing the provisions of this Act;

(b) the right of every member to or in respect of the dissolved company shall be extinguished, and thereafter no member of that company shall make, assert or take any claims or demands or proceedings in respect of that company except as provided in this Act.

31. (1) On the commencement of this Act, there shall be transferred to and vested in the Institute all the assets and liabilities of the dissolved company.

Transfer of assets and liabilities of the dissolved company to the Institute.

(2) The assets of the dissolved company shall be deemed to include all rights and powers, and all property, whether movable or immovable of the company, including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in or arising out of such property as may be in the possession of the dissolved company and all books of accounts or documents of the dissolved company; and the liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind then existing of that company.

(3) All contracts, debts, bonds, agreements and other instruments of whatever nature to which the dissolved company is a party, subsisting or having effect immediately before the commencement of this Act, shall be of as full force and effect against or in favour of the Institute, as the case may be, and may be enforced as fully and effectively as if instead of the dissolved company, the Institute had been a party thereto.

(4) If, on the commencement of this Act, any suit, appeal or other legal proceeding of whatever nature by or against the dissolved company is pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Institute of the assets and liabilities of the dissolved company or of

Dissolution of the Institute of Cost and Works Accountants registered under the Companies Act, 1956.

anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Institute, in the same manner and to the same extent as it would or may be continued, prosecuted and enforced by or against the dissolved company if this Act had not been passed.

Provisions respecting employees of the dissolved company.

32. (1) Every person employed in the dissolved company prior to the 1st day of September, 1958, and still in its employment immediately before the commencement of this Act shall, as from such commencement, become an employee of the Institute, shall hold his office or service therein by the same tenure and upon the same terms and conditions and with the same rights and privileges as to pension and gratuity as he would have held the same under the dissolved company if this Act had not been passed, and shall continue to do so unless and until his employment in the Institute is terminated or until his remuneration, terms and conditions of employment are duly altered by the Institute.

(2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any employee of the dissolved company to the Institute shall not entitle any such employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

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CHAPTER IX MISCELLANEOUS

Appeals.

33. (1) Any member of the Institute aggrieved by any order of the Council imposing on him any of the penalties referred to in clause (a) or clause (b) of sub-section (4) of section 21, may, within thirty days of the date on which the order is communicated to him, prefer an appeal to the High Court:

Provided that the High Court may entertain any such appeal after the expiry of the said period of thirty days, if it is satisfied that the member was prevented by sufficient cause from filing the appeal in time.

(2) The High Court may, on its own motion or otherwise, after calling for the records of any case, revise any order made by the Council under sub-section (2) or sub-section (4) of section 21 and may—

- (a) confirm, modify or set aside the order;
- (b) impose any penalty or set aside, reduce, confirm or enhance the penalty imposed by the order;
- (c) remit the case to the Council for such further enquiry as the High Court considers proper in the circumstances of the case ;

(d) pass such other order as the High Court thinks fit:

Provided that no order of the Council shall be modified or set aside unless the Council has been given an opportunity of being heard and no order imposing or enhancing a penalty shall be passed unless the person concerned has been given an opportunity of being heard.

Explanation.—In this section “High Court” and “member of the Institute” have the same meanings as in section 21.

34. (1) Where an order is made under this Act reprimanding a member a record of the punishment shall be entered against his name in the Register. Alteration in the Register and cancellation of certificate.

(2) Where the name of any member is removed, the certificate of practice granted to him under this Act shall be recalled and cancelled.

35. (1) The Central Government may from time to time issue such directions to the Council as in the opinion of the Central Government are conducive to the fulfilment of the objects of this Act and in the discharge of its functions, the Council shall be bound to carry out any such directions. Directions of the Central Government.

(2) Directions issued under sub-section (1) may include directions to the Council to make any regulations or to amend or revoke any regulations already made.

(3) If, in the opinion of the Central Government the Council has persistently made default in giving effect to the directions issued under this section, the Central Government may, after giving an opportunity to the Council to state its case, by order, dissolve the Council, whereafter a new Council shall be constituted in accordance with the provisions of this Act with effect from such date as may be specified by the Central Government.

(4) Where the Central Government passes an order under sub-section (3) dissolving the Council, it may, pending the constitution of a new Council in accordance with the provisions of this Act, authorise any person or body of persons to take over the management of the affairs of the Institute and to exercise such functions as may be specified in this behalf by the Central Government.

36. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Council in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any regulations or orders made thereunder. Protection of action taken in good faith.

37. (1) Where a cost accountant in practice or a firm of such accountants has more than one office in India, each one of such offices shall be in the separate charge of a member of the Institute: Maintenance of branch offices.

Provided that the Council may in suitable cases exempt any cost accountant in practice or firm of such cost accountants from the operation of this sub-section.

(2) Every cost accountant in practice or firm of such cost accountants maintaining more than one office shall send to the Council a list of offices and the persons in charge thereof and shall keep the Council informed of any changes in relation thereto.

Reciprocity. 38. (1) Where any country, specified by the Central Government in this behalf by notification in the Official Gazette, prevents persons of Indian domicile from becoming members of any institution similar to the Institute established under this Act or from practising the profession of cost accountancy or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to become a member of the Institute or practise the profession of cost accountancy, in India.

(2) Subject to the provisions of sub-section (1), the Council may prescribe the conditions, if any, subject to which foreign qualifications relating to cost accountancy shall be recognised for the purposes of entry in the Register.

Power to make regulations. 39. (1) The Council may, by notification in the Gazette of India, make regulations for the purpose of carrying out the objects of this Act, and a copy of such regulations shall be sent to each member of the Institute.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the standard and conduct of examinations under this Act;

(b) the qualifications for the entry of the name of any person in the Register as a member of the Institute;

(c) the qualification required for the purposes of sub-section (4) of section 5;

(d) the conditions under which any examination or training may be treated as equivalent to the examination or training prescribed for members of the Institute;

(e) the conditions under which any foreign qualification may be recognised;

(f) the manner in which and the conditions subject to which applications for entry in the Register may be made,

- (g) the fees payable for membership of the Institute and the annual fees payable by associates and fellows of the Institute in respect of their certificates;
- (h) the manner in which elections to the Council and the Regional Councils may be held;
- (i) the particulars to be entered in the Register;
- (j) the functions of Regional Councils;
- (k) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;
- (l) the carrying out of research in accountancy;
- (m) the maintenance of libraries and publication of books and periodicals relating to cost accountancy and allied subjects;
- (n) the management of the property of the Council and the maintenance and audit of its accounts;
- (o) the summoning and holding of meetings of the Council and committees thereof, the times and places of such meetings, the procedure to be followed thereat and the number of members necessary to form a quorum;
- (p) the manner in which the annual list of members of the Institute shall be published;
- (q) the powers, duties and functions of the President and the Vice-President of the Council;
- (r) the functions of the Standing and other committees and the conditions subject to which such functions shall be discharged;
- (s) the terms of office, and the powers, duties and functions of the Secretary and other employees of the Council;
- (t) the exercise of disciplinary powers conferred by this Act;
- (u) the terms and conditions of service of persons who have become employees of the Institute under section 32 of this Act;
- (v) the registration and training of students and the fees to be charged therefor; and
- (w) any other matter which is required to be, or may be, prescribed under this Act.

(3) All regulations made by the Council under this Act shall be subject to the condition of previous publication and to the approval of the Central Government.

(4) Notwithstanding anything contained in sub-sections (1) and (2), the Central Government may frame the first regulations for the purposes mentioned in this section, and such regulations shall be deemed to have been made by the Council, and shall remain in force until they are amended, altered or revoked by the Council.

THE FIRST SCHEDULE

[See sections 21(4) and 22]

PART I

Professional misconduct in relation to cost accountants in practice

A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he—

(1) allows any person to practise in his name as a cost accountant unless such person is also a cost accountant in practice and is in partnership with or employed by himself;

(2) pays or allows or agrees to pay or allow, directly or indirectly, any share, commission or brokerage in the fees or profits of his professional work, to any person other than a member of the Institute or a partner or a retired partner or the legal representative of a deceased partner;

Explanation.—In this item, “partner” includes a person residing outside India with whom a cost accountant in practice has entered into partnership which is not in contravention of item (4) of this Part; ◊

(3) accepts or agrees to accept any part of the profits of the professional work of a lawyer, auctioneer, broker or other agent who is not a member of the Institute;

(4) enters into partnership with any person other than a cost accountant in practice or a person resident without India who but for his residence abroad would be entitled to be registered as a member of the Institute under clause (iv) of sub-section (1) of section 4 or whose qualifications are recognised by the Central Government or the Council for the purpose of permitting such partnerships, provided that the cost accountant shares in the fees or profits of the professional work of the partnership both within and without India; ◊

(5) secures, either through the services of a person not qualified to be his partner or by means which are not open to a cost accountant, any professional work;

(6) solicits clients or professional work either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means;

(7) advertises his professional attainments or services, or uses any designation or expression other than cost accountant on professional documents, visiting cards, letter-heads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Cost and Works Accountants of India or of any other institution that has been recognised by the Central Government or may be recognised by the Council;

(8) accepts a position as cost accountant previously held by another cost accountant in practice without first communicating with him in writing;

(9) charges or offers to charge, accepts or offers to accept in respect of any professional employment fees which are based on a percentage of profits or which are contingent upon the findings or results of such employment, except in cases which are permitted under any regulations made under this Act;

(10) engages in any business or occupation other than the profession of cost accountant unless permitted by the Council so to engage:

Provided that nothing contained herein shall disentitle a cost accountant from being a director of a company unless he or any of his partners is interested in such company as accountant;

(11) accepts a position as cost accountant previously held by some other cost accountant in practice in such conditions as to constitute under-cutting;

(12) allows a person not being a member of the Institute in practice or a member not being his partner to sign on his behalf or on behalf of his firm, any cost or pricing statements or any other statements related thereto.

PART II*Professional misconduct in relation to members of the Institute in service*

A member of the Institute (other than a member in practice) shall be deemed to be guilty of professional misconduct, if he being an employee of any company, firm or person—

- (1) pays or allows or agrees to pay directly or indirectly, to any person any share in the emoluments of the employment undertaken by the member;
- (2) accepts or agrees to accept any part of fees, profits or gains from a lawyer, a cost accountant or broker engaged by such company, firm or person or agent or customer of such company, firm or person by way of commission or gratification;
- (3) discloses confidential information acquired in the course of his employment otherwise than as required by any law for the time being in force or as permitted by his employer.

PART III*Professional misconduct in relation to members of the Institute generally*

A member of the Institute whether in practice or not shall be deemed to be guilty of professional misconduct, if he—

- (1) includes in any statement, return or form to be submitted to the Council any particulars knowing them to be false;
- (2) not being a fellow styles himself as a fellow;
- (3) does not supply the information called for or does not comply with the requirements asked for by the Council or any of its Committees.

THE SECOND SCHEDULE

[See sections 21(5) and 22]

PART I*Professional misconduct in relation to cost accountants in practice requiring action by a High Court*

A cost accountant in practice shall be deemed to be guilty of professional misconduct, if he—

- (1) discloses information acquired in the course of his professional engagement to any person other than the client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force;

- (2) certifies or submits in his name or in the name of his firm a report of an examination of cost accounting and related statements, unless the examination of such statements has been made by him or by a partner or an employee in his firm or by another cost accountant in practice;
- (3) permits his name or the name of his firm to be used in connection with an estimate of cost or earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast;
- (4) expresses his opinion on cost or pricing statements of any business or any enterprise in which he, his firm or a partner in his firm has a substantial interest, unless he discloses the interest also in his report;
- (5) fails to disclose in a cost or pricing statement a material fact known to him, which is not disclosed in a cost or pricing statement, but disclosure of which is necessary to make such statement not misleading;
- (6) fails to report a material mis-statement known to him to appear in a cost or pricing statement with which he is concerned in a professional capacity;
- (7) is grossly negligent in the conduct of his professional duties;
- (8) fails to obtain sufficient information to warrant the expression of an opinion or makes exceptions which are sufficiently material to negate the expression of an opinion;
- (9) fails to invite attention to any material departure from the generally accepted procedure of costing and pricing applicable to the circumstances;
- (10) fails to keep moneys of his client in a separate banking account or to use such moneys for purposes for which they are intended.

PART II

Professional misconduct in relation to members of the Institute generally requiring action by a High Court

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—

- (1) contravenes any of the provisions of this Act or the regulations made thereunder;
- (2) is guilty of such other act or omission as may be specified by the Council in this behalf, by notification in the Gazette of India.

THE PHARMACY (AMENDMENT) ACT, 1959

No. 24 OF 1959

[27th August, 1959]

An Act further to amend the Pharmacy Act, 1948.

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

Short title
and com-
mencement.

1. (1) This Act may be called the Pharmacy (Amendment) Act, 1959.
(2) Section 19 shall come into force at once; and the remaining provisions 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 States or areas thereof.

Amendment
of section 1.

2. In section 1 of the Pharmacy Act, 1948 (hereinafter referred to as the principal Act),—

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

"(2) It extends to the whole of India except the State of Jammu and Kashmir.";

(b) in sub-section (3), the words "not later than three years from the commencement of this Act," shall be omitted; and the following proviso shall be inserted at the end, namely:—

"Provided that where on account of the territorial changes brought about by the reorganisation of States on the 1st day of November, 1956, Chapters III, IV and V have effect only in a part of a State, the said Chapters shall take effect in the remaining part of that State from such date as the State Government may in like manner appoint."

Amendment
of section 2

3. In section 2 of the principal Act,—

(a) for clause (c), the following clause shall be substituted, namely:—

"(c) "Indian University" means a university established or incorporated under any law for the time being in force in the territories to which this Act extends;"

¹ 1st May, 1960. Vide Notfn. No. S. O. 1042, dt. 26th April, 1960, see Gazette of India, 1960, Pt. II, Sec. 3(ii), p-1354.

(b) for clause (f), the following clause shall be substituted, namely:—

(f) “medical practitioner” means a person—

(i) holding a qualification granted by an authority specified or notified under section 3 of the Indian Medical Degrees Act, 1916, or specified in the Schedules to the Indian Medical Council Act, 1956; or

(ii) registered or eligible for registration in a medical register of a State meant for the registration of persons practising the modern scientific system of medicine; or

(iii) registered in a medical register of a State, who, although not falling within sub-clause (i) or sub-clause (ii) is declared by a general or special order made by the State Government in this behalf as a person practising the modern scientific system of medicine for the purposes of this Act; or

(iv) registered or eligible for registration in the register of dentists for a State under the Dentists Act, 1948; or

(v) who is engaged in the practice of veterinary medicine and who possesses qualifications approved by the State Government; ;

(c) clause (k) shall be omitted.

4. In section 3 of the principal Act,—

(a) after clause (d), the following clause shall be inserted, namely:—

“(dd) the Drugs Controller, India, *ex officio* or if he is unable to attend any meeting, a person authorised by him in writing to do so.”;

(b) for the proviso, the following proviso shall be substituted, namely:—

“Provided that for five years from the date on which this Chapter comes into force in the State of Kerala, Mysore or Rajasthan, as the case may be, instead of a member elected under clause (g), the State Government shall nominate one member, being a person eligible for registration as a pharmacist under section 31.”.

Amendment
of section 3.

Amendment of section 5. 5. In section 5 of the principal Act, in sub-section (1), the proviso shall be omitted.

Amendment of section 8. 6. In section 8 of the principal Act, in sub-section (1), the proviso shall be omitted.

Amendment of section 19. 7. In section 19 of the principal Act, after clause (d), the following clause shall be inserted, namely:—

“(dd) the officer-in-charge of drugs control organisation of the State under the Drugs Act, 1940, *ex officio* or if he is ²³ of 1940. unable to attend any meeting, a person authorised by him in writing to do so;”.

Amendment of section 21. 8. In section 21 of the principal Act, in sub-section (1), after clause (d), the following clause shall be inserted, namely:—

“(dd) the officer-in-charge of drugs control organisation of each participating State under the Drugs Act, 1940, *ex officio* or ²³ of 1940. if he is unable to attend any meeting, a person authorised by him in writing to do so;”.

Amendment of section 31. 9. In section 31 of the principal Act, for the words “A person shall be entitled”, the words “A person who has attained the age of eighteen years shall be entitled” shall be substituted.

Amendment of section 32. 10. In section 32 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “a person shall on payment of the prescribed fee”, the words “a person who has attained the age of eighteen years shall on payment of the prescribed fee” shall be substituted;

(ii) in the proviso, for the words “under this sub-section”, the words, brackets and letters “under clause (a) or clause (c)” shall be substituted;

(b) in sub-section (2),—

(i) for the words “twenty-one years”, the words “eighteen years” shall be substituted;

(ii) the words “or is a registered pharmacist in another State” shall be inserted at the end.

11. After section 32 of the principal Act, the following section Insertion of new section 32A.

shall be inserted, namely:—

"32A. (1) Notwithstanding anything contained in section 32, Special provisions for registration of certain persons. a State Council may also permit to be entered on the register—

(a) the names of displaced persons who have been carrying on the business or profession of pharmacy as their principal means of livelihood from a date prior to the 4th day of March, 1948, and who satisfy the conditions for registration as set out in section 31;

(b) the names of citizens of India who have been carrying on the business or profession of pharmacy in any country outside India and who satisfy the conditions for registration as set out in section 31;

(c) the names of persons who resided in an area which has subsequently become a territory of India and who satisfy the conditions for registration as set out in section 31;

(d) the names of persons who carry on the business or profession of pharmacy in the State, and

(i) would have satisfied the conditions for registration as set out in section 31, on the date appointed under sub-section (2) of section 30, had they applied for registration on or before that date; or

(ii) have been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners as defined in sub-clause (iii) of clause (f) of section 2 for a total period of not less than five years prior to the date appointed under sub-section (2) of section 30;

(e) the names of persons who were qualified to be entered in the register for a State as it existed immediately before the 1st day of November, 1956, but who, by reason of the area in which they resided or carried on their business or profession of pharmacy having become part of a State as formed on that date, are not qualified to be entered in the register for the latter State only by reason of their not having passed either a matriculation examination or an examination prescribed as being equivalent to a matriculation examination or an approved examination or of their not possessing a qualification approved under section 14;

(f) the names of persons—

(i) who were included in the register for a State as it existed immediately before the 1st day of November, 1956; and

(ii) who, by reason of the area in which they resided or carried on their business or profession of pharmacy having become part of a State as formed on that date, reside or carry on such business or profession in the latter State;

(g) the names of persons who reside or carry on their business or profession of pharmacy in an area in which this Chapter takes effect after the commencement of the Pharmacy (Amendment) Act, 1959, and who satisfy the conditions for registration as set out in section 31.

(2) Any person who desires his name to be entered in the register in pursuance of sub-section (1) shall make an application in that behalf to the State Council, and such application shall be accompanied by the prescribed fee.

(3) The provisions of this section shall remain in operation for a period of two years from the commencement of the Pharmacy (Amendment) Act, 1959:

Provided that the State Government may, by notification in the Official Gazette, extend the period of operation of clause (a), clause (b) or clause (c) of sub-section (1) by such further period or periods, not exceeding two years in the aggregate, as may be specified in the notification.

Explanation 1.—For the purposes of clause (a) of sub-section (1), “displaced person” means any person who on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan, has, on or after the 1st day of March, 1947, left or been displaced from his place of residence in such area and who has since then been residing in India.

Explanation 2.—For the purposes of clauses (b), (c) and (g) of sub-section (1), the period referred to in clause (d) of section 31 shall be computed with reference to the date of application.”.

Amendment of section 34. 12. In section 34 of the principal Act, in sub-section (3), for the words “in the prescribed manner endorse the certificate of registration accordingly”, the words “issue a receipt therefor and such receipt shall be proof of renewal of registration” shall be substituted.

13. In sub-section (1) of section 36 of the principal Act,—

(a) in clause (iii), after the words "for the purposes of his business of pharmacy", the words "or employed to work under him in connection with any business of pharmacy" shall be inserted;

(b) in the proviso,—

(i) in clause (c), after the words "employed by [he registered pharmacist for the purposes of his business of pharmacy", the words "or employed to work under him in connection with any business of pharmacy" shall be inserted;

(ii) in clause (e), after the words "by persons employed by him", the words "or by persons under his control" shall be inserted.

14. For section 40 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 40.

"40. (1) As soon as may be after the 1st day of April subsequent to the commencement of the Pharmacy (Amendment) Act, 1959, the Registrar shall cause to be printed copies of the register as it stood on the said date.

Printing of
register and
evidentiary
value of
entries
therein.

(2) The Registrar shall thereafter cause to be printed as soon as may be after the 1st day of April in each year copies of the annual supplement to the register referred to in sub-section (1), showing all additions to, and other amendments in, the said register.

(3) (a) The register shall be brought up-to-date three months before ordinary elections to the State Council are held and copies of this register shall be printed.

(b) The provisions of sub-section (2) shall apply to the register as so printed as they apply to the register referred to in sub-section (1).

(4) The copies referred to in sub-section (1) or sub-section (2) or sub-section (3) shall be made available to persons applying therefor on payment of the prescribed charge and shall be evidence that on the date referred to in the register or annual supplement, as the case may be, the persons whose names are entered therein were registered pharmacists."

Amendment
of section
41.

15. In section 41 of the principal Act,—

- (a) in clause (b) of sub-section (2), after the words "or any combination of such words", the words "or of any such word with any other word" shall be inserted;
- (b) in sub-section (3), after the words "the State Government or", the words "any officer authorized in this behalf by the State Government or by order of" shall be inserted.

Amendment
of section
42.

16. In section 42 of the principal Act,—

- (a) in sub-section (1), the words "except under the direct and personal supervision of a registered pharmacist" shall be omitted;
- (b) in sub-section (3), for the words "an order of the State Government", the words "order of the State Government or any officer authorised in this behalf by the State Government, or by order of the Executive Committee of the State Council" shall be substituted.

Amendment
of section
46.

17. In sub-section (2) of section 46 of the principal Act,—

- (a) in clause (j), the words "and the manner of endorsement of renewals thereof" shall be omitted;
- (b) after clause (k), the following clause shall be inserted, namely:—
 "(kk) the conduct of pharmacists and their duties in relation to medical practitioners, the public and the profession of pharmacy;"

Special pro-
visions for
dissolution
or reconsti-
tution and
reorganisa-
tion of State
Councils.

18. (1) Where on account of the territorial changes brought about by the reorganisation of States on the 1st day of November, 1956, a State Council is functioning either in a part of a State or in more than one State, the Central Government may, after consulting the State Government or Governments concerned, by order provide for all or any of the following matters, namely:—

- (a) the dissolution of the State Council;
- (b) the reconstitution and reorganisation in any manner whatsoever of the State Council, including the constitution, where necessary, of new State Councils;
- (c) the extension of the term of office of the members of a State Council for any period or periods not exceeding two years in the aggregate;

(d) the area in respect of which the reconstituted State Council or new State Council shall function and operate;

(e) the transfer, in whole or in part, of the assets, rights and liabilities of the State Council (including the rights and liabilities under any contract made by it) to any other State Councils or State Governments and the terms and conditions of such transfer;

(f) the substitution of any such transferee for the State Council or the addition of any such transferee, as a party to any legal proceeding to which the State Council is a party; and the transfer of any proceedings pending before the State Council to any such transferee;

(g) the transfer or re-employment of any employees of the State Council to, or by, any such transferee and subject to the provisions of section 111 of the States Reorganisation Act, 1956, the terms and conditions of service applicable to such employees after such transfer or re-employment;

(h) such incidental, consequential and supplementary matters as may be necessary to give effect to the purposes of this section.

(2) Where an order is made under this section, transferring the assets, rights and liabilities of any State Council, then, by virtue of that order, such assets, rights and liabilities of the State Council shall vest in, and be the assets, rights and liabilities of, the transferee.

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

19. Chapters III, IV and V of the principal Act shall be deemed to have taken effect in the territories which immediately before the commencement of the Constitution were either comprised in the Province of Bombay or being administered as if they formed part of that Province, on the earliest date on which any act, proceeding or thing was done or taken in the said territories by the Government or by any officer of Government or by any other authority in the belief or purported belief that the said Chapters had taken effect in the said territories and that such act, proceeding or thing

Validation
of certain
acts.

was being done or taken under the said Chapters; and all acts, proceedings and things of the nature referred to above, done or taken in the said territories between the said date and the commencement of this section by the Government or by any officer of Government or by any other authority shall for all purposes be deemed to be, and to have always been, done or taken in accordance with law; and no suit or other proceeding shall be maintained or continued against the Government or any person or authority whatsoever on the ground that any such act, proceeding or thing was not done or taken in accordance with law.

