

ACTS OF THE CONSTITUENT ASSEMBLY OF INDIA.

<u>Year</u>	<u>No.</u>	<u>Short title.</u>
1949	1.	The Government of India (Amendment) Act, 1949.
"	2.	The Government of India (Second Amendment) Act, 1949.
"	3.	The India (Central Government and Legislature) Amendment Act, 1949.
"	4.	The Government of India (Third Amendment) Act, 1949.
Rep. "	5.	<u>The Abolition of Privy Council Jurisdiction Act, 1949.</u>
"	6.	The Government of India (Fourth Amendment) Act, 1949.

CENTRAL ACTS, 1949

YEAR	NO.	SHORT TITLE
1949	1	The Indian Tariff (Amendment) Act, 1949.
"	2	The Mangrol and Manavadar (Administrative of Property) Act, 1949.
"	3	The Indian Emigration (Amendment) Act, 1949.
"	4	The United Provinces Provincial Armed Constabulary (Extension of Laws) Act, 1949.
"	5	The Protective Duties (Amendment) Act, 1949.
"	6	The Public Debt (Central Govt.) ^{Amendment} Act, 1949.
"	7	The Scheduled Securities (Hyderabad) Act, 1949.
"	8	The Seaward Artillery Practice Act, 1949.
"	9	The Code of Criminal Procedure (Amendment) Act, 1949.
"	10	The Banking Companies Act, 1949.
"	11	The Railways (Transport of Goods) (Amendment) Act, 1949.
"	12	The Protective Duties (Miscellaneous Provisions) Act, 1949.
"	13	The Central Tea Board Act, 1949.
"	14	The Indian Finance Act, 1949.
"	15	The Code of Criminal Procedure (Second Amendment) Act, 1949.
"	16	The Governor General's Salary (Exemption from Taxation) Act, 1949.
"	17	The Criminal Law (Removal of Racial Discrimination) Act, 1949.
"	18	The Merchant Shipping Laws (Extension to Acceding States and Amendment) Act, 1949.
"	19	The Essential Supplies (Temporary Powers) Amendment Act, 1949.
"	20	The West Godavari District (Assimilation of Laws on Federal Subjects) Act, 1949.
"	21	The Hindu Marriages Validity Act, 1949.
"	22	The Payment of Taxes (Transfer of Property) Act, 1949.
"	23	The Influx from Pakistan (Control) Act, 1949.
"	24	The Delhi Hotels (Control of Accommodation) Act, 1949.
"	25	The Displaced Persons (Legal Proceedings) Act, 1949.
"	26	The Indian Tea Control (Amendment) Act, 1949.
"	27	The Bombay Port Trust (Amendment) Act, 1949.
"	28	The Coal Mines Labour Welfare Fund (Amendment) Act, 1949.
"	29	The Dock Workers (Regulation of Employment) Amendment, Act, 1949.
"	30	The Public Companies (Limitation of Dividends) Act, 1949.

GENERAL ACTS 1949 (Cont'd)

<u>YEAR</u>	<u>(NOB.)</u>	<u>SHORT TITLE</u>
1949	31	The Indian Wireless Telegraphy (Amendment) Act, 1949.
"	32	The Code of Civil Procedure (Amendment) Act, 1949.
"	33	The Rubber (Production and Marketing) Amendment Act, 1949.
"	34	The Coffee Market Expansion (Amendment) Act, 1949.
"	35	The Indian Succession (Amendment) Act, 1949.
"	36	The Indian Passport (Amendment) Act, 1949.
"	37	The Registration of Foreigners (Amendment) Act, 1949.
"	38	The Chartered Accountants Act, 1949.
"	39	The Cinematograph (Amendment) Act, 1949.
"	40	The Repealing and Amending Act, 1949.
"	41	The Child Marriage Restraint (Amendment) Act, 1949.
"	42	The Indian Penal Code and the Code of Criminal Procedure (Amend.) Act, 1949.
"	43	The Indian Tariff (Second Amendt.) Act, 1949.
"	44	The Reserve Bank of India (Amendment) Act, 1949.
"	45	The Industrial Finance Corporation (Amendment), Act, 1949.
"	46	The Banking Companies (Legal Practitioners Clients Accounts) Act, 1949.
"	47	The Indian Arms (Amendment) Act, 1949.
"	48	The Transfer of Detained Persons Act, 1949.
"	49	The Essential Supplies (Temporary Powers Second Amendment Act, 1949.
"	50	The Rubber (Production & Marketing) Amendment Act, 1949.
"	51	The Requisitioned Land (Apportionment of Compensation) Act, 1949.
"	52	The Merchant Shipping & Lighthouse (Amendment) Act, 1949.
"	53	The Indian Merchant Shipping (Amendment) Act, 1949.
"	54	The Industrial Disputes (Banking & Insurance Companies) Act, 1949.
"	55	The Explosives (Temporary Provisions) Act, 1949.
"	56	The Indian Railways (Amend.) Act, 1949.
"	57	The Electricity (Supply) Amendt. Act, 1949.
"	58	The Inland Steam-vessels (Amdt.) Act, 1949.
"	59	The Merged States (Laws) Act, 1949.
"	60	The Delhi Premises (Requisition and Eviction) Amendment and Validation Act, 1949.

CENTRAL ACTS 1949 (Cont'd)

<u>YEAR</u>	<u>I</u>	<u>NO.</u>	<u>I</u>	<u>SHORT TITLE</u>
1949		61		The Professions Tax Limitation (Amendment and Validation) Act, 1949.
"		62		The Cinematograph (Second Amendment) Act, 1949.
"		63		The Imports and Exports (Control) Amendment Act, 1949.
"		64		The Police Act, 1949.
"		65		The Abducted Persons (Recovery and Restoration) Act, 1949.
"		66		The Central Reserve Police Force Act, 19
"		67		The Taxation Laws (Extension to Merged States & Amendment) Act, 1949.

See India Code Vol. I

[AS PASSED BY THE DOMINION LEGISLATURE.]

A

BILL

to consolidate and amend the law relating to banking companies.

WHEREAS it is expedient to consolidate and amend the law relating to banking companies;

It is hereby enacted as follows:—

PART I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Banking Companies Act, 1949.

(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State as respects banking.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Application of other laws not barred.—The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of, the Indian Companies Act, 1913 (VII of 1913), and any other law for the time being in force.

3. Act not to apply to co-operative banks.—Nothing in this Act shall apply to a co-operative bank registered under the Co-operative Societies Act, 1912 (II of 1912), or any other law for the time being in force in any Province of India relating to co-operative societies.

4. Power to suspend operation of Act.—(1) The Central Government, if on a representation made by the Reserve Bank in this behalf it is satisfied that it is expedient so to do, may by notification in the official Gazette suspend for such period, not exceeding sixty