THE INTERNATIONAL MONETARY FUND AND BANK
(AMENDMENT) ACT, 1959

No. 25 OF 1959

[28th August, 1959]

An Act further to amend the International Monetary Fund and Bank Ordinance, 1945.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. This Act may be called the International Monetary Fund and Bank (Amendment) Act, 1959. Short title;

47 of 1945 2. In the International Monetary Fund and Bank Ordinance, 1945 (hereinafter referred to as the principal Ordinance), for the word "Ordinance", wherever it occurs, the word "Act" shall be substituted. Substitution of the word "Act" for the word "Ordinance"

Amendment of preamble and enacting formula. 3. For the last paragraph of the preamble and the enacting formula, the words "Be it enacted as follows:—" shall be substituted.

4. In sub-section (1) of section 2 of the principal Ordinance,— Amendment of section 2.

(i) in the opening paragraph, for the words "revenues of the Central Government", the words "Consolidated Fund of India" shall be substituted;

(ii) in clause (a), for the words, brackets and letter "to the International Bank under paragraph (a)", the words, brackets and letters "to the International Bank under paragraphs (a) and (c)" shall be substituted.

5. Section 7 of the principal Ordinance shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:— Amendment of section 7.

"(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

THE STATE BANK OF INDIA (AMENDMENT)
ACT, 1959

No. 26 OF 1959

[28th August, 1959]

An Act further to amend the State Bank of India Act, 1955.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title: 1. This Act may be called the State Bank of India (Amendment) Act, 1959.

Amendment of section 22. 2. In section 22 of the State Bank of India Act, 1955 (hereinafter referred to as the principal Act),—

(a) in clause (d) of sub-section (1), for the words "or managing director", the words "managing director, or legal or technical adviser" shall be substituted;

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

(4) In this section,—

(a) "banking company" has the same meaning as in the Banking Companies Act, 1949;

(b) "manager" means the chief executive officer, by whatever name called, of a banking company;

(c) "private company" has the same meaning as in the Companies Act, 1956.

Amendment of section 23. 3. In section 23 of the principal Act, the proviso shall be omitted.

Amendment of section 33. 4. In section 33 of the principal Act,—

(a) in sub-clause (d) of clause (i), for the words "under any law for the time being in force in India", the words "by or under any law for the time being in force in India other than companies with limited liability" shall be substituted;

(b) for clause (xii), the following clauses shall be substituted, namely:—

“(xii) the transacting of pecuniary agency business on commission;

“(xiii) the entering into contracts of indemnity, suretyship or guarantee with specific security or otherwise;”;

(c) after clause (xx), the following clause shall be inserted namely:—

“(xxa) notwithstanding anything to the contrary contained in any other law for the time being in force, the establishment and maintenance of superannuation pension, provident or other funds for the benefit of the employees of the State Bank or dependents of such employees or for the purposes of the State Bank, and the granting of superannuation allowances, annuities and pension payable out of any such fund;”.

5. In section 34 of the principal Act, for sub-sections (3) and (4), Amendment of section 34, the following sub-section shall be substituted, namely:—

“(3) The State Bank shall not discount or purchase or advance or lend or open cash credits on the security of,—

(a) any negotiable instrument of any individual or firm payable at the place where it is presented which does not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership;

(b) any negotiable instrument or security (not being an instrument or security in which a trustee may invest trust money under section 20 of the Indian Trusts Act, 1882, or the corresponding provision of the law for the time being in force in any country where the State Bank has a branch) which does not mature within—

(i) fifteen months from the date of such discount, purchase, loan, advance or opening of cash credits, if the instrument or security is drawn or issued for the purpose of financing seasonal agricultural operations; and

(ii) six months from the date aforesaid if the instrument or security is drawn or issued for any other purpose.”.

Amendment of section 35. 6. In section 35 of the principal Act, for sub-sections (2), (3) and (4), the following sub-sections shall be substituted, namely:—

- (2) The terms and conditions relating to such acquisition, if agreed upon by the Central Board of the State Bank and the directorate or management of the banking institution concerned and approved by the Reserve Bank, shall be submitted to the Central Government for its sanction and that Government may by order in writing (hereafter in this section referred to as the order of sanction) accord its sanction thereto.
- (3) Notwithstanding anything contained in this Act or any other law for the time being in force or any instrument regulating the constitution of the banking institution concerned, the terms and conditions as sanctioned by the Central Government shall come into effect on the date specified by the Central Government in this behalf in the order of sanction and be binding upon the State Bank and the banking institution concerned as well as upon the shareholders (or, as the case may be, proprietors) and creditors of that banking institution.
- (4) If for any reason the terms and conditions cannot come into effect on the date specified in the order of sanction, the Central Government may fix another suitable date for that purpose.
- (5) On the date on which the terms and conditions as aforesaid come into effect the business and the assets and liabilities of the banking institution concerned as covered by the acquisition shall, by virtue, and in accordance with the provisions, of the order of sanction stand transferred to, and become respectively the business and the assets and liabilities of, the State Bank.
- (6) The consideration for the acquisition of the business and the assets and liabilities of any banking institution under this section may, if so agreed upon, be paid either in cash or by allotment of shares in the capital of the State Bank or partly in cash and partly by allotment of shares, and the State Bank may, for the purpose of any such allotment, increase, subject to the other provisions contained in this Act relating to the increase of capital, the capital of the State Bank by the issue of such number of shares as may be determined by the State Bank.
- (7) Any business acquired under this section shall thereafter be carried on by the State Bank in accordance with the provisions of this Act, subject to such exemptions or modifications as may be determined by the State Bank.

tions as the Central Government may, by notification in the Official Gazette, make in this behalf in consultation with the Reserve Bank:

Provided that no such exemption or modification shall be made so as to have effect for a period of more than seven years from the date of acquisition.

14 of 1947.

(8) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law or in any agreement for the time being in force, on the acquisition of the business and the assets and liabilities of any banking institution under this section, no officer or other employee of that banking institution shall be entitled to any compensation to which he may be entitled under that Act or that other law or that agreement and no claim in respect of such compensation shall be entertained by any court, tribunal or other authority, if on his having accepted in writing an offer of employment by the State Bank on the terms and conditions proposed by it he has been employed in accordance with such terms and conditions.

(9) The Central Government may, if it considers necessary or expedient in the case of any banking institution in relation to which an order of sanction has been made under this section, appoint, whether before or after the coming into effect of the terms and conditions relating to the acquisition of the business and the assets and liabilities of that banking institution, a suitable person to take over the management of that banking institution for the purposes of winding up its affairs and distributing its assets, and the expenditure incurred in connection with such management (including the remuneration for the person so appointed and his staff, if any) shall be paid out of the assets of the banking institution or by the State Bank as the Central Government may direct.

(10) Simultaneously with the appointment of a suitable person to take over the management of any banking institution under sub-section (9) or immediately thereafter, the Central Government shall issue directions to be followed by that person in the management of that banking institution (of) the purposes aforesaid and thereupon—

1 of 1956.
10 of 1949.

(a) the provisions of the Companies Act, 1956, or the Banking Companies Act, 1949, or any other law for the time being in force or any instrument having effect by

virtue of any such Act or law, in so far as they are inconsistent with such directions, shall cease to apply to or in relation to that banking institution;

(b) all persons in charge of the management, including any person holding office as manager or director of the banking institution immediately before the issue of such directions, shall be deemed to have vacated their offices as such; and

(c) the person appointed to take over the management of the banking institution shall in accordance with those directions take all such steps as may be necessary to facilitate the winding up of its affairs and distribution of its assets.

(11) The Central Government, when satisfied that nothing further remains to be done in order to wind up the affairs of any such banking institution, may by another order in writing direct that as from such date as may be specified therein the banking institution shall stand dissolved and thereupon any such direction shall have effect notwithstanding anything to the contrary contained in any other law.

(12) No action under this section shall be questioned on the ground merely of any defect in the constitution of any banking institution in relation to which such action has been taken or in the constitution of its Board of Directors or in the appointment of any person entrusted with the management of its affairs.

(13) In this section "banking institution" includes any individual or any association of individuals (whether incorporated or not, or whether a department of Government or a separate institution), carrying on the business of banking.'

Amendment of section 36. 7. In section 36 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) No amount applied for any of the purposes specified in sub-section (2) shall, for the purposes of the Indian Income-tax Act, 1922, be treated as income, profits or gains of the State ^{11 of 1922.} Bank."

Amendment of section 41.

8. In section 41 of the principal Act,—

(a) in sub-section (1), for the words, brackets and figures "sub-section (1) of section 144 of the Indian Companies Act, 1913", the words and figures "section 226 of the Companies ^{7 of 1913.} Act, 1956" shall be substituted;

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(b) in sub-section (5), for the word "first", the word 'annual' shall be substituted;

(c) in clause (d) of sub-section (7), for the words "profit and loss" occurring for the second time, the words "profit or loss" shall be substituted.

9. In section 42 of the principal Act, in sub-section (1), for the word "hereinafter", the words "in this Act" shall be substituted. Amendment
of section
42.

10. In section 50 of the principal Act, in sub-section (0) of sub-section (2), the following clause shall be substituted, namely:— Amendment
of section
50.

"(o) the establishment and maintenance of superannuation pension, provident or other funds for the benefit of the employees of the State Bank or of the dependents of such employees or for the purposes of the State Bank, and the granting of superannuation allowances, annuities and pensions payable out of any such fund;"

for clause (e) of sub-section (2)

THE KERALA LOCAL AUTHORITIES LAWS (AMENDMENT) ACT, 1959

No. 27 OF 1959

[29th August, 1959]

An Act to provide for the further extension of the term of office of the Mayor and other councillors and chairmen of standing committees of the Corporation of Trivandrum, and of the councillors of municipalities; and to provide for the recovery in certain cases of arrears of cesses, rates, taxes, fees or other sums due to Panchayats.

WHEREAS by virtue of the Proclamation issued by the President under article 356 of the Constitution on the 31st day of July, 1959, the powers of the legislature of the State of Kerala are now exercisable by or under the authority of the Parliament;

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Kerala Local Authorities Laws (Amendment) Act, 1959.

Definitions.

2. In this Act,—

(a) “Kerala municipal laws” means,—

(i) the Trivandrum City Municipal Act,

Trav. Act
4 of 1916.

(ii) the Travancore District Municipalities Act, 1916,

Trav. Act
23 of 1916.

(iii) the Cochin Municipal Act XVIII of 1913.

Cochin
Act XVIII
of 1913.
Madras Act
5 of 1920.

(iv) the Madras District Municipalities Act, 1920, as in force in Malabar,

Madras Act
5 of 1920.

(v) the Municipal Laws (Amendment) Act, 1958, and Kerala Act
43 of 1958.

(vi) the Madras District Municipalities (Amendment) Kerala Act
44 of 1958;

(b) “Malabar” means the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956.

37 of 1956.

3. Notwithstanding anything in any of the Kerala Municipal laws, the Government may, by notification in the Gazette, extend the term of office of—

(i) the Mayor and other councillors and the chairmen of standing committees of the Corporation of Trivandrum constituted under the Trivandrum City Municipal Act; and

(ii) the councillors of any municipality constituted under the Madras District Municipalities Act, 1920, as in force in Malabar, or the Travancore District Municipalities Act, 1116, or the Cochin Municipal Act XVIII of 1113;

which expires at noon on the 1st day of September, 1959, up to such date not later than the 1st day of September, 1960, as may be specified in the notification.

4. When the term of office of the Mayor or of any chairman or councillor has been extended under section 3, the provisions of the Kerala municipal laws shall have effect in relation thereto, subject to the following modifications, namely:—

(a) the Government shall cause elections—

(i) to be so held, and appointments to be so made, of councillors to the Corporation of Trivandrum that the newly elected and appointed councillors enter upon office on the date specified in the notification under section 3;

(ii) to every municipality concerned to be so held that the newly elected councillors enter upon office on the date specified as aforesaid;

(b) the term of office of the newly elected or appointed councillors shall expire on the day immediately succeeding the expiry of three years from the date referred to in clause (a);

(c) the election of the Mayor of the Council of the Corporation of Trivandrum shall be held at the first meeting of the council after the date referred to in clause (a) and the election of the chairman of each standing committee of the council shall be held at the first meeting of such committee.

5. If any difficulty arises in giving effect to the provisions of this Act, or of any of the Kerala municipal laws as modified by section 4, the Government may, as occasion may arise, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

Trav. Act
4 of 1116.

Madras Act
5 of 1920.
Trav. Act
23 of 1116.

Cochin Act
XVIII of
1113.

Extension
of term of
office of
certain
municipal
function-
aries.

Election
and term of
office of
new coun-
cillors in
cases falling
under sec-
tion 3.

Removal of
difficulties.

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Amendment
of Travancore-Cochin Pan-
chayats Act.

Recovery of
arrears of
cess, etc.,
where Pan-
chayats cease
to exist or to
exercise
jurisdiction

6. In the Travancore-Cochin Panchayats Act, 1950, after section 57, Trav.-Cochin Act of 1950 the following section shall be inserted, namely:—

“57A. Where a Panchayat ceases to exist, or ceases to exercise jurisdiction over any local area, by reason of any notification issued under section 3, any cess, rate, tax, fee or other sum which accrued due to such Panchayat before the date it ceased to so exist or to exercise jurisdiction, shall be payable to such authority as the Government may, by general or special order, specify, and may be recovered as an arrear of land revenue under the Revenue Recovery Act for the time being in force.”

Repeal of
Kerala
Acts 43 and
44 of 1958.

7. The Municipal Laws (Amendment) Act, 1958, and the Madras District Municipalities (Amendment) Act, 1958, shall stand repealed on the 1st day of September, 1959.

THE ROAD TRANSPORT CORPORATIONS
(AMENDMENT) ACT, 1959

No. 28 OF 1959

[1st September, 1959]

An Act further to amend the Road Transport Corporations
Act, 1950

Be it enacted by Parliament in the Tenth Year of the Republic
of India as follows:—

1. This Act may be called the Road Transport Corporations Short title.
(Amendment) Act, 1959.

2. Section 6 of the Road Transport Corporations Act, 1950 (here- Amendment
inafter referred to as the principal Act) shall be re-numbered as of section 6.
sub-section (1) thereof and after the sub-section as so re-numbered,
the following sub-section shall be inserted, namely:—

“(2) Nothing in clause (d) of sub-section (1) shall be deemed
to disqualify the Chief Executive Officer or General Manager
of a Corporation for being chosen as, or for being, a member
thereof.”

3. In clause (c) of section 12 of the principal Act, after the words Amendment
‘General Manager”, the words “or any other officer of the Corpo-
ration” shall be inserted.

4. In sub-section (1) of section 19 of the principal Act, after Amendment
clause (c), the following clauses shall be inserted, namely:— of section 19:

“(d) to authorise the issue of passes to its employees and
other persons either free of cost or at concessional rates and on
such conditions as it may deem fit to impose;

(e) to authorise the grant of refund in respect of unused
tickets and concessional passes.”.

5. Section 26 of the principal Act shall be re-numbered as sub- Amendment
section (1) thereof and after sub-section (1) as so re-numbered, the of section 26.
following sub-section shall be inserted, namely:—

“(2) With the previous approval of the State Government
and the Central Government, a Corporation may also borrow
money in the open market for the purpose of meeting any
expenditure of a capital nature.”.

Amendment of section 30. 6. In section 30 of the principal Act, for the words "and the balance shall be made over to the State Government for the purpose of road development", the following shall be substituted, namely:—

"and out of the balance such amount as may, with the previous approval of the State Government and the Central Government, be specified in this behalf by the Corporation, may be utilised for financing the expansion programmes of the Corporation and the remainder, if any, shall be made over to the State Government for the purpose of road development".

Amendment of section 32. 7. In sub-section (3) of section 32 of the principal Act, for the words "A Corporation may sanction", the words "Subject to such conditions and restrictions as may be specified in this behalf by the State Government, a Corporation may sanction" shall be substituted.

Substitution of section 33. 8. For section 33 of the principal Act, the following section shall be substituted, namely:—

Accounts and Audit.

"33. (1) The Corporation shall maintain proper accounts and other records and prepare an annual statement of accounts including the profit and loss account and the balance sheet in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of a Corporation shall be audited annually by the Comptroller and Auditor-General of India or his nominee and any expenditure incurred by him in connection with such audit shall be payable by the Corporation to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of a Corporation shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Corporation.

(4) The accounts of the Corporation as certified by the Comptroller and Auditor-General of India or any person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the State Government; and that Government shall cause the same to be laid before the Legislature of the State."

9. In section 35 of the principal Act, after sub-section (2), the Amendment of section 35. following sub-section shall be inserted, namely:—

“(3) The State Government shall cause the annual report referred to in sub-section (2) to be laid before the Legislature of the State.”.

10. In section 37 of the principal Act, after sub-section (2), the Amendment of section 37. following sub-section shall be inserted, namely:—

“(3) Every notification issued under this section together with a report on the circumstances leading to its issue shall be laid before the Legislature of the State, as soon as may be, after it is issued.”.

11. Section 41 of the principal Act shall be omitted.

Omission of section 41.

12. In sub-section (2) of section 44 of the principal Act,—

Amendment of section 44.

(a) for clause (j), the following clause shall be substituted, namely:—

“(j) the form in which the annual statement of accounts shall be prepared;”; and

(b) clause (k) shall be omitted.

13. In sub-section (2) of section 45 of the principal Act, after Amendment of section 45. clause (c), the following clauses shall be inserted, namely:—

“(d) the issue of passes to the employees of the Corporation and other persons under section 19;

(e) the grant of refund in respect of unused tickets and concessional passes under section 19.”.

**THE PUBLIC WAKFS (EXTENSION OF LIMITATION)
ACT, 1959**

No. 29 OF 1959

[1st September, 1959]

An Act to extend the period of limitation in certain cases for suits to recover possession of immovable property forming part of public wakfs.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title and extent. 1. (1) This Act may be called the Public Wakfs (Extension of Limitation) Act, 1959.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Definition. 2. In this Act, “public wakf” means the permanent dedication by a person professing Islam of any immovable property for any purpose recognised by Muslim Law as a public purpose of a pious, religious or charitable nature.

Extension of period of limitation in certain cases for suits to recover possession of immovable property forming part of public wakfs. 3. Where a person entitled to institute a suit of the description referred to in article 142 or article 144 of the First Schedule to the Indian Limitation Act, 1908, for possession of any immovable property forming part of a public wakf or any interest therein has been dispossessed, or has discontinued the possession, at any time after the 14th day of August, 1947, and before the 7th day of May, 1954, or, as the case may be, the possession of the defendant in such a suit has become adverse to such person at any time during the said period, then, notwithstanding anything contained in the said Act, the period of limitation in respect of such a suit shall extend up to the 15th day of August, 1967.

Repeal and saving. 4. (1) The Public Wakfs (Extension of Limitation) Ordinance, 1959, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act as if this Act had commenced on the 20th day of July, 1959.

THE WAKF (AMENDMENT) ACT, 1959

No. 30 OF 1959

[2nd September, 1959]

An Act to amend the Wakf Act, 1954.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. This Act may be called the Wakf (Amendment) Act, 1959. Short title.

29 of 1954. 2. In sub-section (3) of section 1 of the Wakf Act, 1954 (hereinafter referred to as the principal Act),—^{Amendment of section 1.}

(a) in the proviso, the word "Delhi," shall be omitted; and

(b) after the proviso, the following further proviso shall be inserted, namely:—

37 of 1956. "Provided further that where on account of the territorial changes brought about by the States Reorganisation Act, 1956, this Act is, as from the 1st day of November, 1956, applicable only to a part of a State, the Central Government may, by notification in the Official Gazette, bring this Act into force in the remaining part of that State with effect from such date as may be specified in the notification.".

3. For sub-section (1) of section 10 of the principal Act, the following sub-section shall be substituted, namely :—^{Amendment of section 10.}

"(1) The Board shall consist of—

(a) eleven members, in the case of a State and the Union territory of Delhi; and

(b) five members, in the case of any other Union territory.".

4. After section 66 of the principal Act, the following sections shall be inserted, namely:—^{Insertion of new sections 66A and 66B.}

37 of 1956. "66A. (1) Where on account of the reorganisation of States under the States Reorganisation Act, 1956, the whole or any part of a State in respect of which a Board was, immediately before the 1st day of November, 1956, functioning has been transferred on that day to another State and by reason of such transfer, it

appears to the Government of a State in any part of which the Board is functioning that the Board should be dissolved or that it should be reconstituted and reorganised as an intra-State Board for the whole or any part of that State, the State Government may frame a scheme for such dissolution or such reconstitution and reorganisation, as the case may be, including proposals regarding the transfer of the assets, rights and liabilities of the Board to any other Board or State Government and the transfer or re-employment of employees of the Board and forward the scheme to the Central Government.

(2) On receipt of a scheme forwarded to it under sub-section (1), the Central Government may, after consulting the State Governments concerned, approve the scheme with or without modifications and give effect to the scheme so approved by making such order as it thinks fit.

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

(a) the dissolution of the Board;

(b) the reconstitution and reorganisation in any manner whatsoever of the Board including the establishment, where necessary, of a new Board;

(c) the area in respect of which the reconstituted Board or new Board shall function and operate;

(d) the transfer, in whole or in part, of the assets, rights and liabilities of the Board (including the rights and liabilities under any contract made by it) to any other Board or State Government and the terms and conditions of such transfer;

(e) the substitution of any such transferee for the Board, or the addition of any such transferee, as a party to any legal proceeding to which the Board is a party; and the transfer of any proceeding pending before the Board to any such transferee;

(f) the transfer or re-employment of any employees of the Board to, or by, any such transferee and subject to the provisions of section 111 of the States Reorganisation Act, 1956, the terms and conditions of service applicable to such employees after such transfer or re-employment;

(g) such incidental, consequential and supplemental matters as may be necessary to give effect to the approved scheme.

(4) Where an order is made under this section transferring the assets, rights and liabilities of any Board, then, by virtue of that order, such assets, rights and liabilities of the Board shall vest in, and be the assets, rights and liabilities of, the transferee.

(5) Every order made under this section shall be published in the Official Gazette and this Act and the notifications issued thereunder shall have effect subject to the provisions of the order.

(6) Every order made under this section shall be laid before each House of Parliament, as soon as may be, after it is made.

37 of 1956.

66B. (1) Where on account of the territorial changes brought about by the States Reorganisation Act, 1956, this Act is, as from the 1st day of November, 1956, applicable only to any part or parts of a State but has not been brought into force in the remaining part thereof, then, notwithstanding anything contained in this Act, it shall be lawful for the Government of the State to establish one or more Boards for such part or parts in which this Act is in force and in such a case, any reference in this Act to the word "State" in relation to a Board shall be construed as a reference to that part of the State for which the Board is established.

Special provision for establishment of Board for part of a State.

(2) Where any such Board has been established and it appears to the Government of the State that a Board should be established for the whole of the State, the State Government may, by order notified in the Official Gazette, dissolve the Board established for the part of the State or reconstitute and reorganise such Board or establish a new Board for the whole of the State and thereupon, the assets, rights and liabilities of the Board for the part of the State shall vest in, and be the assets, rights and liabilities of the reconstituted Board or the new Board, as the case may be.”.

THE EMPLOYMENT EXCHANGES (COMPULSORY
NOTIFICATION OF VACANCIES) ACT, 1959

No. 31 OF 1959

[2nd September, 1959]

An Act to provide for the compulsory notification of vacancies
to employment exchanges.

Be it enacted by Parliament in the Tenth Year of the Republic
of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Employment Exchanges
(Compulsory Notification of Vacancies) Act, 1959.

(2) It extends to the whole of India except the State of Jammu
and Kashmir.

(3) It shall come into force in a State on such date as the Central
Government may, by notification in the Official Gazette, appoint in
this behalf for such State and different dates may be appointed for
different States or for different areas of a State.

Definitions

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

(a) "appropriate Government" means—

(1) in relation to—

(a) any establishment of any railway, major port,
mine or oil-field, or

(b) any establishment owned, controlled or managed
by—

(i) the Central Government or a department of
the Central Government,

(ii) a company in which not less than fifty-one
per cent. of the share capital is held by the Central
Government or partly by the Central Government
and partly by one or more State Governments,

(iii) a corporation (including a co-operative society) established by or under a Central Act which is owned, controlled or managed by the Central Government,

the Central Government;

(2) in relation to any other establishment, the Government of the State in which that other establishment is situate;

(b) "employee" means any person who is employed in an establishment to do any work for remuneration;

(c) "employer" means any person who employs one or more other persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment;

(d) "employment exchange" means any office or place established and maintained by the Government for the collection and furnishing of information, either by the keeping of registers or otherwise, respecting—

(i) persons who seek to engage employees,

(ii) persons who seek employment, and

(iii) vacancies to which persons seeking employment may be appointed;

(e) "establishment" means—

(a) any office, or

(b) any place where any industry, trade, business or occupation is carried on;

(f) "establishment in public sector" means an establishment owned, controlled or managed by—

(1) the Government or a department of the Government;

(2) a Government company as defined in section 617 of the Companies Act, 1956;

(3) a corporation (including a co-operative society) established by or under a Central, Provincial or State Act, which is owned, controlled or managed by the Government;

(4) a local authority;

(g) "establishment in private sector" means an establishment which is not an establishment in public sector and where ordinarily twenty-five or more persons are employed to work for remuneration;

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

(i) "unskilled office work" means work done in an establishment by any of the following categories of employees, namely:—

- (1) *daftri*;
- (2) *jemadar*, orderly and peon;
- (3) dusting man or *farash*;
- (4) bundle or record lifter;
- (5) process server;
- (6) watchman;
- (7) sweeper;

(8) any other employee doing any routine or unskilled work which the Central Government may, by notification in the Official Gazette, declare to be unskilled office work.

Act not to apply in relation to certain vacancies.

3. (1) This Act shall not apply in relation to vacancies,—

(a) in any employment in agriculture (including horticulture) in any establishment in private sector other than employment as agricultural or farm machinery operatives;

(b) in any employment in domestic service;

(c) in any employment the total duration of which is less than three months;

(d) in any employment to do unskilled office work;

(e) in any employment connected with the staff of Parliament.

(2) Unless the Central Government otherwise directs by notification in the Official Gazette in this behalf, this Act shall not also apply in relation to—

(a) vacancies which are proposed to be filled through promotion or by absorption of surplus staff of any branch or department of the same establishment or on the result of any examination conducted or interview held by, or on the recommendation of, any independent agency, such as the Union or a State Public Service Commission and the like :

(b) vacancies in an employment which carries a remuneration of less than sixty rupees in a month.

4. (1) After the commencement of this Act in any State or area thereof, the employer in every establishment in public sector in that State or area shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed.

(2) The appropriate Government may, by notification in the Official Gazette, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed, and the employer shall thereupon comply with such requisition.

(3) The manner in which the vacancies referred to in sub-section (1) or sub-section (2) shall be notified to the employment exchanges and the particulars of employments in which such vacancies have occurred or are about to occur shall be such as may be prescribed.

(4) Nothing in sub-sections (1) and (2) shall be deemed to impose any obligation upon any employer to recruit any person through the employment exchange to fill any vacancy merely because that vacancy has been notified under any of those sub-sections.

5. (1) After the commencement of this Act in any State or area thereof, the employer in every establishment in public sector in that State or area shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment, to such employment exchanges as may be prescribed.

(2) The appropriate Government may, by notification in the Official Gazette, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment to such employment exchanges as may be prescribed, and the employer shall thereupon comply with such requisition.

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of Vacancies])**

(3) The form in which, and the intervals of time at which, such information or return shall be furnished and the particulars which they shall contain shall be such as may be prescribed.

Right of access to records or documents. 6. Such officer of Government as may be prescribed in this behalf, or any person authorised by him in writing, shall have access to any relevant record or document in the possession of any employer required to furnish any information or returns under section 5 and may enter at any reasonable time any premises where he believes such record or document to be and inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required under that section.

Penalties. 7. (1) If any employer fails to notify to the employment exchanges prescribed for the purpose any vacancy in contravention of sub-section (1) or sub-section (2) of section 4, he shall be punishable for the first offence with fine which may extend to five hundred rupees and for every subsequent offence with fine which may extend to one thousand rupees.

(2) If any person—

(a) required to furnish any information or return—

(i) refuses or neglects to furnish such information or return, or

(ii) furnishes or causes to be furnished any information or return which he knows to be false, or

(iii) refuses to answer, or gives a false answer to, any question necessary for obtaining any information required to be furnished under section 5; or

(b) impedes the right of access to relevant records or documents or the right of entry conferred by section 6,

he shall be punishable for the first offence with fine which may extend to two hundred and fifty rupees and for every subsequent offence with fine which may extend to five hundred rupees.

Cognizance of offences. 8. No prosecution for an offence under this Act shall be instituted except by, or with the sanction of, such officer of Government as may be prescribed in this behalf or any person authorised by that officer in writing.

Protection of action taken in good faith. 9. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

10. (1) The Central Government may, by notification in the ~~Power to~~ Official Gazette and subject to the condition of previous publication, ~~make rules.~~ make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the employment exchange or exchanges to which, the form and manner in which, and the time within which, vacancies shall be notified, and the particulars of employments in which such vacancies have occurred or are about to occur;

(b) the form and manner in which, and the intervals at which, information and returns required under section 5 shall be furnished, and the particulars which they shall contain;

(c) the officers by whom and the manner in which the right of access to documents and the right of entry conferred by section 6 may be exercised;

(d) any other matter which is to be, or may be, prescribed under this Act.

(3) All rules made under this Act shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid ~~of~~ the session immediately following.

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THE INDIAN ELECTRICITY (AMENDMENT) ACT, 1959

No. 32 OF 1959

[5th September, 1959]

An Act further to amend the Indian Electricity Act, 1910.

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

Short title.

1. This Act may be called the Indian Electricity (Amendment) Act, 1959.

Substitution
of expres-
sions "aerial
line" and
"Electric
Inspector"
by certain
other expres-
sions.

2. Throughout the Indian Electricity Act, 1910 (hereinafter referred to as "the principal Act), unless otherwise expressly provided,—

- (i) for the words "aerial line" wherever they occur, the words "overhead line" shall be substituted; and
- (ii) for the words "Electric Inspector" wherever they occur, the words "Electrical Inspector" shall be substituted.

Amendment
of section 2.

3. In section 2 of the principal Act,—

- (i) for the words "have the meanings assigned to them in that Act", the words, brackets and figures "or in the Electricity (Supply) Act, 1948, have the meanings assigned to them in either of those Acts" shall be substituted;

54 of 1948.

- (ii) for clause (a), the following clause shall be substituted, namely:—

(a) "appropriate Government" means in relation to any works or electric installations belonging to, or under the control of, the Central Government or in relation to any mines, oil-fields, railways, aerodromes, telegraphs, broadcasting stations and any works of defence, the Central Government, and in any other case, the State Government;;

(iii) for clause (c), the following clause shall be substituted, namely:—

(c) "consumer" means any person who is supplied with energy by a licensee or the Government or by any other person engaged in the business of supplying energy to the public under this Act or any other law for the time being

in force, and includes any person whose premises are for the time being connected for the purpose of receiving energy with the works of a licensee, the Government or such other person, as the case may be;';

(iv) for clause (f), the following clause shall be substituted, namely:—

'(f) "electric supply-line" means a wire, conductor or other means used for conveying, transmitting or distributing energy (whether by overhead line or underground cable), together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy and includes any support, cross-arm, stay, strut or safety device erected or set up for that purpose;';

(v) for clause (g), the following clause shall be substituted, namely:—

'(g) "energy" means electrical energy—

(i) generated, transmitted or supplied for any purpose, or

(ii) used for any purpose except the transmission of a message;';

(vi) in clause (i), the words "by a licensee" shall be omitted;

(vii) after clause (i), the following clause shall be inserted, namely:—

'(ii) "overhead line" means an electric supply-line which is placed above ground and in the open air but does not include live rails of a traction system;';

(viii) in clause (l), the words "by a licensee" shall be omitted and in sub-clause (i), for the words "licensee's premises", the words "supplier's premises" shall be substituted;

(ix) after clause (l), the following clause shall be inserted, namely:—

'(ll) "State Electricity Board" in relation to any State means the State Electricity Board, if any, constituted for that State under section 5 of the Electricity (Supply) Act, 1948 and includes any Board which functions in that State under sections 6 and 7 of the said Act;';

(x) for clause (n), the following clause shall be substituted, namely:—

(n) "works" includes electric supply-line and any building, plant, machinery, apparatus and any other thing of whatever description required to supply energy to the public and to carry into effect the objects of a license or sanction granted under this Act or any other law for the time being in force'.

**Amendment
of section 3.**

4. In section 3 of the principal Act,—

(i) in sub-section (1), for the words "grant to any person a license", the words "grant after consulting the State Electricity Board, a license to any person" shall be substituted;

(ii) in sub-section (2),—

(a) in clause (a), in item (ii),—

(i) after the word "cantonment," the word "aero-drome," shall be inserted;

(ii) for the words "naval or military purposes", the words "defence purposes" and for the words "Engineer-in-Chief, Army Headquarters, India", the words "Central Government" shall respectively be substituted;

(b) in clause (d),—

(i) in item (i), the words "and as to the limits of price to be charged in respect of the supply of energy," shall be omitted;

(ii) in item (ii), for the words and figures "sections 5 and 7", the words and figures "sections 5 and 6" and for the words and figures "section 5 or section 7", the words and figures "section 5 or section 6" shall be substituted.

**Amendment
of section 4.**

5. In section 4 of the principal Act,—

(i) in sub-section (1),—

(a) after the words "so requires", the words "and after consulting the State Electricity Board" shall be inserted;

(b) in clause (c), for the words, brackets, figure and letter "sub-section (3), clause (b)", the words, figures, letter and brackets "section 4A, sub-section (1)" shall be substituted;

(c) in clause (d), for the words "where the licensee is, in the opinion of the State Government, unable, by reason of his insolvency", the words "where in the opinion of the State Government the financial position of the licensee is such that he is unable" shall be substituted;

(d) after clause (d), the following clause shall be inserted, namely:—

"(e) where a licensee, in the opinion of the State Government, has made default in complying with any direction issued under section 22A.";

(ii) for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

"(2) Where in its opinion the public interest so permits, the State Government may, on the application or with the consent of the licensee, and after consulting the State Electricity Board, and the Central Government where that Government is interested, and if the licensee is not a local authority, after consulting also the local authority, if any, concerned, revoke a license as to the whole or any part of the area of supply upon such terms and conditions as it thinks fit.

(3) No license shall be revoked under sub-section (1) unless the State Government has given to the licensee not less than three months' notice, in writing, stating the grounds on which it is proposed to revoke the license and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.

(4) Where the State Government might under sub-section (1) revoke a license it may instead of revoking the license permit it to remain in force subject to such further terms and conditions as it thinks fit to impose and any further terms or conditions so imposed shall be binding upon, and be observed by, the licensee, and shall be of like force and effect as if they were contained in the license."

6. After section 4 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
4A.

"4A. (1) Where in its opinion the public interest so permits, the State Government, on the application of the licensee or otherwise and, after consulting the State Electricity Board, and if the licensee is not a local authority, also the local authority,

if any, concerned, may make such alterations and amendments in the terms and conditions of a license, including the provisions specified in section 3, sub-section (2), clause (f), as it thinks fit:

Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the State Government, been unreasonably withheld.

(2) Where the licensee has made an application under sub-section (1) proposing any alterations or amendments in his license, the following provisions shall have effect, namely:—

(a) the licensee shall publish a notice of the application in the prescribed manner and with the prescribed particulars;

(b) the State Government shall not make any alterations or amendments until all objections received by it with reference to the application within three months from the date of the first publication of the notice have been considered;

(c) in the case of an application proposing alterations or amendments in the area of supply comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the State Government shall not make any alterations or amendments except with the consent of the Central Government.

(3) Before making any alterations or amendments in a license otherwise than on the application of the licensee, the State Government shall publish the proposed alterations or amendments in the prescribed manner and with the prescribed particulars and consider all objections received by it with reference to the proposed alterations or amendments within three months from the date of the first publication of the notice; and where alterations or amendments have been proposed in an area of supply such as is referred to in clause (c) of sub-section (2), the State Government shall not make any alterations or amendments except with the consent of the Central Government."

7. For sections 5, 6 and 7 of the principal Act, the following sections shall be substituted, namely:—

Substitution
of new sec-
tions for sec-
tions 5, 6
and 7.

"5. (1) Where the State Government revokes, under section 4, sub-section (1), the license of a licensee, the following provisions shall have effect, namely:—

Provisions
where license
of a licensee
is revoked.

(a) the State Government shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect; and on and with effect from that date, or on and with effect from the date, if earlier, on which the undertaking of the licensee is sold to a purchaser in pursuance of any of the succeeding clauses or is delivered to a designated purchaser in pursuance of sub-section (3), all the powers and liabilities of the licensee under this Act shall absolutely cease and determine;

(b) the State Government shall enquire from the State Electricity Board, and where the licensee is not a local authority, also from any local authority constituted for the area within which the whole of the area of supply is included, whether it is willing to purchase the undertaking;

(c) if the State Electricity Board is willing to purchase the undertaking, the State Government shall, by notice in writing require the licensee to sell, and thereupon, the licensee shall sell the undertaking to the State Electricity Board;

(d) if the State Electricity Board is not willing to purchase the undertaking, the State Government shall have the option of purchasing the undertaking and if it elects to purchase, it shall by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to it;

(e) if the State Electricity Board is not willing to purchase the undertaking and the State Government does not itself elect to purchase it, the State Government in any case where the local authority referred to in clause (b) is willing to purchase the undertaking shall by notice in writing require the licensee to sell and thereupon the licensee shall sell the undertaking to that local authority;

(f) if no sale of the undertaking is effected under any of the foregoing clauses and if any other person is willing to purchase the undertaking, the State Government may by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to such other person.

(2) Where an undertaking is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the undertaking determined in accordance with the provisions of sub-sections (1) and (2) of section 7A, or as the case may be, sub-section (3) of that section.

(3) Where the State Government issues any notice under sub-section (1) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver, and thereupon the licensee shall deliver on a date specified in the notice the undertaking to the designated purchaser pending the determination and payment of the purchase price of the undertaking:

Provided that in any such case, the purchaser shall pay to the licensee, interest at the Reserve Bank rate ruling at the time of delivery of the undertaking plus one per centum, on the purchase price of the undertaking for the period from the date of delivery of the undertaking to the date of payment of the purchase price.

(4) Where before the date fixed in the notice issued under clause (a) of sub-section (1) as the date on which the revocation of the license shall take effect, no notice has been issued to the licensee requiring him to sell the undertaking or where for any reason no sale of the undertaking has been effected under that sub-section, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that if the licensee does not exercise such option within a period of six months from the aforesaid date, the State Government may forthwith cause the works of the licensee in, under, over, along, or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

Purchase of
undertaking.

6. (1) Where a license has been granted to any person, not being a local authority, the State Electricity Board shall,—

(a) in the case of a license granted before the commencement of the Indian Electricity (Amendment) Act, 1959, on the expiration of each such period as is specified in the license; and

(b) in the case of a license granted on or after the commencement of the said Act, on the expiration of such period not exceeding twenty years and of every such subsequent

period, not exceeding ten years, as shall be specified in this behalf in the license;

have the option of purchasing the undertaking and such option shall be exercised by the State Electricity Board serving upon the licensee a notice in writing of not less than one year requiring the licensee to sell the undertaking to it at the expiry of the relevant period referred to in this sub-section.

(2) Where a State Electricity Board has not been constituted, or if constituted, does not elect to purchase the undertaking, the State Government shall have the like option to be exercised in the like manner of purchasing the undertaking.

(3) Where neither the State Electricity Board nor the State Government elects to purchase the undertaking, any local authority constituted for an area within which the whole of the area of supply is included shall have the like option to be exercised in the like manner of purchasing the undertaking.

(4) If the State Electricity Board intends to exercise the option of purchasing the undertaking under this section, it shall send an intimation in writing of such intention to the State Government at least eighteen months before the expiry of the relevant period referred to in sub-section (1) and if no such intimation as aforesaid is received by the State Government the State Electricity Board shall be deemed to have elected not to purchase the undertaking.

(5) If the State Government intends to exercise the option of purchasing the undertaking under this section, it shall send an intimation in writing of such intention to the local authority, if any, referred to in sub-section (3) at least fifteen months before the expiry of the relevant period referred to in sub-section (1) and if no such intimation as aforesaid is received by the local authority, the State Government shall be deemed to have elected not to purchase the undertaking.

(6) Where a notice exercising the option of purchasing the undertaking has been served upon the licensee under this section, the licensee shall deliver the undertaking to the State Electricity Board, the State Government or the local authority, as the case may be, on the expiration of the relevant period referred to in sub-section (1) pending the determination and payment of the purchase price.

(7) Where an undertaking is purchased under this section, the purchaser shall pay to the licensee the purchase price determined in accordance with the provisions of sub-section (4) of section 7A.

Vesting of
the under-
taking in the
purchaser.

7. Where an undertaking is sold under section 5 or section 6, then upon the completion of the sale or on the date on which the undertaking is delivered to the intending purchaser under sub-section (3) of section 5 or under sub-section (6) of section 6, as the case may be, whichever is earlier—

(i) the undertaking shall vest in the purchaser or the intending purchaser, as the case may be, free from any debt, mortgage or similar obligation of the licensee or attaching to the undertaking;

Provided that any such debt, mortgage or similar obligation shall attach to the purchase money in substitution for the undertaking;

(ii) the rights, powers, authorities, duties and obligations of the licensee under his license shall stand transferred to the purchaser and such purchaser shall be deemed to be the licensee:

Provided that where the undertaking is sold or delivered to a State Electricity Board or the State Government, the license shall cease to have further operation.

Determi-
nation of
purchase
price.

7A. (1) Where an undertaking of a licensee, not being a local authority, is sold under sub-section (1) of section 5, the purchase price of the undertaking shall be the market value of the undertaking at the time of purchase or where the undertaking has been delivered before the purchase under sub-section (3) of that section, at the time of the delivery of the undertaking and if there is any difference or dispute regarding such purchase price, the same shall be determined by arbitration.

(2) The market value of an undertaking for the purpose of sub-section (1) shall be deemed to be the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him, for the purpose of the undertaking, other than (i) a generating station declared by the licensee not to form part of the undertaking for the purpose of purchase, and (ii) service lines or other capital works or any part thereof which have been constructed at the expense of consumers, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant and the state of repair thereof and to the circumstance that they are in such position as to be ready for immediate working and to the suitability of the same for the purpose of the undertaking, but without any addition in respect of compulsory purchase or of goodwill or of any profits which may be or might have been made from the undertaking or of any similar consideration.

(3) Where an undertaking of a licensee, being a local authority, is sold under sub-section (1) of section 5, the purchase price of the undertaking shall be such as the State Government, having regard to the market value of the undertaking at the date of delivery of the undertaking, may determine.

(4) Where an undertaking of a licensee is purchased under section 6, the purchase price shall be the value thereof as determined in accordance with the provisions of sub-sections (1) and (2):

Provided that there shall be added to such value such percentage, if any, not exceeding twenty per centum of that value as may be specified in the license on account of compulsory purchase.”.

8. In section 8 of the principal Act,—

Amendment
of section 8.

(i) for the words, figures and brackets “section 7, sub-section (1), neither a local authority nor the State Government purchases the undertaking”, the words, figures and brackets “section 6, sub-section (1), the undertaking is not purchased by the State Electricity Board, the State Government or the local authority” shall be substituted;

(ii) in the proviso, for the words, figure, brackets and letter “section 5, clause (f), proviso”, the words, figures and brackets “section 5, sub-section (4), proviso” shall be substituted.

9. In section 9 of the principal Act, in sub-section (1), for the words beginning with “notice of the application to every local authority” and ending with “or intends to supply, energy”, the following shall be substituted, namely:

Amendment
of section 9.

“notice of the application—

(a) to the State Electricity Board; and

(b) to every local authority both in the licensee's area of supply and also in the area in which such other person supplies, or intends to supply, energy”.

10. In section 10 of the principal Act, for the words and figures “sections 5, 7 and 8”, the words and figures “sections 5, 6 and 8” shall be substituted.

Amendment
of section
10.

11. In section 12 of the principal Act,—

Amendment
of section
12.

(i) in sub-section (2), for the words “owner and occupier”, the words “owner or occupier” shall be substituted;

(ii) after sub-section (5), the following sub-section shall be inserted, namely:—

‘(6) In this section, “occupier” of any building or land means a person in lawful occupation of that building or land.’.

Amendment
of section
13.

12. In section 13 of the principal Act, in sub-section (1),—

(i) in clause (a), the brackets and words “(not being a service line immediately attached, or intended to be immediately attached, to a distributing main, or the repair, renewal or amendment of existing works of which the character or position is not to be altered)” shall be omitted;

(ii) after clause (e), the following *Explanation* shall be inserted, namely:—

*Explanation.—*In clauses (a) to (e), the word “works” includes a service line in, under, over, along or across a railway even if such line is immediately attached or intended to be immediately attached to a distributing main, but does not include—

(i) any other service line so attached or intended to be so attached to a distributing main, or

(ii) works which consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered;’.

Amendment
of section
20.

13. In section 20 of the principal Act,—

(i) in sub-section (1),—

(a) after the words “to which energy is or has been supplied by him”, the words “or any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him” shall be inserted;

(b) in clause (a), for the words “inspecting and testing”, the words “inspecting, testing, repairing or altering” shall be substituted;

(ii) in sub-section (2), for the words beginning with "the District Magistrate or" and ending with "belonging to the consumer", the following shall be substituted, namely:—

"a Magistrate of the first class or in a presidency-town, by a Presidency Magistrate and after giving not less than twenty-four hours' notice in writing to the occupier—

(a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;

(b) enter any premises to which energy is to be supplied by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of energy, belonging to the consumer";

(iii) in sub-section (3), after the words "his premises", the words "or land" shall be inserted.

14. In section 21 of the principal Act,—

Amendment
of section
21.

(i) in sub-section (1),—

(a) after the words "save as provided", the words, brackets and figure "in any conditions made under sub-section (2) or" shall be inserted;

(b) in the proviso, for the words "interfere with the supply by the licensee of energy to any other person", the following shall be substituted, namely:—

"interfere with—

(a) the safety or efficient working of a licensee's electric supply-lines or other works; or

(b) the supply of energy by the licensee to any other person";

(ii) in sub-section (2),—

(a) the words, brackets and figure "Subject to the provisions of sub-section (1)" shall be omitted;

(b) after the words "after consulting", the words "the State Electricity Board and also" shall be inserted;

(iii) in sub-section (3), for the word "cancel", the words "add any new condition or cancel or amend" shall be substituted.

Insertion of new sections 22A and 22B.

15. After section 22 of the principal Act, the following sections shall be inserted, namely:—

Powers of State Government to give direction to a licensee in regard to the supply of energy to certain class of consumers.

“22A. (1) The State Government may, if in its opinion it is necessary in the public interest so to do, direct any licensee to supply, in preference to any other consumer, energy required by any establishment which being in the opinion of the State Government an establishment used or intended to be used for maintaining supplies and services essential to the community, is notified by that Government in the Official Gazette in this behalf.

(2) Where any direction is issued under sub-section (1) requiring a licensee to supply energy to any establishment and any difference or dispute arises as to the price or other terms and conditions relating to the supply of energy, the licensee shall not by reason only of such difference or dispute be entitled to refuse to supply energy but such difference or dispute shall be determined by arbitration.

(3) Where any agreement by a licensee, whether made before or after the commencement of the Indian Electricity (Amendment) Act, 1959, for the supply of energy with any establishment referred to in sub-section (1) expires, the licensee shall continue to supply energy to such establishment on the same terms and conditions as are specified in the agreement until he receives a notice in writing from the establishment requiring him to discontinue the supply.

(4) Notwithstanding anything contained in this Act, or in the Electricity (Supply) Act, 1948, or in his license or in any agreement entered into by him for the supply of energy, a licensee shall be bound to comply with any direction given to him under sub-section (1) and any action taken by him in pursuance of any such direction shall not be deemed to be a contravention of section 23.

Power to control the distribution and consumption of energy.

22B. (1) If the State Government is of opinion that it is necessary or expedient so to do, for maintaining the supply and securing the equitable distribution of energy, it may by order provide for regulating the supply, distribution, consumption or use thereof.

(2) Without prejudice to the generality of the powers conferred by sub-section (1) an order made thereunder may direct the licensee not to comply, except with the permission of the State Government, with—

(i) the provisions of any contract, agreement or requisition whether made before or after the commencement of the Indian Electricity (Amendment) Act, 1959, for the supply

(other than the resumption of a supply) or an increase in the supply of energy to any person, or

(ii) any requisition for the resumption of supply of energy to a consumer after a period of six months, from the date of its discontinuance, or

(iii) any requisition for the resumption of supply of energy made within six months of its discontinuance, where the requisitioning consumer was not himself the consumer of the supply at the time of its discontinuance.”.

16. In section 23 of the principal Act, in sub-section (1), the Amendment words “but may, save as aforesaid, make such charges for the supply of section 23. of energy as may be agreed upon, not exceeding the limits imposed by his license” shall be omitted.

17. In section 24 of the principal Act, in sub-section (2), for the Amendment words “has been referred under this Act to an Electric Inspector”, of section 24. the words “which by or under this Act is required to be determined by an Electrical Inspector, has been referred to the Inspector” shall be substituted.

18. In section 25 of the principal Act,—

(i) after the word “premises”, the words “or land” shall be 25. inserted;

(ii) the words “for the purpose of supplying energy,” shall be omitted.

19. In section 26 of the principal Act,—

Amendment of section 26.

(i) in sub-section (5), for the words beginning with “without giving” and ending with “his intention”, the following shall be substituted, namely:—

“but he may by giving not less than forty-eight hours’ notice in writing to the licensee require the licensee to connect or disconnect such meter and on receipt of any such requisition the licensee shall comply with it within the period of the notice”;

(ii) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector; and where the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity

contained in the supply, during such time, not exceeding six months, as the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

Provided that before either a licensee or a consumer applies to the Electrical Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.”

*Amendment
of section 28.*

20. In section 28 of the principal Act,—

(i) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) No person, other than a licensee, shall engage in the business of supplying energy to the public except with the previous sanction of the State Government and in accordance with such conditions as the State Government may fix in this behalf, and any agreement to the contrary shall be void.

(1A) The State Government shall not give any sanction under sub-section (1)—

(a) except after consulting the State Electricity Board; and

(b) except with the consent—

(i) in any case where energy is to be supplied in any area for which a local authority is constituted, of that local authority;

(ii) in any case where energy is to be supplied in any area forming part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, of the Central Government;

(iii) in any area falling within the area of supply of a licensee, of that licensee:

Provided that except in a case falling under sub-clause (ii), no such consent shall be necessary if the State Government is satisfied that such consent has been unreasonably withheld.”;

(ii) in sub-section (2), after the words "supplying energy", the words "to the public" shall be inserted.

21. In section 29 of the principal Act, in sub-section (1), after Amendment of section 29, the words "supplying energy", the words "to the public" shall be inserted.

22. In section 30 of the principal Act, in sub-section (1), for the Amendment of section 30, words, brackets, letters and figures beginning with "No person, other than a licensee" and ending with "as may be applicable", the following shall be substituted, namely:—

"No person other than a licensee or a person to whom sanction is granted under section 28, duly authorised under the terms of his license or sanction, as the case may be, shall transmit or use energy at a rate exceeding two hundred and fifty watts and one hundred volts—

(a) in any street, or

(b) in any place,—

(i) in which one hundred or more persons are likely ordinarily to be assembled, or

(ii) which is a factory within the meaning of the Factories Act, 1948, or a mine within the meaning of the Mines Act, 1952, or

(iii) to which the State Government, by general or special order, declares the provisions of this sub-section to apply,

63 of 1948.
35 of 1952.

without giving, before the commencement of transmission or use of energy, not less than seven days' notice in writing of his intention to the Electrical Inspector and to the District Magistrate, or in a presidency-town to the Commissioner of Police, containing particulars of the electrical installation and plant, if any, the nature and the purpose of supply, and complying with such of the provisions of Part IV, and of the rules made thereunder, as may be applicable".

23. In section 31 of the principal Act,—

Amendmen
of section

(i) after the word "railway," where it occurs for the first time, the word "aerodrome," shall be inserted;

(ii) after the word "railway," where it occurs for the second time, the word "airway," shall be inserted.

Amendment
of section
33.

24. In section 33 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) If any accident occurs in connection with the generation, transmission, supply or use of energy in or in connection with, any part of the electric supply-lines or other works of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector and to such other authorities as the appropriate Government may by general or special order, direct.”;

(ii) in sub-section (2), for the words “The State Government”, the words “The appropriate Government” shall be substituted;

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

“(3) Every Electrical Inspector or other person holding an inquiry under sub-section (2) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, ^{5 of 1908.} for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by an Electrical Inspector or such other person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.”.

45 of 1860.

Amendment
of section
34.

25. In section 34 of the principal Act,—

(i) for the words “State Government” wherever they occur, the words “appropriate Government” shall be substituted;

(ii) in sub-section (2), for the words “the use of any electric supply-line”, the words “the use of, and the supply of energy to, any electric supply-line” shall be substituted.

Substitution
of new sec-
tion for
section 36.

Appointment
of Electrical
Inspectors.

26. For section 36 of the principal Act, the following section shall be substituted, namely:—

“36. (1) The appropriate Government may, by notification in the Official Gazette, appoint duly qualified persons to be Electrical Inspectors and every Electrical Inspector so appointed shall exercise the powers and perform the functions of an Elec-

trical Inspector under this Act within such areas or in respect of such class of works and electric installations and subject to such restrictions as the appropriate Government may direct.

(2) In the absence of express provision to the contrary in this Act, or any rule made thereunder, an appeal shall lie from the decision of an Electrical Inspector to the appropriate Government or if the appropriate Government, by general or special order so directs, to an Advisory Board.”

27. In section 36A of the principal Act,—

Amendment
of section
36A.

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

“(2) The Central Electricity Board shall consist of the following members, namely:—

(a) a Chairman and five other members to be nominated by the Central Government;

(b) one member to be nominated by the Governments of each of the States, not being a Union territory, to which this Act extends;

(c) one member to be nominated by the Central Government to represent each of the Union territories of Delhi and Himachal Pradesh;

(d) one member to be nominated by the Central Government to represent the Union territories of Manipur, Tripura and the Andamans and Nicobar Islands;

(e) one member to be nominated by each of the State Electricity Boards;

(f) one member to be nominated by the Central Government to represent the Federation of Electricity Undertakings of India;

(g) one member to be nominated by the Railway Board;

(h) one member to be nominated by the Chief Inspector of Mines appointed under section 5 of the Mines Act, 1952; and

(i) one member to be nominated by the Indian Standards Institution constituted under the Indian Standards Institution (Certification Marks) Act, 1952.”;

(ii) sub-section (6) shall be omitted.

Omission of
section 36B.

28. Section 36B of the principal Act shall be omitted.

Amendment
of section 37.

29. In section 37 of the principal Act, in sub-section (3), for the words, brackets and letters "clause (f) or clause (h)", the words, brackets and letters "clauses (e) to (j) (both inclusive)" shall be substituted.

Amendment
of section 38.

30. In section 38 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) All rules made under section 37 shall be published in the Gazette of India and shall be laid for not less than thirty days before each House of Parliament as soon as may be after such publication and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following".

Substitution
of new sec-
tion for
section 42.

31. For section 42 of the principal Act, the following section shall be substituted, namely:—

Penalty for
illegal or
defective
supply or
for non-
compliance
with order.

"42. Whoever—

(a) being a licensee or a person who has obtained the sanction of the State Government under section 28 to engage in the business of supplying energy to the public, save as permitted under section 27 or section 51 or by his license or as the case may be, by the conditions of sanction, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or

(b) being a licensee or a person who has obtained the sanction of the State Government as aforesaid, in contravention of the provisions of this Act or of the rules thereunder, or in breach of the conditions of license or of the sanction, as the case may be, and without reasonable excuse, the burden of proving which shall lie on him, discontinues the supply of energy or fails to supply energy; or

(c) makes default in complying with any of the provisions of an order or of any notice or requisition issued under section 5 or section 6; or

(d) makes default in complying with any directions issued to him under section 22A; or

(e) makes default in complying with any order issued to him under section 22B or sub-section (2) of section 34;

shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.”.

32. In section 44 of the principal Act,—

Amendment
of section
44.

(i) in clause (a), the words “, without giving to the licensee forty-eight hours' notice in writing of his intention” shall be omitted;

(ii) in clause (b), the words “, without such licensee's consent” shall be omitted.

33. In section 47 of the principal Act, after the words “conditions of his license”, the words and figures “or in the case of a person who has obtained the sanction of the State Government under section 28, with any of the conditions of the sanction” shall be inserted.

34. After section 49 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
49A.

'49A. (1) If the person committing an offence under this Act is 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, 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 with the consent or connivance of, or is attributable to any neglect on the part of, any director or 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.’

Amendment
of section
51.

35. In section 51 of the principal Act, for the words "appliances and apparatus for the transmission of energy, confer upon any public officer or licensee", the words "electric supply-lines, appliances and apparatus for the transmission of energy or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying energy to the public under this Act" shall be substituted.

Insertion of
new section
51A.

36. After section 51 of the principal Act, the following section shall be inserted, namely:—

State Gov-
ernment to
have powers
and obliga-
tions of a
licensee
under this
Act.

"51A. Where the State Government engages in the business of supplying energy to the public, it shall have all the powers and obligations of a licensee under this Act:

Provided that nothing in sections 3 to 11 (both inclusive), section 21, sub-sections (2) and (3), sections 22 and 27 or in clauses I to V (both inclusive), clause VII and clauses IX to XII (both inclusive) of the Schedule relating to the duties and obligations of a licensee shall apply to the State Government:

Provided further that the provisions of clause VI of the Schedule shall apply to the State Government in respect of that area only where distribution mains have been laid by the State Government and the supply of energy through any of them has commenced".

Amendment
of section
52.

37. To section 52 of the principal Act, the following proviso shall be added, namely:—

"Provided that where the Government or a State Electricity Board is a party to a dispute, the dispute shall be referred to two arbitrators, one to be appointed by each party to the dispute".

Amendment
of section
54.

38. In section 54 of the principal Act, for the words, figures, brackets and letter "section 5, clause (f), section 6, sub-section (2)", the words, figures and brackets "section 5, sub-section (4)" shall be substituted.

Amendment
of section
56.

39. Section 56 of the principal Act shall be re-numbered as sub-section (1) thereof; and after the sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) No court shall take cognizance of an offence under this Act, by a public officer except with the sanction—

(a) in the case of a person employed in connection with the affairs of the Union, of the Central Government; and

(b) in any other case, of the State Government".

40. In the Schedule to the principal Act,—

Amendment
of the
Schedule.

(a) in clause I,—

(i) in sub-clauses (a) and (b), for the words, figures, brackets and letter "section 4, sub-section (3), clause (b)", the words, figures, letter and brackets "section 4A, sub-section (1)" shall be substituted;

(ii) after clause (c), the following proviso shall be added, namely:—

"Provided that if the works referred to in clause IV are not executed to the satisfaction of the State Government within the period specified in that clause, that Government may by order direct that the whole or any part of the sum so deposited or secured shall be forfeited to it.";

(b) in clause II, in sub-clause (b), after the words "and information", the brackets and words "(including technical data and statements of energy generated and sold)" shall be inserted;

(c) in clause III, for the words "capital employed for the purposes of the undertaking", the words "undertaking relating to the generation, supply or distribution of energy" shall be substituted;

(d) in clause V,—

(i) in sub-clause (1), for the words "six or more", the words "two or more" shall be substituted;

(ii) in sub-clause (1) (a),—

(a) after the words "written contract", the words "in a form approved by the State Government" shall be inserted;

(b) for the words "produce annually, at the current rates charged by the licensee, a reasonable return to the licensee", the words and brackets "assure to the licensee at the current rates charged by him, an annual revenue not exceeding fifteen per centum of the cost of the distributing mains (not including transformers and other sub-station equipment) required to comply with the requisition" shall be substituted;

(viii) for sub-clause (2), the following sub-clause shall be substituted, namely:—

“(2) Where any difference or dispute arises between the licensee and such owners or occupiers as to the sufficiency of the security offered under this clause, or as to the cost of the distributing mains or as to the amount of energy to be taken or guaranteed as aforesaid, the matter shall be referred to the Electrical Inspector and decided by him.”;

(e) in clause VI,—

(i) in sub-clause (1), in the first proviso, in part (a), for the words “produce, at current rates charged by the licensee, a reasonable return to the licensee”, the words “assure to the licensee at the current rates charged by him, an annual revenue not exceeding fifteen per centum of the cost of the service line required to comply with the requisition” shall be substituted;

(ii) in sub-clause (2), for the words “maintained by the licensee”, the words “maintained by the licensee who shall also have the right to use it for the supply of energy to any other person” shall be substituted;

(iii) in sub-clause (3), after the words “by any owner or occupier”, the words “or as to the position of the meter board” shall be inserted;

(f) in clause VII, for the words “any five or more”, the words “any one or more” shall be substituted;

(g) in clause VIII, after sub-clause (1), the following sub-clause shall be inserted, namely:—

“(1A) The State Government or, as the case may be, a local authority may require the licensee—

(a) to provide the mains and other equipments for public lamps, and

(b) to use for that purpose supports, if any, previously erected or set up by him for supply of energy.”;

(h) in clause IX,—

(i) in sub-clause (1)(b), for the words “as will produce a reasonable return to the bulk-licensee on the outlay”, the words “as will assure to the bulk-licensee an annual revenue not exceeding fifteen per centum of the outlay” shall be substituted;

(ii) sub-clause (1) (c) shall be omitted;

(i) in clause X, in sub-clause (2), for the words and brackets "to the local authority (if any) concerned", the words and brackets "to the State Electricity Board and the local authority (if any) concerned and to the Electrical Inspector" shall be substituted;

(j) clauses XI and XIA shall be omitted;

(k) in clause XII, after the words "for the public lamps", the words "and other charges to be paid to him in connection therewith" shall be inserted;

(l) in clause XIV, after the words "shall afford", the words "to an Electrical Inspector or other person authorised by such Inspector" shall be inserted;

(m) in clause XV,—

(i) for the words "Electric Inspector" where they occur for the first time, the words and brackets "Electrical Inspector or a person authorised by him in this behalf (hereinafter referred to as the authorised person)" shall be substituted;

(ii) for the words "Electric Inspector" wherever they occur elsewhere in the clause, the words "Electrical Inspector or the authorised person" shall be substituted.

41. The following amendments being amendments consequential upon the amendments made in the principal Act by the foregoing sections shall be made in the Electricity (Supply) Act, 1948, namely:—

Consequen-
tial amend-
ments in the
Electricity
(Supply)
Act, 1948.

(i) in section 26, in the first proviso, for the words and figures "sections 22, 23 and 27", the words, figures, brackets and letter "section 22, sub-section (2) of section 22A and sections 23 and 27" shall be substituted;

(ii) section 71 shall be omitted;

(iii) in the Sixth Schedule, in paragraph I, after the words and figures "the Indian Electricity Act, 1910", the brackets, words, figures and letter "[except sub-section (2) of section 22A]" shall be inserted.

THE BANKING COMPANIES (AMENDMENT)
ACT, 1959

No. 33 OF 1959

[5th September, 1959]

An Act further to amend the Banking Companies Act, 1949.

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

Short title and commencement. 1. (1) This Act may be called the Banking Companies (Amendment) Act, 1959.

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

Amendment of section 5. 2. In section 5 of the Banking Companies Act, 1949 (hereinafter referred to as the principal Act), in sub-section (1),—

(i) after clause (c), the following clause shall be inserted, namely:—

‘(cc) “branch” or “branch office”, in relation to a banking company, means any branch or branch office, whether called a pay office or sub-pay office or by any other name, at which deposits are received, cheques cashed or moneys lent, and for the purposes of section 35 includes any place of business where any other form of business referred to in sub-section (1) of section 6 is transacted;’;

(ii) for clause (d), the following clause shall be substituted, namely:—

‘(d) “company” means any 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;’;

(iii) for clause (h), the following clause shall be substituted, namely:—

‘(h) “managing director”, in relation to a banking company, means a director who, by virtue of an agreement with the banking company or of a resolution passed by the banking company in general meeting or by its Board of directors

1st October 1959. Vide Notfn. No. 14 (15)-BC/59 (IV). dt. 23-9-1952,
See Gazette of India, Extraordinary, Pt. II, Sec. 3(ii), p-493.

or, by virtue of its memorandum or articles of association, is entrusted with the management of the whole, or substantially the whole of the affairs of the company, and includes a director occupying the position of a managing director, by whatever name called;'

(iv) clauses (i), (k) and (m) shall be omitted;

(v) after clause (n), the following clause shall be inserted, namely:—

"(o) all other words and expressions used herein but not defined and defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act."

3. In PART I of the principal Act, after section 5, the following section shall be inserted, namely:—

insertion of new section 5A.

"5A. Save as otherwise expressly provided in this Act,—

Act to over-
ride memo-
randum,
articles, etc.

(a) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a banking company, or in any agreement executed by it, or in any resolution passed by the banking company in general meeting or by its Board of directors, whether the same be registered, executed or passed, as the case may be, before or after the commencement of the Banking Companies (Amendment) Act, 1959; and

(b) any provision contained in the memorandum, articles, agreement or resolution aforesaid shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be."

4. In section 6 of the principal Act, in clause (b) of sub-section (1), for the words "managing agent", the words "managing agent or secretary and treasurer" shall be substituted.

Amendment of section 6.

5. In section 7 of the principal Act, for the proviso, the following proviso shall be substituted, namely:—

Amendment of section 7.

"Provided that 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.".

(51) of 1956

Amendment
of section 10.

6. In section 10 of the principal Act,—

(a) in sub-section (I),—

(i) in clause (b), for the proviso to sub-clause (ii), the following proviso shall be substituted, namely:—

"Provided that nothing contained in this sub-clause shall apply to the payment by a banking company of—

(a) any bonus in pursuance of a settlement or award arrived at or made under any law relating to industrial disputes or in accordance with any scheme framed by such banking company or in accordance with the usual practice prevailing in banking business;

(b) any commission to any broker (including guarantee broker), cashier-contractor, clearing and forwarding agent, auctioneer or any other person, employed by the banking company under a contract otherwise than as a regular member of the staff of the company; or";

(ii) in clause (c), for sub-clause (i), the following sub-clause shall be substituted, namely:—

"(i) who is a director of any other company not being—

(a) a subsidiary of the banking company, or

(b) a company registered under section 25 of the Companies Act, 1956."

Provided that the prohibition in this sub-clause shall not apply in respect of any such director for a temporary period not exceeding three months or such further period not exceeding nine months as the Reserve Bank may allow; or";

(b) for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) Where a person holding the office of a chairman or director or manager or chief executive officer (by whatever name called) of a banking company is, or has been found by any tribunal or other authority (other than a criminal court) to have contravened the provision of any law and the Reserve Bank is satisfied that the contravention is of such a nature that the association of such person with the banking company is or will be detrimental to the interests of the banking company or its depositors or otherwise undesirable, the Reserve Bank may make an order that that person shall cease to hold the office with effect from such date as may be specified therein and thereupon, that office shall, with effect from the said date, become vacant.

(4) Any order made under sub-section (3) in respect of any person may also provide that he shall not, without the previous permission of the Reserve Bank in writing, in any way, directly or indirectly, be concerned with, or take part in the management of, the banking company or any other banking company for such period not exceeding five years as may be specified in the order.

(5) No order under sub-section (3) shall be made in respect of any person unless he has been given an opportunity of making a representation to the Reserve Bank against the proposed order:

Provided that it shall not be necessary to give any such opportunity if, in the opinion of the Reserve Bank, any delay would be detrimental to the interests of the banking company or its depositors.

(6) Any decision or order of the Reserve Bank made under this section shall be final for all purposes."

7. In section 11 of the principal Act,—

Amendment
of section II.

(i) in sub-section (1), for the words "unless it has paid-up capital and reserves of such aggregate value as is hereinafter required by this section", the words "unless it complies with such of the requirements of this section as are applicable to it" shall be substituted;

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

“(2) In the case of a banking company incorporated outside India—

(a) the aggregate value of its paid-up capital and reserves shall not be less than fifteen lakhs of rupees and if it has a place or places of business in the city of Bombay or Calcutta or both, twenty lakhs of rupees; and

(b) the banking company shall deposit and keep deposited with the Reserve Bank either in cash or in the form of unencumbered approved securities or partly in cash and partly in the form of such securities an amount which shall not be less than the minimum required by clause (a):

Provided that any such banking company may at any time replace—

(i) any securities so deposited by cash or by any other unencumbered approved securities or partly by cash and partly by other such securities, so however, that the total amount deposited is not affected;

(ii) any cash so deposited by unencumbered approved securities of an equal value.”;

(iii) in sub-section (4), the words “the proviso to” shall be omitted;

(iv) for sub-section (5), the following sub-section shall be substituted, namely:—

‘(5) For the purposes of this section,—

(a) “place of business” means any office, sub-office, sub-pay office and any place of business at which deposits are received, cheques cashed or moneys lent;

(b) “value” means the real or exchangeable value, and not the nominal value which may be shown in the books of the banking company concerned.’

Amendment of section 12. 8. In section 12 of the principal Act, in sub-section (2), after the words “exercise voting rights”, the words “on poll” shall be inserted.

Insertion of new section 14A. 9. After section 14 of the principal Act, the following section shall be inserted, namely:—

“14A. (1) Notwithstanding anything contained in section 6, no banking company shall create a floating charge on the undertaking or any property of the company or any part thereof, unless

Prohibition of floating charge on assets.

the creation of such floating charge is certified in writing by the Reserve Bank as not being detrimental to the interests of the depositors of such company.

(2) Any such charge created without obtaining the certificate of the Reserve Bank shall be invalid.

(3) Any banking company aggrieved by the refusal of a certificate under sub-section (1) may, within ninety days from the date on which such refusal is communicated to it, appeal to the Central Government.

(4) The decision of the Central Government where an appeal has been preferred to it under sub-section (3) or of the Reserve Bank where no such appeal has been preferred shall be final."

10. Section 15 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:

"(2) Notwithstanding anything to the contrary contained in sub-section (1) or in the Companies Act, 1956, a banking company may pay dividends on its shares without writing off—

(i) the depreciation, if any, in the value of its investments in approved securities in any case where such depreciation has not actually been capitalised or otherwise accounted for as a loss;

(ii) the depreciation, if any, in the value of its investments in shares, debentures or bonds (other than approved securities) in any case where adequate provision for such depreciation has been made to the satisfaction of the auditor of the banking company;

(iii) the bad debts, if any, in any case where adequate provision for such debts has been made to the satisfaction of the auditor of the banking company."

11. For sections 17 and 18 of the principal Act, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 17
and 18.

17. (1) Every banking company incorporated in India shall Reserve Fund create a reserve fund and unless the amount in such fund together with the amount in the share premium account is not less than its paid-up capital, shall, out of the balance of profit of each year as disclosed in the profit and loss account prepared under section 29 and before any dividend is declared transfer to the reserve fund a sum equivalent to not less than twenty per cent. of such profit.

(2) Where a banking company appropriates any sum or sums from the reserve fund or the share premium account, it shall, within twenty-one days from the date of such appropriation, report the fact to the Reserve Bank, explaining the circumstances relating to such appropriation:

Provided that the Reserve Bank may, in any particular case, extend the said period of twenty-one days by such period as it thinks fit or condone any delay in the making of such report.

Cash reserve.

18. Every banking company, not being a scheduled bank, shall maintain in India, by way of cash reserve with itself or in current account opened with the Reserve Bank or the State Bank of India or any other bank notified by the Central Government in this behalf or partly in cash with itself and partly in such account or accounts, a sum equivalent to at least two per cent. of its time liabilities in India and five per cent. of its demand liabilities in India, and shall submit to the Reserve Bank before the fifteenth day of every month a return showing the amount so held on Friday of each week of the preceding month with particulars of its time and demand liabilities in India on each such Friday, or, if any such Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the 26 of 1881 preceding working day.

Explanation.—In this section and in section 24, “liabilities in India” shall not include—

(a) the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company;

(b) any advance taken from the Reserve Bank or from the State Bank of India or from the Refinance Corporation for Industry (Private) Limited, or from any bank notified by the Central Government under clause (c) of the *Explanation* to sub-section (1) of section 42 of the Reserve Bank of India Act, 1934.

**Amendment
of section 19.**

12. In section 19 of the principal Act, in sub-section (1), after the words “Reserve Bank,”, the words “the carrying on of the business of banking exclusively outside India, or” shall be inserted.

**Amendment
of section 22.**

13. In section 22 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Save as hereinafter provided, no company shall carry on banking business in India unless it holds a licence

issued in that behalf by the Reserve Bank and any such licence may be issued subject to such conditions as the Reserve Bank may think fit to impose.”;

(ii) in sub-section (2), in the first proviso, for the words “brackets and figure “sub-section (2)”, the words “this section” shall be substituted;

(iii) in sub-section (3), for clauses (a) and (b), the following clauses shall be substituted, namely:—

“(a) that the company is or will be in a position to pay its present or future depositors in full as their claims accrue;

(b) that the affairs of the company are not being, or are not likely to be conducted in a manner detrimental to the interests of its present or future depositors;”;

(iv) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:—

“(4) The Reserve Bank may cancel a licence granted to a banking company under this section—

(i) if the company ceases to carry on banking business in India; or

(ii) if the company at any time fails to comply with any of the conditions imposed upon it under sub-section (1); or

(iii) if at any time, any of the conditions referred to in sub-section (3) is not fulfilled:

Provided that before cancelling a licence under clause (ii) or clause (iii) of this sub-section on the ground that the banking company has failed to comply with or has failed to fulfil any of the conditions referred to therein, the Reserve Bank, unless it is of opinion that the delay will be prejudicial to the interests of the company's depositors or the public, shall grant to the company on such terms as it may specify, an opportunity of taking the necessary steps for complying with or fulfilling such condition.

(5) Any banking company aggrieved by the decision of the Reserve Bank cancelling a licence under this section may, within thirty days from the date on which such decision is communicated to it, appeal to the Central Government.

(6) The decision of the Central Government where an appeal has been preferred to it under sub-section (5) or of

the Reserve Bank where no such appeal has been preferred shall be final."

14. For section 23 of the principal Act, the following section shall be substituted, namely:—

23. (1) Without obtaining the prior permission of the Reserve Bank—

(a) no banking company shall open a new place of business in India or change otherwise than within the same city, town or village, the location of an existing place of business situated in India; and

(b) no banking company incorporated in India shall open a new place of business outside India or change, otherwise than within the same city, town or village in any country or area outside India, the location of an existing place of business situated in that country or area:

Provided that nothing in this sub-section shall apply to the opening for a period not exceeding one month of a temporary place of business within a city, town or village or the environs thereof within which the banking company already has a place of business, for the purpose of affording banking facilities to the public on the occasion of an exhibition, a conference or a mela or any other like occasion.

(2) Before granting any permission under this section, the Reserve Bank may require to be satisfied by an inspection under section 35 or otherwise as to the financial condition and history of the company, the general character of its management, the adequacy of its capital structure and earning prospects and that public interest will be served by the opening or, as the case may be, change of location, of the place of business.

(3) The Reserve Bank may grant permission under sub-section (1) subject to such conditions as it may think fit to impose either generally or with reference to any particular case.

(4) Where, in the opinion of the Reserve Bank, a banking company has, at any time, failed to comply with any of the conditions imposed on it under this section, the Reserve Bank may, by order in writing and after affording reasonable opportunity to the banking company for showing cause against the action proposed to be taken against it, revoke any permission granted under this section.

(5) For the purposes of this section "place of business" includes any sub-office, pay office, sub-pay office and any place of business at which deposits are received, cheques cashed or moneys lent;

15. In section 24 of the principal Act,—

Amendment
of section
24.

(i) in sub-section (1),—

(a) after the words "shall maintain", the words "in India" shall be inserted;

(b) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

'*Explanation*.—For the purposes of this section, "unencumbered approved securities" of a banking company shall include its approved securities lodged with another institution for an advance or any other credit arrangement to the extent to which such securities have not been drawn against or availed of.';

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

"(2) In computing the amount for the purposes of sub-section (1), the deposit required under sub-section (2) of section 11 to be made with the Reserve Bank by a banking company incorporated outside India and any balances maintained in India by a banking company in current account with the Reserve Bank or the State Bank of India or with any other bank which may be notified in this behalf by the Central Government, including in the case of a scheduled bank the balance required under section 42 of the Reserve Bank of India Act, 1934, to be so maintained, shall be deemed to be cash maintained in India.";

(iii) in sub-section (3), after the words "its time and demand liabilities", the words "in India" shall be inserted.

16. In section 25 of the principal Act,—

Amendment
of section
25.

(i) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) The assets in India of every banking company at the close of business on the last Friday of every quarter or, if that Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of the business on the preceding working day, shall not be less than seventy-five per cent. of its demand and time liabilities in India.

(2) Every banking company shall, within one month from the end of every quarter, submit to the Reserve Bank a return in the prescribed form, and manner of the assets and liabilities referred to in sub-section (1), as at the close of business on the last Friday of the previous quarter, or, if that Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day.";

(ii) in sub-section (3), clause (b) shall be re-lettered as clause (c), and the following shall be inserted as clause (b), namely:—

"(b) "liabilities in India" shall not include the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company";

Amendment
of section
27.

17. In section 27 of the principal Act, in sub-section (2), for the words "the classification of advances and investments of banking companies in respect of industry, commerce and agriculture", the words "the investments of a banking company and the classification of its advances in respect of industry, commerce and agriculture" shall be substituted.

Amendment
of section
28.

18. In section 28 of the principal Act, for the words and figures "under section 27", the words "under this Act" shall be substituted.

Amendment
of section
32.

19. In section 32 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where a banking company in any year furnishes its accounts and balance sheet in accordance with the provisions of section 31, it shall at the same time send to the registrar three copies of such accounts and balance sheet and of the auditor's report, and where such copies are so sent, it shall not be necessary to file with the registrar, in the case of a public company, copies of the accounts and balance sheet and of the auditor's report, and, in the case of a private company, copies of the balance sheet and of the auditor's report as required by sub-section (1) of section 220 of the Companies Act, 1956; and the copies so sent shall be chargeable with the same fee and shall be dealt with in all respects as if they were filed in accordance with that section."

20. To section 35 of the principal Act, the following *Explanation* shall be added, namely:—

Explanation.—For the purposes of this section, the expression "banking company" shall include—

(i) in the case of a banking company incorporated outside India, all its branches in India; and

(ii) in the case of a banking company incorporated in India—

(a) all its subsidiaries formed for the purpose of carrying on the business of banking exclusively outside India; and

(b) all its branches whether situated in India or outside India.

21. In section 35B of the principal Act,—

Amendment
of section
35B.

(i) in clause (a) of sub-section (1), for the words "managing or whole-time director or of a director not liable to retire by rotation", the words "managing director or any other director, whole-time or otherwise" shall be substituted;

(ii) to sub-section (1), the following *Explanation* shall be added, namely:—

Explanation.—For the purposes of this sub-section, any provision conferring any benefit or providing any amenity or perquisite, in whatever form, whether during or after the termination of the term of office of the manager or the chief executive officer by whatever name called or the managing director, or any other director, whole-time or otherwise, shall be deemed to be a provision relating to his remuneration.”;

95/
5 of 1956.

(iii) in sub-section (2), for the words, brackets and figures "apply to a banking company after the commencement of the Banking Companies (Amendment) Act, 1956", the following shall be substituted, namely:—

"apply to any matter in respect of which the approval of the Reserve Bank has to be obtained under sub-section (1)".

22. In section 36 of the principal Act, in clause (b) of sub-section (1), for the figures "45", the figures and letter "44A" shall be substituted.

Amendment
of section
36.

Insertion of
new section
36A.

23. In PART II of the principal Act, after section 36, the following section shall be inserted, namely:—

Certain pro-
visions of the
Act not to
apply to cer-
tain banking
companies.

36A. (1) The provisions of section 11, sub-section (1) of section 12, and sections 17, 18, 24 and 25 shall not apply to a banking company—

(a) which, whether before or after the commencement of the Banking Companies (Amendment) Act, 1959, has been refused a licence under section 22, or prohibited from accepting fresh deposits by a compromise, arrangement or scheme sanctioned by a court or by any order made in any proceeding relating to such compromise, arrangement or scheme, or prohibited from accepting deposits by virtue of any alteration made in its memorandum; or

(b) whose licence has been cancelled under section 22, whether before or after the commencement of the Banking Companies (Amendment) Act, 1959.

(2) Where the Reserve Bank is satisfied that any such banking company as is referred to in sub-section (1) has repaid, or has made adequate provision for repaying all deposits accepted by the banking company, either in full or to the maximum extent possible, the Reserve Bank may, by notice published in the Official Gazette, notify that the banking company has ceased to be a banking company within the meaning of this Act, and thereupon all the provisions of this Act applicable to such banking company shall cease to apply to it, except as respects things done or omitted to be done before such notice."

**Amendment
of section
36A.** **24.** Section 36A of the principal Act shall be re-numbered as section 36B.

Amendment
of section
37.

25. In section 37 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Where the Reserve Bank is satisfied that the affairs of a banking company in respect of which an order under sub-section (1) has been made, are being conducted in a manner detrimental to the interests of the depositors, it may make an application to the High Court for the winding up of the company, and where any such application is made, the High Court shall not make any order extending the period for which the commencement or continuance of all actions and proceedings against the company were stayed under that sub-section."

26. For section 38 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 38.

"38. (1) Notwithstanding anything contained in section 391, Winding up by High Court.
section 392, section 433 and section 583 of the Companies Act, 1956, but without prejudice to its powers under sub-section (1) of section 37 of this Act, the High Court shall order the winding up of a banking company—

(a) if the banking company is unable to pay its debts; or

(b) if an application for its winding up has been made by the Reserve Bank under section 37 or this section.

(2) The Reserve Bank shall make an application under this section for the winding up of a banking company if it is directed so to do by an order under clause (b) of sub-section (4) of section 35.

(3) The Reserve Bank may make an application under this section for the winding up of a banking company—

(a) if the banking company—

(i) has failed to comply with the requirements specified in section 11; or

(ii) has by reason of the provisions of section 22 become disentitled to carry on banking business in India; or

(iii) has been prohibited from receiving fresh deposits by an order under clause (a) of sub-section (4) of section 35 or under clause (b) of sub-section (3A) of section 42 of the Reserve Bank of India Act, 1934; or

(iv) having failed to comply with any requirement of this Act other than the requirements laid down in section 11, has continued such failure, or, having contravened any provision of this Act has continued such contravention beyond such period or periods as may be specified in that behalf by the Reserve Bank from time to time, after notice in writing of such failure or contravention has been conveyed to the banking company; or

(b) if in the opinion of the Reserve Bank—

(i) a compromise or arrangement sanctioned by a Court in respect of the banking company cannot be worked satisfactorily with or without modifications; or

(ii) the returns, statements or information furnished to it under or in pursuance of the provisions of this Act disclose that the banking company is unable to pay its debts; or

(iii) the continuance of the banking company is prejudicial to the interests of its depositors.

(4) Without prejudice to the provisions contained in section 434 of the Companies Act, 1956, a banking company shall ^{1 of 1956.} be deemed to be unable to pay its debts if it has refused to meet any lawful demand made at any of its offices or branches within two working days, if such demand is made at a place where there is an office, branch or agency of the Reserve Bank, or within five working days, if such demand is made elsewhere, and if the Reserve Bank certifies in writing that the banking company is unable to pay its debts.

(5) A copy of every application made by the Reserve Bank under sub-section (1) shall be sent by the Reserve Bank to the registrar.”.

Amendment of section 39. 27. In section 39 of the principal Act, for the words and figures “in section 448”, the words and figures “in section 448 or section 449” shall be substituted.

Insertion of new section 39A. 28. After section 39 of the principal Act, the following section shall be inserted, namely:—

Application of Companies Act to liquidators. ‘39A. (1) All the provisions of the Companies Act, 1956, ^{1 of 1956.} relating to a liquidator, in so far as they are not inconsistent with this Act, shall apply to or in relation to a liquidator appointed under section 38A or section 39.

(2) Any reference to the “official liquidator” in this Part and Part IIIA shall be construed as including a reference to any liquidator of a banking company.’

Amendment of section 43A. 29. In section 43A of the principal Act, in sub-section (1), after the words “have been made,”, the words “or adequate provision to the satisfaction of the High Court for such payments has been made,” shall be inserted.

30. For section 44 of the principal Act, the following section shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 44.

1 of 1956. “44. (1) Notwithstanding anything to the contrary contained in section 484 of the Companies Act, 1956, no banking company may be voluntarily wound up unless the Reserve Bank certifies in writing that the company is able to pay in full all its debts to its creditors as they accrue.

Powers of
High Court
in voluntary
winding up.

(2) The High Court may, in any case where a banking company is being wound up voluntarily, make an order that the voluntary winding up shall continue, but subject to the supervision of the court.

1 of 1956. (3) Without prejudice to the provisions contained in sections 441 and 521 of the Companies Act, 1956, the High Court may of its own motion and shall on the application of the Reserve Bank, order the winding up of a banking company by the High Court in any of the following cases, namely:—

(a) where the banking company is being wound up voluntarily and at any stage during the voluntary winding up proceedings the company is not able to meet its debts as they accrue; or

(b) where the banking company is being wound up voluntarily or is being wound up subject to the supervision of the court and the High Court is satisfied that the voluntary winding up or winding up subject to the supervision of the court cannot be continued without detriment to the interests of the depositors.”.

31. Section 45K of the principal Act shall be omitted.

Omission of
section 45K.

32. In section 45O of the principal Act, in sub-section (2), after the words “accrual of such claims”, the words “or five years from the date of the first appointment of the liquidator, whichever is longer” shall be inserted.

Amendment
of section
45O.

33. In section 46 of the principal Act,—

Amendment
of section 46.

(i) in sub-section (2), for the words “five hundred rupees”, the words “two thousand rupees” and for the words “fifty rupees”, the words “one hundred rupees” shall be substituted;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(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, every director, liquidator and other officer of the company and any other person who is knowingly a party to the 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 everyday during which such contravention or default continues.”;

(iii) sub-section (5) shall be omitted.

34. In section 49 of the principal Act, for the words, figures, brackets and letters “sections 90, 165 and 255, clauses (a) and (b) of sub-section (1) of section 293 and sections 300 and 416 of the Companies Act, 1956”, the following shall be substituted, namely:— 1 of 1956.

“sections 90, 165, 182, 204 and 255, clauses (a) and (b) of sub-section (1) of section 293 and sections 300, 384 and 416 of the Companies Act, 1956”. 1 of 1956.

35. After section 49 of the principal Act, the following sections shall be inserted, namely:— 1 of 1956.

**Restriction
on accept-
ance of
deposits
withdrawable
by cheque.**

“49A. No person other than a banking company, the Reserve Bank, the State Bank of India or any other banking institution notified by the Central Government in this behalf shall accept from the public deposits of money withdrawable by cheque:

Provided that nothing contained in this section shall apply to any savings bank scheme run by the Government.

**Change of
name by a
banking
company.**

49B. Notwithstanding anything contained in section 21 of the Companies Act, 1956, the Central Government shall not 1 of 1956. signify its approval to the change of name of any banking company unless the Reserve Bank certifies in writing that it has no objection to such change.

**Alteration of
memorandum
of a banking
company.**

49C. Notwithstanding anything contained in the Companies Act, 1956, no application for the confirmation of the alteration of 1 of 1956. the memorandum of a banking company shall be maintainable unless the Reserve Bank certifies that there is no objection to such alteration.”.

36. In section 42 of the Reserve Bank of India Act, 1934, in the *Explanation* to sub-section (1), for clause (c), the following clause shall be substituted, namely:—

Amendment
of section 42
of the Re-
serve Bank
of India Act,
1934.

'(c) "liabilities" shall not include the paid-up capital or the reserves or any credit balance in the profit and loss account of the bank or the amount of any loan taken from the Bank or from the Refinance Corporation for Industry (Private) Limited, or from the State Bank or from any other bank notified by the Central Government in this behalf.'

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

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

No. 38 OF 1959

[10th September, 1959]

An Act to provide for the formation of certain Government or Government-associated banks as subsidiaries of the State Bank of India and for the constitution, management and control of the subsidiary banks so formed, and for matters connected therewith, or incidental thereto.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the State Bank of India (Subsidiary Banks) Act, 1959. Short title.

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

Definitions.

(a) "appointed day" means,—

(i) in relation to an existing bank, the date on which the corresponding new bank is constituted under section 3;

(ii) in relation to a new bank, the date on which that new bank is constituted under section 3;

(iii) in relation to the Hyderabad Bank, the date on which the amendments to the State Bank of Hyderabad Act, 1956, take effect under Part VII of the Third Schedule;

(iv) in relation to the Saurashtra Bank, the date on which the amendments to the Saurashtra State Banks (Amalgamation) Ordinance, 1950, take effect under Part V of the Third Schedule;

79 of 1956.

10 of 1950.

(b) "corresponding bank" means,—

(i) in relation to the State Bank of Bikaner, the Bank of Bikaner, Limited;

(ii) in relation to the State Bank of Indore, the Bank of Indore, Limited;

(iii) in relation to the State Bank of Jaipur, the Bank of Jaipur, Limited;

(iv) in relation to the State Bank of Mysore, the Bank of Mysore, Limited;

(v) in relation to the State Bank of Patiala, the Bank of Patiala;

(vi) in relation to the State Bank of Travancore, the Travancore Bank, Limited;

(c) "corresponding new bank" means,—

(i) in relation to the Bank of Bikaner, Limited, the State Bank of Bikaner;

(ii) in relation to the Bank of Indore, Limited, the State Bank of Indore;

(iii) in relation to the Bank of Jaipur, Limited, the State Bank of Jaipur;

(iv) in relation to the Bank of Mysore, Limited, the State Bank of Mysore;

(v) in relation to the Bank of Patiala, the State Bank of Patiala;

(vi) in relation to the Travancore Bank, Limited, the State Bank of Travancore;

(d) "existing bank" means any of the following banks, namely:—

(i) Bank of Bikaner, Limited;

(ii) Bank of Indore, Limited;

(iii) Bank of Jaipur, Limited;

(iv) Bank of Mysore, Limited;

(v) Bank of Patiala;

(vi) Travancore Bank, Limited;

79 of 1956.

(e) "Hyderabad Bank" means the Hyderabad State Bank constituted under the Hyderabad State Bank Act, 1950^F, and renamed the State Bank of Hyderabad under sub-section (1) of section 3 of the State Bank of Hyderabad Act, 1956;

(f) "new bank" means any of the banks constituted under section 3;

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

2 of 1934.

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

10 of 1950.

(i) "Saurashtra Bank" means the State Bank of Saurashtra constituted under the Saurashtra State Banks (Amalgamation) Ordinance, 1950;

23 of 1955.

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

(k) "subsidiary bank" means any new bank and includes the Hyderabad Bank and the Saurashtra Bank;

(l) "Tribunal" means the Tribunal constituted under section 15.

CHAPTER II

CONSTITUTION OF NEW BANKS

3. With effect from such date¹ as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be constituted the following new banks, namely:—

Establish-
ment
of new
banks.

- (a) the State Bank of Bikaner;
- (b) the State Bank of Indore;
- (c) the State Bank of Jaipur;
- (d) the State Bank of Mysore;
- (e) the State Bank of Patiala;
- (f) the State Bank of Travancore;

and different dates may be specified for different new banks.

4. (1) Every new bank shall be a body corporate with perpetual New banks
succession and a common seal and shall sue and be sued in its name. to be bodies
corporate.

1st January, 1960, in respect of entries (a), (b), (c) and (f), only, vide Notification No. S.R. 1384, dated 10-12-59, Gazette of India, 1959, Pt. II, Sec. 3(i), p. 1682.

1st March, 1960, in respect of entry (d) only, vide Notification No. G.S.R. 181, dated 16-2-1960, Gazette of India, 1960, Pt. II, Sec. 3(i), p. 299.

1st April 1960, in respect of entry (e) only, vide Notification No. G.S.R. 349, dated 21-3-1960, Gazette of India, 1960, Pt. II, Sec. 3(i), p. 594.

252. State Bank of India (Subsidiary Banks) [ACT 38]

(2) The body corporate constituting each of the new banks shall consist of the State Bank and other shareholders, if any, for the time being of the new bank.

(3) Every new bank shall carry on the business of banking and other business in accordance with the provisions of this Act, and shall have power to acquire and hold property, whether movable or immovable, for the purposes of its business and to dispose of the same.

Head office and branches of new banks. 5. (1) The head office of each of the new banks shall be at such place as the Central Government may, by notification in the Official Gazette, from time to time, specify.

(2) Every new bank shall maintain as its branches all branches of the corresponding bank in existence immediately before the appointed day, and shall not establish any new branch or discontinue any branch except in consultation with the State Bank and with the approval of the Reserve Bank.

Authorised capital of new banks. 6. (1) Subject to the provisions of this Act, the authorised capital of the State Bank of Mysore and the State Bank of Travancore shall be rupees two crores each, and the authorised capital of every other new bank shall be rupees one crore.

(2) The authorised capital of every new bank shall be divided into shares of one hundred rupees each.

(3) Notwithstanding anything contained in this section, the State Bank may, with the approval of the Reserve Bank, authorise a new bank to increase or reduce its authorised capital:

Provided that where the authorised capital is so increased, the shares issued shall be of the denomination specified in sub-section (2).

Issued capital of new banks. 7. (1) On the appointed day, the issued capital of a new bank shall consist of such amount, divided into fully paid-up shares of hundred rupees each, as the State Bank may, with the approval of the Reserve Bank, fix. *shall on*

(2) All shares in the issued capital of a new bank *shall* on the appointed day, stand allotted to the State Bank.

(3) The State Bank shall, as soon as may be, after the determination, if any, by the Tribunal, of the amount of compensation payable in respect of an existing bank, consider whether any increase in, or reduction of, the issued capital of the corresponding new bank as fixed under sub-section (1), by way of adjustment, or transfer from, or to, the reserves of such bank, or in any other manner, is

necessary or expedient and may, thereafter with the approval of the Reserve Bank, direct that bank to increase or reduce its issued capital.

(4) Without prejudice to the provisions contained in sub-section (3), a new bank may, with the approval of the State Bank and the Reserve Bank, increase from time to time, its issued capital and the capital so increased shall consist of fully paid-up shares to be issued in such manner as the State Bank may, with the approval of the Reserve Bank, direct.

(5) No increase or reduction in the issued capital of a new bank shall be made in such a manner that the State Bank holds at any time less than fifty-five per cent. of the issued capital of that bank.

8. (1) Every new bank shall establish a reserve fund which, subject to the provisions of sub-section (3) of section 7 and of sub-section (2) of this section, shall—
Reserve fund of the new banks.

(a) on the appointed day, consist of such sum as the State Bank, with the approval of the Reserve Bank, may determine, and

(b) after the appointed day, consist of the sum aforesaid together with such further sums as may be transferred to the reserve fund by the new bank out of its annual net profits before declaring a dividend.

(2) The State Bank shall, as soon as may be after the determination, if any, of the amount of compensation by the Tribunal, in respect of an existing bank, consider whether any increase in, or reduction of, the reserve fund of the corresponding new bank, by way of adjustment, by transfer from, or to, any account, or towards provision for bad and doubtful debts, depreciation of any assets or contingencies, or for any other purpose, is necessary, and may, thereafter, with the approval of the Reserve Bank, direct that bank to so increase or reduce its reserve fund.

9. On the constitution of a new bank, all shares in the capital of the corresponding bank, where such corresponding bank has a share capital, shall stand transferred to, and shall vest in, the State Bank, free of all trusts, liabilities and encumbrances.
Transfer of shares of existing banks to State Bank.

10. (1) Subject to the other provisions contained in this Act, when a new bank is constituted, the undertaking of the corresponding bank shall stand transferred to, and vest in, the new bank.
Transfer of undertaking of existing banks to new banks. K

(2) The undertaking of the corresponding bank referred to in sub-section (1) shall be deemed to include all rights, powers, authorities and privileges and all property, movable and immovable, including cash balances, reserve funds, investments and all other interests and rights in, or arising out of, such property, and all books, accounts and documents relating thereto as may be in the possession of that bank immediately before the appointed day, and shall also be deemed to include all debts, liabilities and obligations of whatever kind, then existing of that bank.

(3) Without prejudice to the other provisions contained in this Act, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature, subsisting or having effect immediately before the appointed day and to which any existing bank is a party, or which are in favour of that bank, shall be of full force and effect against or in favour of the corresponding new bank, as the case may be, and may be enforced or acted upon as fully and effectually as if instead of the existing bank the corresponding new bank had been a party thereto or as if they had been issued in favour of the corresponding new bank.

(4) If, on the appointed day, any suit, appeal or other legal proceeding of whatever nature by or against an existing bank is pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of transfer to the corresponding new bank of the undertaking of the existing bank, or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the corresponding new bank.

Transfer of services of employees of existing banks.

11. (1) Save as otherwise provided in this Act, every employee of an existing bank in the employment of that bank immediately before the appointed day, shall, on and from that day, become an employee of the corresponding new bank and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters as he would have held the same on the appointed day, if the undertaking of the existing bank had not been transferred to and vested in the corresponding new bank, and shall continue to do so unless and until his employment in that bank is terminated or until his remuneration or other terms and conditions of service are revised or altered by the corresponding new bank under, or in pursuance of, any law, or in accordance with any provision which, for the time being, governs his service:

Provided that nothing contained in this sub-section shall apply to an employee of the Bank of Patiala who holds a civil post under the State of Punjab unless, prior to the appointed day, he has intimated his consent to become an employee of the State Bank of Patiala by notice in writing given to the Government of that State through the Bank of Patiala.

(2) Any person who, on the appointed day, is entitled to, or is in receipt of, a pension or other superannuation or compassionate allowance or other benefit from an existing bank or from any provident, pension or other fund or from any authority administering such fund, shall be entitled to be paid by, and to receive from, the corresponding new bank or any provident, pension or other fund or from any authority administering such fund, the same pension, allowance or benefit, so long as he observes the conditions on which the pension, allowance or benefit was granted, and if any question arises whether he has so observed such conditions, the question shall be determined by the State Bank and its decision thereon shall be final.

(3) For the persons who immediately before the appointed day are the trustees of, or the members of any authority administering, any fund constituted for the benefit of the employees of an existing bank, there shall be substituted as trustees or members such persons as the State Bank may, by general or special order, specify.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or any other law or in any agreement for the time being in force, the transfer from an existing bank of the services of any officer or employee of that bank to the corresponding new bank in terms of this section shall not entitle any such officer or employee, to any compensation to which he would, but for this provision, have been entitled under any such law or agreement, and no claim in respect of such compensation shall be entertained by any court, tribunal or other authority.

12. (1) If, according to the laws of any country outside India, special provisions for transfer of foreign assets. the provisions of this Act by themselves are not effective to transfer or vest any asset or liability situated in that country which forms part of the undertaking of an existing bank to, or in, the corresponding new bank, the affairs of the existing bank in relation to such asset or liability shall, on and from the appointed day, stand entrusted to the general manager for the time being of the corresponding new bank, and the general manager may exercise all powers and do all such acts and things as are exercised or done by the existing bank for the purpose of effectively winding up the affairs of that bank.

(2) The general manager of the corresponding new bank shall, in exercise of the powers conferred on him by sub-section (1), take all such steps as may be required by the laws of any such country outside India for the purpose of effecting such transfer or vesting, and in connection therewith the general manager may either himself or through any person authorised by him in this behalf, realise any asset and discharge any liability of the existing bank and transfer the net proceeds thereof to the corresponding new bank.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), on and from the appointed day, no person shall make any claim or demand or take any proceeding in India against any existing bank or any person acting in its name or on its behalf except in so far as may be necessary for enforcing the provisions of this section or except in so far as it relates to any offence committed by such person.

CHAPTER III

COMPENSATION

Compensation to shareholders of existing banks other than the Bank of Patiala.

13. (1) Every person who and any State Government which immediately before the appointed day is registered as a holder of shares in the books of an existing bank shall be given by the State Bank such compensation in respect of the transfer to the State Bank of the shares in the capital of that bank as is determined in accordance with the principles contained in the First Schedule.

(2) The amount of compensation to be given in accordance with the principles contained in the First Schedule shall be determined in the first instance by the State Bank, in consultation with the Reserve Bank, and shall be offered by it to all those to whom compensation is payable under sub-section (1) in full satisfaction thereof.

(3) If the amount of compensation offered by the State Bank in terms of sub-section (2) is not acceptable to any shareholder of an existing bank, such shareholder may, before such date as may be notified by the Central Government in the Official Gazette, request the Central Government, in writing, to have the matter referred to the Tribunal.

(4) If, before the date notified under sub-section (3), the Central Government receives requests, in terms of that sub-section, from not less than one-fourth in number of the shareholders, holding not less than one-fourth in value of the paid-up share capital of the existing bank, the Central Government shall have the matter referred to the Tribunal for decision.

(5) If, before the date notified under sub-section (3), the Central Government does not receive requests as provided in that sub-section, the amount of compensation offered by the State Bank, and where a reference has been made to the Tribunal, the amount determined by it, shall be the compensation payable under sub-section (1) and shall be final and binding on all parties concerned.

(6) Subject to the provisions of the succeeding sub-sections, the amount of compensation shall be paid—

(a) if the shareholder has not applied for shares of the corresponding new bank in accordance with the provisions of sub-section (7), by a cheque drawn on the State Bank; and

(b) if he has applied for shares of the corresponding new bank in accordance with the provisions of that sub-section, in shares of the corresponding new bank to the extent of the value of such shares allotted to him and the balance by a cheque drawn on the State Bank.

(7) Any shareholder of an existing bank to whom compensation is payable under this section may, before the expiry of three months from the date of the final determination of the amount of such compensation under sub-section (5), or such extended period as the State Bank may think fit in any particular case to allow, apply to the State Bank for the transfer to him of shares in the capital of the corresponding new bank in lieu of such compensation or part thereof; and for the purposes of such transfer, the value of each share of the corresponding new bank shall be such as may be determined in this behalf by the State Bank with the approval of the Reserve Bank.

(8) On receipt of an application under sub-section (7), the State Bank shall issue to the corresponding new bank a warrant, in the form specified in the rules made under this Act, directing it to transfer in favour of the person specified in the warrant such number of shares as may be allotted to the applicant in accordance with sub-sections (9) and (10), out of the shares in the capital of that bank standing allotted to the State Bank under the provisions of this Act, and the corresponding new bank shall be bound to comply with such warrant.

(9) A shareholder of an existing bank who has applied for shares in the capital of the corresponding new bank shall be allotted—

(a) such number of shares, having such total face value as would bear to forty-five per cent. of the issued capital of the corresponding new bank the same proportion as the paid-up value of his shares in the capital of the existing bank in respect of which he is paid compensation bears to the total paid-up capital of that bank; and

(b) if the total number of shares allotted under clause (a) to all applicants is less than forty-five per cent. of the issued capital of the corresponding new bank, such number of additional shares as the State Bank may deem fit having regard to the provisions of this Act, the circumstances of the case and the desirability of securing as wide a distribution of shares among as large a number of shareholders as possible.

Explanation.—For the purpose of determining the number of shares under this sub-section fractions of a share shall be disregarded.

(10) Notwithstanding anything contained in sub-section (9), an allotment of shares under that sub-section shall not be made in such a manner that the State Bank holds at any time less than fifty-five per cent. of the issued capital of the corresponding new bank.

(11) A warrant issued by the State Bank under sub-section (8) shall not be liable to duty under the Indian Stamp Act, 1899. 2 of 1899.

(12) Nothing contained in this section shall affect the rights inter se between the holder of any share in an existing bank, and any other person who may have an interest in such share and such other person shall be entitled to enforce his interest against the compensation awarded to the holder of such share, but not against the State Bank.

(13) In this section, the expression "existing bank" does not include the Bank of Patiala, and the expression "corresponding new bank" does not include the State Bank of Patiala.

Compensation payable by the State Bank in respect of the Bank of Patiala, the Saurashtra Bank and the Hyderabad Bank.

14. (1) The State Government of Punjab in respect of the Bank of Patiala, the State Government of Bombay in respect of the Saurashtra Bank and the Reserve Bank in respect of the Hyderabad Bank, shall be given, by reason of the provisions of this Act or of the amendments contained in Part V or Part VII of the Third Schedule, such compensation by the State Bank as is determined in accordance with the principles contained in the First Schedule.

(2) The amount of compensation to be given in accordance with the principles contained in the First Schedule shall be determined in the first instance by the State Bank, and shall be offered by it to the State Government of Punjab, the State Government of Bombay, or the Reserve Bank, as the case may be, in full satisfaction of the compensation payable under sub-section (1):

Provided that in determining the amount of compensation to be offered to the State Government of Punjab or the State Government of Bombay, the State Bank shall consult the Reserve Bank.

(3) If the amount of compensation offered by the State Bank in terms of sub-section (2) is not acceptable to the State Government

of Punjab, the State Government of Bombay or the Reserve Bank, as the case may be, the State Government concerned or the Reserve Bank, may, before such date as may be notified by the Central Government in the Official Gazette, request the Central Government to have the matter referred to the Tribunal for decision, and where any such request is received, the Central Government shall refer the matter accordingly.

(4) If, before the date notified under sub-section (3), the State Government of Punjab, the State Government of Bombay or the Reserve Bank, as the case may be, has not made any such request, the amount of compensation offered by the State Bank, and where a reference has been made to the Tribunal, the amount determined by it, shall be the compensation payable under sub-section (1) and shall be final and binding on all parties concerned.

(5) The amount of compensation shall be paid by a cheque drawn on the Reserve Bank.

15. (1) The Central Government may for the purposes of this Act constitute a Tribunal which shall consist of a Chairman and two other members.

Constitu-tion of the Tribunal.

(2) The Chairman shall be a person who is, or has been, a Judge of a High Court or has been a Judge of the Supreme Court and of the two other members, one shall be a person, who, in the opinion of the Central Government, has had experience of commercial banking and the other shall be a person who is a chartered accountant within the meaning of the Chartered Accountants Act, 1949.

(3) If, for any reason, a vacancy occurs in the office of the Chairman or any other member of the Tribunal, the Central Government shall fill the vacancy by appointing another person thereto in accordance with the provisions of sub-section (2), and any proceeding may be continued before the Tribunal so re-constituted from the stage at which the vacancy occurred.

(4) The Tribunal may, for the purpose of determining any compensation payable under this Act, choose one or more persons having special knowledge or experience of any relevant matter to assist it in the determination of such compensation.

16. (1) The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

- 5 of 1908.
- (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) requiring the discovery and production of documents;
 - (c) receiving evidence on affidavits; and

Tribunal to have powers of a civil court.

(d) issuing commissions for the examination of witnesses or documents.

(2) Notwithstanding anything contained in sub-section (1) or in any other law for the time being in force, the Tribunal shall not compel the Reserve Bank, the State Bank or any subsidiary bank—

(a) to produce any books of account or other documents which the Reserve Bank, the State Bank or the subsidiary bank claims to be of a confidential nature;

(b) to make any such books or documents part of the record of the proceedings before the Tribunal; or

(c) to give inspection of any such books or documents to any party before it or to any other person.

**Procedure
of the
Tribunal.**

17. (1) The Tribunal shall have power to regulate its own procedure.

(2) The Tribunal may hold the whole or any part of its enquiry *in camera*.

(3) Any clerical or arithmetical mistake in any order of the Tribunal or any error arising therein from any accidental slip or omission may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties.

CHAPTER IV

SHARES OF THE SUBSIDIARY BANKS

**Transferability
of shares.**

18. (1) Save as otherwise provided in sub-section (2), the shares of a subsidiary bank shall be freely transferable.

(2) Nothing contained in sub-section (1) shall entitle the State Bank to transfer any shares held by it in any subsidiary bank if such transfer will result in reducing the shares held by it to less than fifty-five per cent. of the issued capital of that subsidiary bank.

**Restriction
on individual
holdings.**

19. (1) No person shall be registered as a shareholder in respect of any shares in a subsidiary bank held by him, whether in his own name or jointly with any other person, in excess of two hundred shares, or be entitled to payment of any dividend on the excess shares held by him, or to exercise any of the rights of a shareholder in respect of such excess shares otherwise than for the purpose of selling them:

Provided that nothing contained in this sub-section shall apply to—

(a) the State Bank;

(b) a State Government;

(c) a Corporation;

(d) an insurer as defined in the Insurance Act, 1938;

- (e) a local authority;
- (f) a co-operative society;
- (g) a trustee of a public or private religious or charitable trust;
- (h) a shareholder of an existing bank who is allotted any shares under sub-section (9) of section 13.

(2) Notwithstanding anything contained in sub-section (1), no person referred to in the proviso to that sub-section, other than the State Bank, shall be entitled to exercise voting rights in respect of any shares held by such person in excess of five per cent. of the issued capital of the subsidiary bank concerned.

20. Notwithstanding anything contained in the Acts hereinafter mentioned in this section, the shares of a subsidiary bank shall be deemed to be included among the securities enumerated in section 20 of 1882, 4 of 1938, 10 of 1949. of the Indian Trusts Act, 1882; and also to be approved securities for the purposes of the Insurance Act, 1938, and the Banking Companies Act, 1949.

21. Every subsidiary bank shall keep at its head office a register, Register of shareholders, in one or more books, of the shareholders and shall enter therein the following particulars so far as they may be available:—

- (i) the names, addresses and occupations, if any, 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 so 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.

22. Notwithstanding anything contained in section 19, no notice of any trust, express, implied or constructive, shall be entered on the register of shareholders of a subsidiary bank or be receivable by it in respect of its shares.

CHAPTER V MANAGEMENT OF SUBSIDIARY BANKS

23. Every person holding office as chairman, director, member of the Board of Management (including a member of a local or advisory committee), managing director, general manager, manager (other than manager of a branch), deputy managing director, deputy general manager, assistant general manager or adviser, as the case may be, in an existing bank (other than the Bank of Patiala), the Hyderabad Bank and the Saurashtra Bank immediately before the appointed

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day, shall be deemed to have vacated that office on the appointed day, and notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement or contract, such person shall not be entitled to any compensation for the loss of office or for the premature termination of any agreement or contract relating to his employment, except such pension, compensation or other benefit as the corresponding new bank, the Hyderabad Bank or the Saurashtra Bank, as the case may be, may with the approval of the State Bank, grant to him, having regard to what he would have received if this Act had not been passed and if his employment had ceased on the appointed day in the ordinary course:

Provided that nothing in this section shall be deemed to prevent any person who has so vacated his office in any of the said banks from being re-nominated or re-appointed to any office in a subsidiary bank in accordance with the provisions of this Act.

Management.

24. (1) The State Bank may, from time to time, give directions and instructions to a subsidiary bank in regard to any of its affairs and business, and that bank shall be bound to comply with the directions and instructions so given.

(2) Subject to any such directions and instructions, the general superintendence and conduct of the affairs and business of a subsidiary bank shall, as from the appointed day, vest in a Board of Directors who may, with the assistance of the general manager, exercise all powers and do all such acts and things as may be exercised or done by that bank.

(3) The Board of Directors of a subsidiary bank shall, in discharging its functions under this Act, act on business principles, regard being had to public interest.

Composition of
the Board
of Direc-
tors.

25. (1) Subject to the provisions of sub-section (2), the Board of Directors of a subsidiary bank shall consist of the following:-

(a) the chairman for the time being of the State Bank, ex-officio;

(b) an officer of the Reserve Bank, to be nominated by that bank;

(c) not more than five directors to be nominated by the State Bank of whom not more than three shall be officers of that bank;

(d) two directors to be elected in the prescribed manner by the shareholders, other than the State Bank:

Provided that if the total amount of the holdings of all such shareholders registered in the books of the subsidiary bank three months before the date fixed for election is below five per cent.

of the total issued capital, or if there are no shareholders other than the State Bank registered on the books of the subsidiary bank, the directors to be elected by the shareholders shall be nominated by the State Bank and such directors shall, for the purposes of this Act, be deemed to be directors elected under this clause;

(e) a director, if any, to be nominated by the Central Government in consultation with the State Bank.

(2) Notwithstanding anything contained in clause (d) of sub-section (1), on the first constitution of the Board of Directors, the directors referred to in the said clause shall be appointed by the State Bank and the directors so appointed shall, for the purposes of this Act, be deemed to have been elected within the meaning of the said clause.

(3) If, for any reason, a director of a subsidiary bank nominated under clause (b) of sub-section (1) is unable to exercise his functions or to discharge his duties as such director, the Reserve Bank may nominate any of its officers to exercise all the functions and to discharge all the duties of such director whenever he is so unable to exercise his functions or discharge his duties, and the officer so nominated shall for all purposes of this Act be deemed to be a director of the subsidiary bank.

(4) An officer of the Reserve Bank or the State Bank may be nominated as a director of a subsidiary bank by virtue of his office.

(5) The directors nominated under sub-section (2) shall retire at the expiry of one year after the appointed day.

(6) Any nomination or appointment of a director made by the State Bank under this Act shall, except in so far as it relates to an officer of that bank, be in consultation with the Reserve Bank.

26. (1) A director of a subsidiary bank, if nominated under clause (b) of sub-section (1) of section 25 or if an officer of the State Bank and nominated under clause (c) or if an officer of the Central Government and nominated under clause (e) of that sub-section, shall hold office during the pleasure of the authority nominating him.

(2) Subject to the provisions contained in section 25, a director nominated under clause (c) of sub-section (1) of that section and not being an officer of the State Bank, a director elected under clause (d) and a director, not being an officer of the Central Government, nominated under clause (e), of that sub-section, shall hold office for three years and thereafter until his successor is duly nominated or elected, as the case may be.

(3) A director of a subsidiary bank vacating his office shall be eligible for re-nomination or re-election, as the case may be.

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Disqualification
for direc-
tors.

27. (1) A person shall be disqualified to be a director of a subsidiary bank, if—

(a) he holds the office of director, provisional director, promoter, agent, or manager of any banking company or a banking company for the formation of which a prospectus has been issued; or

(b) he is a salaried officer of Government; or

(c) he has been removed or dismissed from the service of Government or a local authority or a corporation or a company in which not less than fifty-one per cent. of the paid-up share capital is held by Government; or

(d) he holds any office of profit under the subsidiary bank; or

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

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

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

(h) in the case of an elected director, he is not registered as a holder of unencumbered shares in the subsidiary bank of a nominal value of at least one thousand rupees:

Provided that the disqualification mentioned in clause (b) shall not apply to an officer of the Central Government nominated as a director under clause (e) of sub-section (1) of section 25:

Provided further that in the case of a director deemed to have been elected on the first constitution of the Board of Directors, the disqualification mentioned in clause (h) shall not operate for a period of six months from his becoming such director.

(2) No two persons who are partners of the same firm or are directors of the same private company or one of whom is an agent of the other or holds a power of attorney from a firm of which the other is a partner may be directors of a subsidiary bank at the same time.

(3) The nomination or election, as a director of any person who is a member of either House of Parliament or the Legislature of a State shall be void unless within two months of the date of nomination or election as such director, he ceases to be a member of Parliament or the Legislature of the State, and if any director is elected or nominated as a member of Parliament or the Legislature of a State, he shall cease to be a director as from the date of such election or nomination, as the case may be.

(4) Nothing contained in clause (d) of sub-section (1) shall be deemed to preclude any person from being a director of a subsidiary bank by reason only of his being a legal or technical adviser of that bank.

(5) In this section,—

(a) "banking company" has the same meaning as in the Banking Companies Act, 1949;

(b) "manager" means the chief executive officer, by whatever name called, of a banking company;

(c) "private company" has the same meaning as in the Companies Act, 1956.

28. If a director of a subsidiary bank—

Vacation of
office of
directors.

(a) is, or has become, subject to any of the disqualifications mentioned in section 27; or

(b) resigns his office by giving notice in writing under his hand, in the case of a nominated director to the State Bank, and in the case of an elected director to the Board of Directors of the subsidiary bank, and his resignation is accepted; or

(c) is absent without leave of the Board of Directors for more than three consecutive meetings thereof;

his seat on the Board of Directors shall thereupon become vacant:

Provided that nothing in clause (b) or clause (c) shall apply to a director referred to in clause (b) of sub-section (1) of section 25 or to a director, being an officer of the State Bank, nominated under clause (c) or to a director, being an officer of the Central Government nominated under clause (e) of that sub-section.

29. (1) The State Bank shall, after consulting the Board of General Directors of a subsidiary bank, and with the approval of the Reserve manager, appoint a general manager for that subsidiary bank:

Provided that in the case of the first appointment of the general manager no such consultation with the Board of Directors of the subsidiary bank shall be necessary.

(2) Subject to the general control of the Board of Directors, the day to day administration and management of the affairs of a subsidiary bank shall vest in the general manager, and the general manager shall exercise such other powers and perform such other duties as may be delegated to him by the Board of Directors.

(3) The general manager of a subsidiary bank—

(a) shall devote his whole time to the affairs of that bank;

Provided that the general manager of the subsidiary bank may, with the approval of the State Bank and the Reserve Bank, be a director of any other institution;

(b) shall hold office for such term not exceeding four years and subject to such conditions as the State Bank may, with the approval of the Reserve Bank, specify at the time of his appointment;

(c) shall receive such salary and allowances as may be determined by the State Bank with the approval of the Reserve Bank.

(4) The general manager vacating his office shall be eligible for re-appointment.

(5) The State Bank may, with the approval of the Reserve Bank, for any sufficient reason, remove from office the general manager of a subsidiary bank:

Provided that no such general manager shall be removed from office unless he has been given an opportunity of showing cause against such removal.

*Remuneration
of
directors.*

30. A director of a subsidiary bank shall be paid for attending the meetings of the Board of Directors or of any of its committees and for attending to any other business of the subsidiary bank such fees and allowances as may be prescribed:

Provided that no fees shall be payable to the chairman of the State Bank or any other director who is a wholetime officer of the Central Government or the Reserve Bank or the State Bank.

*Removal
from office
of director.*

31. (1) The State Bank may, with the approval of the Reserve Bank, for any sufficient reason, remove from office a director nominated under clause (c) of sub-section (1) of section 25 and not being an officer of the State Bank.

(2) The Central Government may, in consultation with the State Bank, for any sufficient reason, remove from office a director nominated under clause (e) of sub-section (1) of section 25 and not being an officer of the Central Government.

(3) Any director elected under clause (d) of sub-section (1) of section 25, may be removed from office—

(a) by the State Bank, with the approval of the Reserve Bank, if at the time of the removal there are no shareholders other than the State Bank registered in the books of the subsidiary bank concerned;

(b) by a resolution passed by a majority of the votes of such shareholders holding in the aggregate not less than one-half of the share capital held by all such shareholders:

Provided that if the total amount of the holdings of all shareholders, other than the State Bank, registered in the books of the subsidiary bank, on the date of the resolution, is below five per cent., of the total issued capital, the resolution shall not have effect unless confirmed by the State Bank.

(4) No director shall be removed from office under sub-section (1) or sub-section (2) unless he has been given an opportunity of showing cause against such removal.

32. If the general manager of a subsidiary bank is rendered incapable of discharging his duties by reason of infirmity or otherwise or is absent on leave or otherwise in circumstances not involving the vacation of his office, the State Bank may appoint another person to officiate for the general manager until the date on which the general manager resumes duty.

33. (1) Where any vacancy occurs before the expiry of the term of office of a director of a subsidiary bank, the vacancy shall be filled—

(a) in the case of a director nominated under clause (c) of sub-section (1) of section 25, not being an officer of the State Bank, by nomination by the State Bank;

(b) in the case of a director elected under clause, (d) of sub-section (1) of section 25, by election or where the proviso to that clause is applicable, by nomination by the State Bank :

Provided that where the duration of the vacancy in the office of an elected director is likely to be less than six months, the vacancy may be filled by the remaining directors by co-opting a person from amongst the shareholders entitled to elect a director under clause (d) of sub-section (1) of section 25 who is not disqualified under section 27;

(c) in the case of a director nominated under clause (e) of sub-section (1) of section 25, not being an officer of the Central Government, by nomination by that Government in consultation with the State Bank.

(2) A person nominated or elected or co-opted, as the case may be, under this section shall hold office for the unexpired portion of the term of his predecessor.

34. (1) The Board of Directors of a subsidiary bank shall meet at such time and place and shall observe such rules of procedure

Appoint-
ment of
another
person
for dis-
charging
the duties
of general
manager
during his
absence.

Casual
vacancies
among
directors.

Meetings of
the Board
of Directors.

in regard to the transaction of business at its meetings as may be prescribed.

(2) The chairman of the State Bank shall preside at every meeting of the Board of Directors of a subsidiary bank and, in his absence such one of the directors as may generally or in relation to any particular meeting be authorised by the chairman in this behalf shall preside; and in the absence of the chairman and also failing such authorisation, the directors of the subsidiary bank present at the meeting shall elect one from among themselves to preside at the meeting.

Explanation.—For the purposes of this sub-section, “absence from a meeting” means non-attendance for any reason whatsoever at the meeting or any part of the meeting during which any business is transacted.

(3) All questions at a meeting of the Board of Directors of a subsidiary bank shall be decided by a majority of the votes of the directors present, and in case of equality of votes, the person presiding at the meeting shall have a second or casting vote.

(4) Where any of the directors specified in clauses (a) and (b) of sub-section (1) of section 25 or any of the directors, being an officer of the State Bank specified in clause (c) of that sub-section is unable to attend any meeting of the Board of Directors of a subsidiary bank, and the State Bank or any other such director as may be present at the meeting considers that the State Bank would not be adequately or effectively represented at such meeting by reason of the absence of any such director, the State Bank or the director present may give notice in writing to that subsidiary bank—

- (i) that the meeting should be adjourned to such date as may be indicated in the notice; or
- (ii) that any matter, action, step or proceeding proposed to be considered, taken or carried out at that meeting, should not be so considered, taken or carried out; or
- (iii) that no decision should be taken at that meeting on any such matter, action, step or proceeding;

and that subsidiary bank and its Board of Directors shall be bound to comply with such notice and act accordingly.

(5) A director of a subsidiary bank who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal, entered into or proposed to be entered into or made by or on behalf of the subsidiary bank shall, at the earliest possible opportunity, disclose the nature of his interest to the Board of Directors of that bank; and any such director shall not be present at any meeting of the Board of Directors when any such contract, loan, arrange-

ment or proposal is discussed, unless his presence is required by the other directors for the purpose of eliciting information and where any director is so required to be present, he shall not vote on any such contract, loan, arrangement or proposal:

Provided that nothing contained in this sub-section shall apply to such director by reason only of his being a shareholder (other than a director) holding not more than two per cent. of the paid-up capital in any public company as defined in the Companies Act, 1956, with which the subsidiary bank has entered into or proposes to enter into a contract or other arrangement.

(6) A copy of the minutes of every meeting of the Board of Directors of a subsidiary bank, together with copies of all connected papers, shall be forwarded to the State Bank and the Reserve Bank as soon as possible.

35. (1) There shall be an executive committee in respect of a subsidiary bank consisting of such directors as may be prescribed: Executive committee and other committees

Provided that if any such director being an officer of the State Bank and nominated by that bank under clause (c) of sub-section (1) of section 25, is for any reason unable to exercise his functions or to discharge his duties in relation to the executive committee, the State Bank may depute any of its officers to exercise all the functions and to discharge all the duties of such director in relation to the executive committee whenever such director is so unable to exercise his functions or discharge his duties; and the officer so deputed shall, for all purposes of this Act, in so far as it applies to the executive committee, be deemed to be a director of the subsidiary bank.

(2) Subject to any regulations made under this Act, the executive committee may deal with any matter within the competence of the Board of Directors.

(3) A copy of the minutes of every meeting of the executive committee of a subsidiary bank shall be forwarded to the State Bank and be laid before the Board of Directors of the subsidiary bank as soon as possible after the meeting.

(4) Without prejudice to the powers of the executive committee, and subject to any regulations made under this Act, the Board of Directors of a subsidiary bank may constitute such and so many other committees, whether consisting wholly of the directors or wholly of other persons, or partly of the directors and partly of other persons, as it deems fit, to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Board of Directors may impose, be delegated to them by the Board of Directors.

CHAPTER VI

BUSINESS OF SUBSIDIARY BANKS

Subsidiary bank to act as agent of the State Bank.

36. (1) A subsidiary bank shall, if so required by the State Bank, act as agent of the State Bank at any place in India for—

(a) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and

(b) undertaking and transacting any other business which the Reserve Bank may, from time to time, entrust to the State Bank.

(2) The terms and conditions on which any such agency business shall be carried on by the subsidiary bank on behalf of the State Bank shall be such as may be determined by the State Bank, after consultation with the subsidiary bank and with the approval of the Reserve Bank.

(3) Until an arrangement is made by the State Bank with the Hyderabad Bank or the State Bank of Mysore, as the case may be, under this section, or until the expiry of a period of six months from the appointed day (which period may from time to time be extended by the Reserve Bank) whichever is earlier, the Hyderabad Bank and the State Bank of Mysore may respectively act as agent of the Reserve Bank, at the same places where and for the same purposes for which, and on the same terms and conditions on which, the Hyderabad Bank or the Bank of Mysore, Limited, as the case may be, was acting as agent of the Reserve Bank immediately before the appointed day or with the previous approval of the Central Government at any other place or for any purpose.

(4) Until an arrangement is made by the State Bank with the State Bank of Bikaner, the State Bank of Jaipur, the Saurashtra Bank or the State Bank of Travancore, as the case may be, under this section or until the expiry of a period of six months from the appointed day (which period may from time to time be extended by the Reserve Bank) whichever is earlier, the State Bank of Bikaner, the State Bank of Jaipur, the Saurashtra Bank or the State Bank of Travancore may act as agent of the State Government of Rajasthan or the State Government of Bombay or the State Government of Kerala, as the case may be, at the same places where and for the same purposes for which, and on the same terms and conditions on which, the Bank of Bikaner, Limited, or the Bank of Jaipur, Limited, or the Saurashtra Bank, or the Travancore Bank, Limited, as the case may be, was acting as agent for the State Government immediately before the appointed day or with the previous approval of the Central Government at any other place or for any purpose.

10 of 1949.

37. (1) Subject to the other provisions contained in this Act, a Other subsidiary bank may carry on and transact the business of banking which a as defined in clause (b) of sub-section (1) of section 5 of the Banking Companies Act, 1949, and may engage in such one or more of the other forms of business, as are specified in sub-section (1) of section 6 of that Act.

(2) The Central Government may, after consultation with the Reserve Bank and the State Bank, by order in writing—

(a) authorise a subsidiary bank to do such other forms of business as the Central Government may consider necessary or expedient;

(b) direct that any form of business as is mentioned in the order, shall be carried on subject to such restrictions, conditions and safeguards as may be specified therein; or

(c) prohibit a subsidiary bank from carrying on or transacting any form of business which, but for this clause, it is lawful for the subsidiary bank to engage in.

(3) Save as otherwise provided in sub-section (2), a subsidiary bank shall not engage in any form of business other than that referred to in sub-section (1).

38. (1) A subsidiary bank may, with the approval of the State Acquisition Bank, and shall, if the Reserve Bank, in consultation with the State of other Bank, so directs, enter into negotiations for acquiring the business, including the assets and liabilities of any other banking institution.

(2) The terms and conditions relating to such acquisition, if agreed upon by the Board of Directors of the subsidiary bank concerned and the directorate or management of the banking institution concerned and approved by the Reserve Bank, shall be submitted to the Central Government for its sanction and that Government may by order in writing (hereafter in this section referred to as the order of sanction) accord its sanction thereto.

(3) Notwithstanding anything contained in this Act or any other law for the time being in force or any instrument regulating the constitution of the banking institution concerned, the terms and conditions as sanctioned by the Central Government shall come into effect on the date specified by the Central Government in this behalf in the order of sanction and be binding upon the subsidiary bank and the banking institution concerned as well as upon the shareholders (or, as the case may be, proprietors) and creditors of that banking institution.

(4) If for any reason the terms and conditions cannot come into effect on the date specified in the order of sanction, the Central Government may fix another suitable date for that purpose.

(5) On the date on which the terms and conditions as aforesaid come into effect, the business and the assets and liabilities of the banking institution concerned as covered by the acquisition shall, by virtue, and in accordance with the provisions, of the order of sanction stand transferred to, and become respectively the business and the assets and liabilities of, the subsidiary bank concerned.

(6) The consideration for the acquisition of the business and the assets and liabilities of any banking institution under this section may, if so agreed upon, be paid either in cash or by allotment of shares in the capital of the subsidiary bank concerned or partly in cash and partly by allotment of shares, and the subsidiary bank may, for the purpose of any such allotment, increase, subject to the other provisions contained in this Act relating to the increase of capital, the capital of the subsidiary bank by the issue of such number of shares as may be determined by the subsidiary bank.

(7) Any business acquired under this section shall thereafter be carried on by the subsidiary bank in accordance with the provisions of this Act subject to such exemptions or modifications as the Central Government may, by notification in the Official Gazette, make in this behalf in consultation with the Reserve Bank:

Provided that no such exemption or modification shall be made so as to have effect for a period of more than seven years from the date of acquisition.

(8) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law or in any agreement for the time being in force, on the acquisition of the business and the assets and liabilities of any banking institution under this section, no officer or other employee of that banking institution shall be entitled to any compensation to which he may be entitled under that Act or that other law or that agreement, and no claim in respect of such compensation shall be entertained by any court, tribunal or other authority if on his having accepted in writing an offer of employment by the subsidiary bank concerned on the terms and conditions proposed by it he has been employed in accordance with such terms and conditions.

(9) The Central Government may, if it considers necessary or expedient in the case of any banking institution in relation to which an order of sanction has been made under this section, appoint, whether before or after the coming into effect of the terms and conditions relating to the business and the assets and liabilities of that

banking institution, a suitable person to take over the management of that banking institution for the purposes of winding up its affairs and distributing its assets, and the expenditure incurred in connection with such management (including the remuneration of the person so appointed and his staff, if any) shall be paid out of the assets of the banking institution or by the subsidiary bank concerned as the Central Government may direct.

(10) Simultaneously with the appointment of a suitable person under sub-section (9) or immediately thereafter, the Central Government shall issue directions to be followed by that person in the management of that banking institution for the purposes aforesaid and thereupon—

1 of 1956.
10 of 1949.

(a) the provisions of the Companies Act, 1956, or the Banking Companies Act, 1949, or any other law for the time being in force or any instrument having effect by virtue of any such Act or law, in so far as they are inconsistent with such directions, shall cease to apply to, or in relation to, that banking institution;

(b) all persons in charge of the management, including any person holding office as manager or director, of the banking institution, immediately before the issue of such directions, shall be deemed to have vacated their offices as such; and

(c) the person appointed to take over the management of the banking institution shall, in accordance with those directions, take all such steps as may be necessary to facilitate the winding up of its affairs and the distribution of its assets.

(11) The Central Government, when satisfied that nothing further remains to be done in order to wind up the affairs of the banking institution concerned, may, by order in writing, direct that as from such date as may be specified therein, the banking institution shall stand dissolved and thereupon any such direction shall have effect notwithstanding anything to the contrary contained in any other law.

(12) No action under this section shall be questioned on the ground merely of any defect in the constitution of any banking institution in relation to which such action has been taken or in the constitution of its Board of Directors or in the appointment of any person entrusted with the management of its affairs.

(13) The provisions of this section shall apply in relation to the acquisition by one subsidiary bank of the business, including the assets and liabilities, of another subsidiary bank as they apply in relation to the acquisition by a subsidiary bank of the business, including the assets and liabilities, of any other banking institution.

(14) In this section, "banking institution" includes any individual or any association of individuals (whether incorporated or not, or whether a department of Government or a separate institution), carrying on the business of banking.

CHAPTER VII

ACCOUNTS AND AUDIT

Closing of annual accounts.

(P-15)

39. A subsidiary bank shall cause its books to be closed and balanced on the thirty-first day of December in each year.

Disposal of

40. (1) After making provision for bad and doubtful debts, depreciation in assets, equalisation of dividends, contribution to staff and superannuation funds and for all other matters for which provision is necessary by or under this Act or which are usually provided for by banking companies, a subsidiary bank may, out of its net profits, declare a dividend.

(2) The rate of dividend shall be determined by the Board of Directors of the subsidiary bank concerned.

(3) Nothing in this section shall be deemed to preclude the payment of interim dividends in such manner and to such extent as may be prescribed.

Audit.

41. (1) Subject to the provisions of section 42, the accounts of a subsidiary bank shall be audited by an auditor duly qualified to act as an auditor of companies under sub-section (1) of section 226 of the Companies Act, 1956, who shall be appointed by the State Bank, ^{1 of 1956.} with the approval of the Reserve Bank.

(2) The auditor shall receive such remuneration as the State Bank may fix.

(3) No director or officer of a subsidiary bank shall be eligible to be its auditor during his continuance in office as such director or officer.

(4) The auditor shall be supplied with a copy of the annual balance sheet and profit and loss account, and a list of all books kept by the subsidiary bank, and it shall be the duty of the auditor to examine the balance sheet and profit and loss account with the accounts and vouchers relating thereto, and in the performance of his duties, the auditor—

(a) shall have, at all reasonable times, access to the books, accounts and other documents of that subsidiary bank;

(b) may, at the expense of that subsidiary bank, employ accountants and other persons to assist him in investigating such accounts; and

(c) may, in relation to such accounts, examine any director or any officer of that subsidiary bank.

(5) The auditor shall hold office for such term not exceeding one year as the State Bank may fix at the time of his appointment; and if any vacancy arises before the expiry of the term of an auditor, the vacancy may be filled by the State Bank, with the approval of the Reserve Bank.

(6) The auditor shall on relinquishing office be eligible for re-appointment.

(7) The auditor shall make a report to the State Bank upon the annual balance sheet and accounts of the subsidiary bank, and, in every such report, he shall state—

(a) whether, in his opinion, the balance sheet is a full and fair balance sheet containing all the necessary particulars and is properly drawn up so as to exhibit a true and correct view of the affairs of that subsidiary bank, and in case he has called for any explanation or information, whether it has been given and whether it is satisfactory;

(b) whether or not the transactions of that subsidiary bank which have come to his notice have been within the competence of the bank;

(c) whether or not the returns received from the offices and branches of that subsidiary bank have been found adequate for the purpose of his audit;

(d) whether the profit and loss account shows a true balance of profit or loss for the period covered by such account; and

(e) any other matter which he considers should be brought to the notice of the State Bank.

(8) The auditor shall forward a copy of the audit report to the subsidiary bank and to the Central Government.

(9) Without prejudice to the foregoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a subsidiary bank, and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the subsidiary bank which an auditor appointed by the State Bank has under this section.

Temporary provision regarding existing auditors.

42. If, on the appointed day, any appointment of an auditor made by, or in respect of, an existing bank, the Hyderabad Bank or the Saurashtra Bank, as the case may be, is subsisting, the State Bank may, on or after such day, either confirm the appointment in accordance with the provisions of this Act, subject to such modifications of the terms and conditions of the appointment, as it may deem necessary, or terminate the appointment; and may, if it so terminates the appointment, fix such remuneration as appears to it to be reasonable having regard to the work already done, functions discharged, or duties performed by the auditor concerned.

Returns to be furnished by a subsidiary bank. **43.** (1) A subsidiary bank shall furnish to the State Bank and the Reserve Bank—

(a) within three months from the date on which its accounts are closed and balanced, its balance sheet, together with the profit and loss account and the auditor's report, and a report by the Board of Directors on the working of the subsidiary bank during the period covered by the accounts; and

(b) any other information relating to the affairs and business of the subsidiary bank which the State Bank or the Reserve Bank may require.

(2) The balance sheet and the profit and loss account of a subsidiary bank shall be signed by the general manager and a majority of the directors of the subsidiary bank.

General meetings.

44. (1) A general meeting (hereinafter referred to as an annual general meeting) of a subsidiary bank shall be held annually before the end of March at the place where the head office of the subsidiary bank is situate, and any other general meeting may be convened by the Board of Directors at any time.

(2) The shareholders present at an annual general meeting shall be entitled to discuss the balance sheet and profit and loss account of the bank concerned, made up to the previous 31st day of December, the report of the Board of Directors on the working of that bank for the period covered by the accounts and the auditors' report on the balance sheet and accounts.

(3) Nothing contained in this section relating to an annual general meeting shall apply in relation to a subsidiary bank if, as on the previous 31st day of December, all the shares in the issued capital of that bank are held by the State Bank.

CHAPTER VIII

MISCELLANEOUS

45. For the purpose of facilitating the full and effective transfer of the undertaking of an existing bank in accordance with the provisions of this Act, or in order to remove any difficulty which in the opinion of the Central Government has arisen or is likely to arise in connection with such transfer, the Central Government may, in consultation with the Reserve Bank, give such directions to any existing bank or the State Bank as appear to it to be necessary and the said bank or the State Bank, as the case may be, shall comply with such directions.

46. (1) The State Bank may, in relation to any existing bank or the Saurashtra Bank, at any time before the appointed day,—

Power to issue directions for ren.oving difficulties.

Observers for existing banks and the Saurashtra Bank.

(a) depute one or more persons to watch the proceedings at any meeting of the Board of Directors, any committee or other body of the bank; require the bank to give an opportunity to the person or persons so deputed to be heard at such meetings and also require such person or persons to send a report of such proceedings to the State Bank;

(b) require the Board of Directors, any committee or other body of the bank to give in writing to any person specified by the State Bank in this behalf, at his usual address, all notices of, and other communications relating to, any meeting of the Board, committee or other body, as the case may be;

(c) appoint one or more persons to observe the manner in which the affairs of the bank or of its offices or branches are being conducted and make a report thereon; and

(d) require the bank to furnish the State Bank, within such time as may be specified by the State Bank, with any statement or information relating to the business or affairs of the bank, including copies of the proceedings of any meeting of the Board of Directors, any committee or other body, of the bank.

(2) If a person deputed by the State Bank to watch the proceedings of any meeting of the Board of Directors, any committee or other body, as the case may be, gives notice in writing to the bank that such person considers that any action, step or proceeding proposed to be taken or carried out by the bank will be detrimental to

the State Bank or to the bank itself, such action, step or proceeding shall not be taken or carried out by the bank unless and until the State Bank approves in writing of such action, step or proceeding.

Explanation.—For the purposes of this section, “Board of Directors” in relation to the Saurashtra Bank, means its Board of Management.

Inspection.

47. (1) Without prejudice to the other provisions contained in this Act, the State Bank may, at any time, cause an inspection to be made by one or more of its officers of any existing bank, a new bank, the Hyderabad Bank or the Saurashtra Bank.

(2) It shall be the duty of every person who is, or has, at any time, been a director, officer or other employee of a bank which is inspected under sub-section (1), to produce to any officer making the inspection, all such balances, books, accounts, securities and other documents in his custody or power and to furnish the said officer with any statements and information relating to the affairs of the bank as the said officer may require of him within such time as the said officer may specify.

(3) If any person—

(a) fails, within the stipulated time, to produce any balance, book, account, security or other document or to furnish any statement or information which under sub-section (2) it is his duty to produce or furnish, or to answer any question relating to the business of the bank under inspection which is asked by an officer making the inspection, or

(b) in any document or information required or furnished or while answering any question put to him, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement.

he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Cost of development programme.

48. (1) A subsidiary bank may accept any subsidies offered by the State Bank to meet—

(a) the cost of the whole or any part of any specific programme of development undertaken by that subsidiary bank with the approval of the State Bank; and

(b) such losses or expenditure as may be approved by the State Bank, with the consent of the Reserve Bank.

II of 1922.

(2) For the purposes of the Indian Income-tax Act, 1922, any subsidy received by a subsidiary bank under sub-section (1) shall not be treated as income, profits or gains of the subsidiary bank.

49. (1) Notwithstanding anything contained in any of the other ^{Special} provisions of this Act, or in any other law or in any contract of ^{provision regarding existing officers and employees.} service or other document, no appointment made or promotion, increment in salary, pension or allowance or any other benefit granted to any person by an existing bank or the Saurashtra Bank after the 10th day of February, 1958, and before the appointed day, which would not ordinarily have been made or granted or which would not ordinarily have been admissible under the rules or authorisations of the said banks or of any provident, pension or other fund in force before the 10th day of February, 1958, shall have effect or be payable or claimable from the subsidiary bank concerned, or from any provident, pension or other fund, or from any authority administering any such fund, unless the State Bank has, with the approval of the Reserve Bank, by a general or special order, confirmed the appointment, promotion or increment or has directed the grant of the pension, allowance or other benefit, as the case may be.

(2) Where any officer or other employee of an existing bank or of the Saurashtra Bank has received any amount by reason of such appointment, promotion or increment or any such pension, allowance or other benefit as is referred to in sub-section (1), which has not been confirmed or sanctioned by the State Bank under that sub-section, such officer or other employee shall be bound to refund such amount to the subsidiary bank concerned, and that bank shall be entitled to take all such steps as may be necessary for recovering such amount.

(3) Where any managing director, general manager or manager, deputy managing director or deputy general manager or other employee of an existing bank or the Saurashtra Bank has, after the 10th day of February, 1958, and before the appointed day, been paid any sum by way of compensation or gratuity, the subsidiary bank concerned shall be entitled to claim a refund of any sum so paid if the payment is not confirmed by the State Bank by a general or special order.

(4) Nothing in this section shall apply to, or in relation to, any officer or other employee of the Bank of Patiala, who does not become an officer or other employee of the State Bank of Patiala under the provisions of section 11.

50. (1) A subsidiary bank may, subject to such limitations and ^{Staff of a} conditions as may be prescribed, appoint such number of officers, ^{subsidiary} bank.

advisers and employees as it considers necessary or desirable, for the efficient performance of its functions and on such terms and conditions as it may deem fit.

(2) For the removal of doubts, it is hereby declared that the officers, advisers and employees of a subsidiary bank, in whatever capacity engaged, shall not be deemed to be officers, advisers or employees of the State Bank for any purpose, unless otherwise provided in the contract or agreement of service of any such officer, adviser or employee.

**Establish-
ment of
pension and
superannua-
tion funds
by sub-
sidiary
banks.**

51. Notwithstanding anything to the contrary contained in any other law for the time being in force, a subsidiary bank may establish and maintain sperannuation, pension, provident or other funds for the benefit of its officers or employees or the dependants of such officers or employees or for the purposes of the subsidiary bank, and grant superannuation allowances, annuities and pensions payable out of any such fund.

**Obligation
as to fidelity
and secrecy.**

52. (1) A subsidiary bank shall observe, except as otherwise required by law, the practices and usages customary among bankers, and in particular, it shall not divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for that bank to divulge such information.

(2) Every director, auditor, adviser, officer or other employee of a subsidiary bank shall, before entering upon his duties, make a declaration of fidelity and secrecy as in the form set out in the Second Schedule:

Provided that any declaration made under sub-section (2) of section 35 of the State Bank of Hyderabad Act shall be deemed to be a declaration made to the Hyderabad Bank under this sub-section.

**Indemnity of
directors.**

53. (1) Every director of a subsidiary bank shall be indemnified by that bank 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 director of a subsidiary bank shall not be responsible for any loss or expense caused to the bank by the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the bank or by the insolvency or wrongful act of any customer or debtor or by anything done in, or in relation to, the execution of the duties of his office or otherwise than for his wilful act or default.

54. (1) No act or proceeding of the Board of Directors of a subsidiary bank shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

Defects in
appointment
or consti-
tution not
to invalidate
acts or
proceedings.

(2) All acts done by any person acting in good faith as a director of a subsidiary bank shall, notwithstanding that he was disqualified to be a director or that there was any other defect in his appointment, be deemed to be valid.

1 of 1956.
10 of 1949.

55. Subject to the provisions of this Act and unless the Central Government, by notification in the Official Gazette, otherwise directs, on and from the appointed day, the provisions of the Companies Act, 1956, and the Banking Companies Act, 1949, shall not apply to an existing bank, in so far as the said provisions impose any obligation on, or require anything to be done by, any such bank.

Companies
Act, 1956,
and Banking
Companies
Act, 1949,
not to
apply to
certain
existing
banks.

56. The State Bank of Patiala and the Saurashtra Bank shall be entitled to recover in the same manner as an arrear of land revenue any moneys due in respect of loans or advances made before the appointed day by the Bank of Patiala or the Saurashtra Bank, as the case may be, and the provisions of any law, relating to such recovery as were applicable to that bank before the appointed day shall continue to apply to the State Bank of Patiala or the Saurashtra Bank, as the case may be, in respect of such recovery after the appointed day.

Continuance
of special
provisions
respecting
recovery
of loans and
advances
made by
the Bank of
Patiala
and the
State Bank
of Saurash-
tra.

57. No provision of law relating to the winding up of companies shall apply to a subsidiary bank nor shall it be placed in liquidation, save as provided in this Act or by order of the Central Government and in such manner as the Central Government may direct.

Bar to
liquidation
of a sub-
sidiary
bank.

58. Notwithstanding anything contained in this Act or in any other law for the time being in force or in any contract or other instrument, an existing bank shall, on such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, stand dissolved.

Dissolution
of existing
banks.

59. On and from the appointed day, any reference to an existing bank in any law, other than this Act, or in any contract or other instrument, shall, except as otherwise provided in any general or special order made by the Central Government, be construed as a reference to the corresponding new bank.

Reference
in other
laws to
existing
banks.

60. Any powers, duties or functions conferred, imposed or entrusted by this Act on, or to, the Reserve Bank, shall be exercised or performed by the Governor of the Reserve Bank or, in his absence,

Exercise of
powers and
functions
on behalf of
the Reserve
Bank.

by a Deputy Governor nominated under sub-section (3) of section 7 of the Reserve Bank of India Act, 1934, or by such officer or officers of ~~2 of 1934.~~ the Reserve Bank in respect of such matters and subject to such conditions and limitations as the Governor of the Reserve Bank may specify.

**Protection
of action
taken under
Act.**

61. (1) No suit or other legal proceeding shall lie against the Central Government, the Reserve Bank or the State Bank or any officer of the Central Government, the Reserve Bank or the State Bank 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.

(2) No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred or any damage caused by reason of the operation of, or anything done in pursuance of, the provisions contained in sections 46 and 47.

**Power of
Central
Govern-
ment to
make rules.**

62. (1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

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

(a) the terms and conditions of service of the Chairman, members and staff of the Tribunal;

(b) the manner of, and the procedure for, payment of compensation (including allotment of shares in lieu of compensation) under this Act, including the requirements subject to which the payment shall be made;

(c) the determination of the persons to whom compensation shall be payable in all cases including cases where shares have been held by more than one person, or where they have been transferred before the appointed day, but the transfer has not been registered, or where the shareholder is dead;

(d) the circumstances under which claims for payment of the said compensation from persons claiming through or under a shareholder may be entertained;

(e) the requirements to be complied with before receipt of the said compensation by a shareholder, whose share certificate has been lost, destroyed, mutilated or stolen;

(f) the requirements subject to which information regarding the payment of the said compensation may be granted or

refused and the conditions subject to which such information may be given.

(3) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

63. (1) The State Bank may, with the approval of the Reserve Bank, make in respect of a subsidiary bank regulations, not inconsistent with this Act and the rules made thereunder, 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 powers and duties of the general manager of the subsidiary bank;

(b) the fees and allowances which may be paid to directors or others for attending any meetings of the Board of Directors or of its committees (including the executive committee) or other committees or for attending to any other work of the subsidiary bank;

(c) the time and place at which, and the manner in which, the business of the Board of Directors of the subsidiary bank shall be transacted and the procedure to be followed at the meetings thereof;

(d) the constitution of the executive committee of the subsidiary bank and the conditions and limitations subject to which the executive committee may exercise its powers and the procedure to be followed at the meetings thereof;

(e) the formation of any other committees, whether of the Board of Directors of the subsidiary bank or otherwise, and the delegation of powers and functions of the Board to such committees and the conduct of business in such committees;

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

(g) the maintenance of share registers, and the particulars to be entered in such registers in addition to those specified in

Power of
the State
Bank to
make
regulations.

section 21, the inspection and closure of the registers and all other matters connected therewith;

(h) the holding and conduct of elections under this Act and the final determination of doubts or disputes regarding the qualifications of candidates for election or regarding the validity of elections;

(i) 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;

(j) the manner in which notices may be served on behalf of the subsidiary bank upon shareholders or other persons;

(k) the payment of dividends, including interim dividends;

(l) the delegation of powers and functions of the Board of Directors of the subsidiary bank to the general manager or directors or officers or other employees of that bank;

(m) the conditions and limitations subject to which the subsidiary bank may appoint officers, advisers and other employees and fix their remuneration and other terms and conditions of service;

(n) the duties and conduct of officers, advisers and other employees of the subsidiary bank;

(o) the establishment and maintenance of superannuation, pension, provident or other funds for the benefit of the officers or employees of the subsidiary bank or of the dependants of such officers or employees or for the purposes of the subsidiary bank and the granting of superannuation allowances, annuities and pensions payable out of any such fund;

(p) the conduct and defence of legal proceedings by or against the subsidiary bank and the manner of signing pleadings;

(q) the provision of a seal for the subsidiary bank and the manner and effect of its use;

(r) the form and manner in which contracts binding on the subsidiary bank may be executed;

(s) the conditions and requirements subject to which loans or advances may be made or bills may be discounted or purchased by the subsidiary bank;

(t) the conditions subject to which loans or advances may be made by the subsidiary bank to its directors or officers or the relatives of such directors or officers or to companies, firms or

individuals with which or with whom such directors or officers or relatives are connected as partners, directors, managers, servants, shareholders or otherwise;

(u) the persons or authorities who shall administer any pension, provident or other fund constituted for the benefit of the officers or employees of the subsidiary bank or their dependants or for the purposes of that bank;

(v) the circumstances in which the specific approval of the State Bank shall be required to the grant of loans and advances or investment of funds by the subsidiary bank or to any contract, arrangement or proposal entered into or proposed to be entered into by the subsidiary bank;

(w) the preparation and submission to the State Bank and the Reserve Bank of statements of programmes of activities and financial statements of the subsidiary bank and the periods for which, and the time within which, such statements and estimates are to be prepared and submitted;

(x) the person or persons in the State Bank by whom any powers, duties or functions conferred, imposed or entrusted on or to the State Bank under this Act may be exercised or performed;

(y) generally, for the efficient conduct of the affairs of the subsidiary bank.

(3) All regulations under this section, except the first regulations, shall be made in consultation with the Board of Directors of the subsidiary bank concerned.

64. The enactments specified in Parts I to VII of the Third Amendment Schedule shall be amended in the manner directed in the first column thereof and such amendments shall take effect on the dates specified in the second column thereof. of certain enactments.

65. Nothing in this Act shall be deemed to affect the provisions of Saving. section 35 of the State Bank of India Act, 1955.

23 of 1955.

THE FIRST SCHEDULE

(See sections 13 and 14)

PRINCIPLES OF COMPENSATION

1. A. The compensation to be given by the State Bank shall, in the case of the Hyderabad Bank, the Bank of Patiala or the Saurashtra Bank, be an amount equal to the value of the assets of that bank as on the day immediately before the appointed day, computed in

accordance with the provisions of Part I of this paragraph less the total amount of liabilities thereof computed in accordance with the provisions of Part II of this paragraph.

B: The total compensation to be given by the State Bank in respect of the transfer of the shares in the capital of the existing banks, other than the Bank of Patiala, to the persons (including any State Government) who, immediately before the appointed day, are registered as holders of shares in the books of each of these banks shall, in each case, be an amount equal to the value of the assets of that bank as on the day immediately preceding the appointed day in relation to the corresponding new bank, computed in accordance with the provisions of Part I of this paragraph less the total amount of liabilities thereof computed in accordance with the provisions of Part II of this paragraph.

PART I—Assets

For the purposes of this paragraph, assets means the total of the following:—

(a) the amount of cash in hand and with the Reserve Bank and the State Bank (including foreign currency notes which shall be converted at the market rate of exchange);

(b) the amount of balances with any other bank, not being the Reserve Bank or the State Bank, whether on deposit or current account, and money at call and short notice, balances held outside India being converted at the market rate of exchange;

Provided that any balances which are not realisable in full shall be deemed to be debts and valued accordingly;

(c) the market value as on the appointed day of any securities, shares, debentures, bonds and other investments, held by the bank concerned;

*Explanation.—*For the purposes of this clause,—

(i) securities of the Central and State Governments [other than the securities specified in sub-clauses (ii) and (iii) of this *Explanation*] maturing for redemption within five years from the appointed day shall be valued at the face value or the market value whichever is higher;

(ii) securities of the Central Government, such as Post Office Certificates and Treasury Savings Deposit Certificates and any other securities or certificates issued or to be issued under the Small Savings Scheme of the Central Government, shall be valued at their face value or the encashable value as on the appointed day, whichever is higher;

(iii) where the market value of any Government security such as the zamindari abolition bonds or other similar security in respect of which the principal is payable in instalments, is not ascertainable or is, for any reason, not considered as reflecting the fair value thereof or as otherwise appropriate, the security shall be valued at such an amount as is considered reasonable having regard to the instalments of principal and interest remaining to be paid, the period during which such instalments are payable, the yield of any security, issued by the Government to which the security pertains and having the same or approximately the same maturity, and other relevant factors;

(iv) where the market value of any security, share, debenture, bond or other investment is not considered reasonable by reason of its having been affected by abnormal factors, the investment may be valued on the basis of its average market value over any reasonable period;

(v) where the market value of any security, share, debenture, bond or other investment is not ascertainable, only such value, if any, shall be taken into account as is considered reasonable having regard to the financial position of the issuing concern, the dividend paid by it during the preceding five years and other relevant factors;

(d) the amount of advances (including loans, cash credits, overdrafts, bills purchased and discounted), and other debts, whether secured or unsecured, to the extent to which they are reasonably considered recoverable, having regard to the value of the security, if any, the operations on the account, the reported worth and respectability of the borrower, the prospects of realisation and other relevant considerations;

(e) the market value of any land or buildings;

(f) the total amount of the premia paid in respect of all leasehold properties, reduced in the case of each such premium by an amount which bears to such premium the same proportion

as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

(g) the written down value as per books, or the realisable value, as may be considered reasonable, of all furniture, fixtures and fittings;

(h) the market or realisable value, as may be appropriate, of other assets appearing on the books of the bank, no value being allowed for capitalised expenses, such as share selling commission, organisational expenses and brokerage, losses incurred and similar other items.

PART II—Liabilities

For the purposes of this paragraph, "liabilities" means the total amount of all outside liabilities existing on the appointed day and all contingent liabilities which the subsidiary bank concerned may reasonably be expected to be required to meet out of its own resources on or after the appointed day.

COMPENSATION PAYABLE TO SHAREHOLDERS

2. Every shareholder of an existing bank other than the Bank of Patiala shall be given such amount as compensation as bears to the total compensation, in respect of each of the said banks calculated in accordance with the provisions of paragraph 1, the same proportion as the amount of the paid-up capital of the shares held by the shareholder bears to the total paid-up capital of that bank.

CERTAIN DIVIDENDS NOT TO BE TAKEN INTO ACCOUNT

3. No separate compensation shall be payable for any profits or any dividend in respect of any period immediately preceding the appointed day for which, in the ordinary course, profits would have been transferred or dividend declared after the appointed day.

THE SECOND SCHEDULE

(See section 52)

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, adviser, officer or employee, as the case may be) of the State

Bank of*and which properly relate to the office or position held by me in, or in relation to, the said bank.

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 State Bank of.....* or to the affairs of any person having any dealing with the said bank, nor will I allow any such person to inspect or have any access to any books or documents belonging to, or in the possession of, the State Bank of* and relating to the business of the said bank or to the business of any person having any dealing with the said bank.

*Here enter the name of the subsidiary bank concerned.

THE THIRD SCHEDULE
(See section 64)

AMENDMENTS TO CERTAIN ENACTMENTS

PART I

Amendments to the Reserve Bank of India Act, 1934 (2 of 1934)

Amendments	Date on which amendments shall take effect
1. In section 17,— (a) after clause (8A), insert the following, namely:— “(8B) the keeping of deposits with the State Bank for such specific purposes as may be approved by the Central Government in this behalf;”;	The date of commencement of this Act.
(b) omit clause (14A) . . .	Appointed day in relation to the Hyderabad Bank.
2. For section 45, substitute the following, namely:— ‘45. (1) Unless otherwise directed by the Central Government with reference to any place, the Bank shall appoint the State Bank as its sole agent at all places in India where it does not have an office or branch of the Banking Department and there is a branch of the State Bank or a branch of a subsidiary bank.	Date of commencement of obligation to appoint State Bank as agent.

Amendments	Date on which amendments shall take effect
(2) Notwithstanding anything contained in sub-section (1) or in any agreement between the Bank and the State Bank, the Bank may, until an arrangement under section 36 of the State Bank of India (Subsidiary Banks) Act, 1959, is made by the State Bank with the State Bank of Hyderabad or the State Bank of Mysore, employ or continue to employ as its agent, the State Bank of Hyderabad or, as the case may be, the Bank of Mysore, Limited or the State Bank of Mysore, at such places where, and for such purposes for which, the Hyderabad Bank and the Bank of Mysore, Limited were respectively acting as agents of the Bank immediately before the commencement of that Act and, with the previous approval of the Central Government, at any other place and for any purpose.	Date of commencement of this Act.
<i>Explanation.—The expression "subsidiary bank" in this section shall have the same meaning as in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959. .</i>	
3. In the Second Schedule,—	
(a) for the words "Bank of Jaipur, Jaipur", substitute the words "State Bank of Jaipur";	Appointed day ¹ in relation to the State Bank of Jaipur.
(b) for the words "Bank of Mysore, Bangalore", substitute the words "State Bank of Mysore";	Appointed day ¹ in relation to the State Bank of Mysore.
(c) for the words "Bank of Bikaner, Ltd., Bikaner", substitute the words "State Bank of Bikaner";	Appointed day ¹ in relation to the State Bank of Bikaner.
(d) for the words "Travancore Bank, Ltd., Trivandrum Taluk", substitute the words "State Bank of Travancore";	Appointed day ¹ in relation to the State Bank of Travancore.
(e) for the words "Bank of Indore", substitute the words "State Bank of Indore";	Appointed day ¹ in relation to the State Bank of Indore.
(f) for the words "The Bank of Patiala, Patiala", substitute the words "State Bank of Patiala.".	Appointed day ¹ in relation to the State Bank of Patiala.

¹"see footnote" on p. 251, *supra*.

PART II
Amendment to the Industrial Disputes Act, 1947 (14 of 1947)

Amendments	Date on which amendments shall take effect
In section 2, for clause (bb), substitute the following, namely :—	
10 of 1949. “(bb) “banking company” means a banking company as defined in section 5 of the Banking Companies Act, 1949, having branches or other establishments in more than one State, and includes the Reserve Bank of India, the State Bank of India and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;”.	The date of commencement of this Act.

PART III

Amendment to the Banking Companies Act, 1949 (10 of 1949)

In section 51, for the proviso, substitute the following, namely:—

‘Provided that—

(a) nothing contained in clause (c) of sub-section (1) of section 10 shall apply to the chairman of the State Bank of India or to a general manager of any subsidiary bank in so far as the said clause precludes him from being a director of, or holding an office in, any institution approved by the Reserve Bank ;

(b) nothing contained in section 19 shall apply to the holding by the State Bank of India of shares in the capital of any such subsidiary bank; and

(c) nothing contained in section 46 shall apply to any officer of the Central Government or the Reserve Bank or the State Bank of India, nominated or appointed as director of the State Bank of India, or any such subsidiary bank or any other banking institution notified by the Central Government under this section.

The date of commencement of this Act.

Amendments	Date on which amendments shall take effect
<i>Explanation.—The expression “subsidiary bank” in this section shall have the same meaning as in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959.</i>	

PART IV

Amendment to the Banking Companies (Legal Practitioners' Clients' Accounts) Act, 1949 (46 of 1949)

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

“(a) “banking company” means any banking company as defined in section 5 of the Banking Companies Act, 1949, and includes the State Bank of India and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;”.

The date of commencement
of this Act.

10 of 1949.

PART V

Amendments to the Saurashtra State Banks (Amalgamation) Ordinance, 1950

1. For the long title, preamble and the enacting formula, substitute :—

“An Act to regulate the working of the State Bank of Saurashtra.”.

2. For section 1, substitute :—

“1. *Short title.*—This Act may be called the State Bank of Saurashtra Act, 1950.”.

3. For section 1A, substitute :—

‘1A. *Definitions.*—In this Act,—

(a) “appointed day” means the date on which the amendments to this Act made by the State Bank of India (Subsidiary Banks) Act, 1959, take effect ;

(b) “Reserve Bank” means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 ;

Amendments	Date on which amendments shall take effect
(c) "Saurashtra Bank" means the State Bank of Saurashtra;	
(d) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955.	
23 of 1955. 4. In section 2,—	
(i) in sub-section (1),—	
(a) for the words "from the date of publication of this Ordinance in the Local Official Gazette", substitute "from the 19th day of January, 1950"; and	
(b) omit the words and brackets "(hereinafter referred to as the Bank)";	
(ii) for sub-sections (2), (3) and (4), substitute :—	
"(2) The head office of the Saurashtra Bank shall be at Bhavnagar or at such other place as the Central Government may, by notification in the Official Gazette, from time to time, specify.".	The date ¹ on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
5. In section 3,—	
(a) in sub-section (1),—	
(i) for the words "The Bank", substitute the words "The Saurashtra Bank";	
(ii) after the words "perpetual succession" add the following, namely :—	
"and a common seal and shall sue and be sued in its name.";	

¹Ist May, 1960, *vide* Notfn. No. G.S.R. 486, dt. 21-4-1960, Gazette of India, 1960, Pt. II, Sec. 3 (i), p. 728.

	Amendments	Date on which amendments shall take effect
Branches of Saurashtra Bank.	<p>(b) after sub-section (1), insert the following, namely :—</p> <p>“(2) With effect from the appointed day, the said corporate body shall consist of the State Bank and other shareholders, if any, for the time being of the Saurashtra Bank.</p> <p>(3) The Saurashtra Bank shall carry on the business in accordance with the provisions of the State Bank of India (Subsidiary Banks) Act, 1959, and shall have power to acquire and hold property, whether movable or immovable, for the purposes of its business and to dispose of the same.”.</p> <p>6. For sections 4 to 8, substitute the following, namely :—</p> <p>“4. The Saurashtra Bank shall not discontinue any of its branches in existence immediately before the appointed day nor shall it establish any new branch except in consultation with the State Bank and with the approval of the Reserve Bank.</p> <p>5. (1) The authorised capital of the Saurashtra Bank shall be two crores of rupees divided into shares of one hundred rupees each.</p> <p>(2) Notwithstanding anything contained in this section, the State Bank may, with the approval of the Reserve Bank, authorise the Saurashtra Bank to increase or reduce its authorised capital :</p> <p>Provided that where the authorised capital is so increased, the shares issued shall be of the denomination specified in sub-section (1).</p> <p>6. (1) The issued capital of the Saurashtra Bank shall, on the appointed</p>	<p>The date¹ on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.</p>
Authorised Capital.		
Issued Capital.		

¹Ist May, 1960, *vide* Notfn. No. G.S.R. 486, dt. 21-4-1960, Gazette of India, 1960, Pt. II, Sec. 3 (i), p. 728.

Amendments	Date on which amendments shall take effect
day, be such amount as the State Bank, with the approval of the Reserve Bank, may fix in this behalf, so however that the amount shall be so fixed as to consist only of fully paid-up shares of one hundred rupees each.	
(2) All shares in the issued capital of the Saurashtra Bank shall, on the appointed day, vest in the State Bank.	
(3) Without prejudice to the provisions contained in sub-section (4), the Saurashtra Bank may, with the approval of the State Bank and the Reserve Bank, increase, from time to time, its issued capital and the capital so increased shall consist of fully paid-up shares to be issued in such manner as the State Bank may, with the approval of the Reserve Bank, direct :	
Provided that the issued capital shall be so increased that at no time shall the State Bank hold less than fifty-five per cent. of the issued capital of the Saurashtra Bank.	The date ¹ on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
(4) The State Bank shall, as soon as may be, after the determination, if any, of the amount of compensation by the Tribunal under the State Bank of India (Subsidiary Banks) Act, 1959, consider whether any increase or reduction of the issued capital of the Saurashtra Bank as fixed under sub-section (1) by way of adjustment by transfer from, or to, the reserves of the Saurashtra Bank or in any other manner, is necessary, expedient or appropriate and may, thereafter, with the approval of the Reserve Bank, direct the Saurashtra Bank to increase or reduce its issued capital.	

¹Ist May, 1960, *vide* Notfn. No. G.S.R. 486, dt. 21-4-1960, Gazette of India, 1960, Pt II, Sec. 3 (i), p. 728.

	Amendments	Date on which amendments shall take effect
Reserve Fund.	<p>7. (1) The reserve fund of the Saurashtra Bank shall, subject to the provisions of sub-section (4) of section 6 and sub-section (2) of this section, consist of—</p> <p>(a) on the appointed day, such sum as the State Bank, with the approval of the Reserve Bank, may determine; and</p> <p>(b) after the appointed day, the sum aforesaid together with such further sums as may be transferred to the reserve fund by the Saurashtra Bank out of its annual net profits before declaring a dividend.</p> <p>(2) The State Bank shall, as soon as may be after the determination, if any, of the amount of compensation by the Tribunal, under the State Bank of India (Subsidiary Banks) Act, 1959, consider whether any increase or reduction of the reserve fund of the Saurashtra Bank is necessary by way of adjustment by transfer from or to any account or towards provision for bad and doubtful debts, depreciation in assets, or contingencies or for any other purpose and may thereafter with the approval of the Reserve Bank, direct the Saurashtra Bank to so increase or reduce its reserve fund.”.</p>	The date ¹ on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.

PART VI

Amendments to the State Bank of India Act, 1955 (23 of 1955)

1. In section 2, after clause (g), insert the following, namely:—
- } The date of commencement of this Act.
- ‘(h) “subsidiary bank” means a subsidiary bank as defined in the }

¹Ist May, 1960, *vide* Notfn. No.G.S.R. 486, dt. 21-4-1960, Gazette of India, 1960, Pt II, Sec. 3 (i), p. 728.

Amendments	Date on which amendments shall take effect
State Bank of India (Subsidiary Banks) Act, 1959.]	
2. In section 18, in sub-section (1), after the words "discharge of its functions", insert the words "including those relating to a subsidiary bank".	
3. In section 32,—	
(a) in sub-section (1), after the words "where it has a branch", insert the words "or where there is a branch of a subsidiary bank";	
(b) in sub-section (4), for the words "either by itself", substitute the words "by itself or through a subsidiary bank".	
4. In section 33,—	
(a) after clause (iv), insert the following, namely :—	
"(iv) the keeping or maintenance of deposits or cash accounts with any banking institution;"	The date of commencement of this Act.
(b) in clause (xix), for the words "and the forming or conducting of any such banking institution as a subsidiary of the State Bank or in any other manner", substitute the words "the forming or conducting of any such banking institution as a subsidiary of the State Bank or in any other manner and the granting of subsidies or the advancing or lending of money to any such subsidiary".	
5. In section 36, in sub-section (2), omit the word "and" occurring after clause (a) and thereafter, insert the following, namely :—	
"(aa) subsidies granted by the State Bank to a subsidiary bank with the approval of the Reserve Bank; and".	

PART VII

Amendments to the State Bank of Hyderabad Act, 1956 (79 of 1956)

Amendments	Date on which amendments shall take effect
1. In section 2, after clause (e), insert :— ‘(f) “State Bank” means the State Bank of India constituted under the State Bank of India Act, 1955.’	23 of 1956.
2. In section 3,— (a) in sub-section (1), omit “and shall, as from that day, carry on the business of banking and other business in accordance with the provisions of this Act and shall have power to acquire and hold property, whether movable or immovable for the purposes of this Act and to dispose of the same”; (b) for sub-section (2), substitute :— “(2) The said body corporate shall consist of the State Bank and other shareholders, if any, for the time being, of the Hyderabad Bank. (2A) The Hyderabad Bank shall carry on the business of banking and other business in accordance with the provisions of the State Bank of India (Subsidiary Banks) Act, 1959, and shall have power to acquire and hold property, whether movable or immovable, for the purposes of its business and to dispose of the same.”	The date ¹ on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
3. In section 4, in sub-section (2), for “and shall not discontinue any such branch or agency or establish any new branch or	

¹Ist October, 1959, *vide* Notfn. No. G.S.R. 1091, dt. 28-9-59, Gazette of India, Ex., Pt. II, Sec. 3 (i), p. 711.

Amendments	Date on which amendments shall take effect
agency except with the previous approval of the Reserve Bank", substitute "and shall not discontinue any branch or establish any new branch except in consultation with the State Bank and with the approval of the Reserve Bank".	
4. For sections 9 and 10, substitute :—	
“9. (1) The authorised capital of the Hyderabad Bank shall be one crore of rupees, divided into shares of one hundred rupees each.	Authorised capital.
(2) Notwithstanding anything contained in this section, the State Bank may, with the approval of the Reserve Bank, authorise the Hyderabad Bank to increase or reduce its authorised capital :	
Provided that where the authorised capital is so increased, the shares issued shall be of the denomination specified in sub-section (1).	The date ¹ on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
10. (1) The issued capital of the Hyderabad Bank shall, on the day on which the amendments to this Act made by the State Bank of India (Subsidiary Banks) Act, 1959, take effect, be of such amount as the State Bank, with the approval of the Reserve Bank may fix in this behalf, so however that the amount shall be so fixed as to consist only of fully paid-up shares of one hundred rupees each.	Issued capital.
(2) All shares in the issued capital of the Hyderabad Bank shall, on that day, vest in the State Bank.	
(3) Without prejudice to the provisions contained in sub-section (4), the Hyderabad Bank may, with the approval of the State Bank and the Reserve Bank,	

¹1st October, 1959, *vide* Notfn. No. G.S.R. 1091, dt. 28-9-59, Gazette of India, Ex., Pt. II. Sec, 3(i), p. 711.

	Amendments	Date on which amendments shall take effect
	increase, from time to time, its issued capital and the capital so increased shall consist of fully paid-up shares to be issued in such manner as the State Bank may, with the approval of the Reserve Bank, direct : Provided that the issued capital shall be so increased that at no time shall the State Bank hold less than fifty-five per cent. of the issued capital of the Hyderabad Bank.	
	(4) The State Bank shall, as soon as may be, after the determination, if any, of the amount of compensation by the Tribunal under the State Bank of India (Subsidiary Banks) Act, 1959, consider whether any increase or reduction of the issued capital of the Hyderabad Bank as fixed under sub-section (1) by way of adjustment by transfer from, or to, the reserves of the Hyderabad Bank or in any other manner, is necessary, expedient or appropriate and may, thereafter, with the approval of the Reserve Bank, direct the Hyderabad Bank to increase or reduce its issued capital.”.	The date ¹ on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
Reserve Fund.	<p>5. Omit sections 11 to 26 inclusive.</p> <p>6. For section 27, substitute :—</p> <p>“27. (1) The reserve fund of the Hyderabad Bank shall, subject to the provisions of sub-section (4) of section 10, and sub-section (2) of this section, consist of—</p> <p>(a) on the day on which the amendments to this Act made by the State Bank of India (Subsidiary Banks) Act, 1959, take effect, such sum as the State Bank, with the approval of the Reserve Bank, may determine; and</p>	

¹Ist October, 1959, *vide* Notfn. No. G.S.R. 1091, dt. 28-9-59, Gazette of India, Ex., Pt. II, Sec. 3 (i), p. 711.

Amendments	Date on which amendments shall take effect
(b) after that day, the sum aforesaid together with such further sums as may be transferred to the reserve fund by the Hyderabad Bank out of its annual net profits before declaring a dividend	
(2) The State Bank shall, as soon as may be after the determination, if any, of the amount of compensation by the Tribunal, under the State Bank of India (Subsidiary Banks) Act, 1959, consider whether any increase or reduction of the reserve fund of the Hyderabad Bank is necessary by way of adjustment by transfer from or to any account or towards provision for bad and doubtful debts, depreciation in assets, or contingencies or for any other purpose and may thereafter, with the approval of the Reserve Bank, direct the Hyderabad Bank to so increase or reduce its reserve fund.”.	
7. Omit sections 28 to 40 inclusive, sections 42, 43, 45 and 46 and the First and Second Schedules.	The date ¹ on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.

¹Ist October, 1959, *vide* Notfn. No. G.S.R. 1091, dt. 28-9-59, Gazette of India, Ex., Pt. II, Sec. 3 (i), p. 711.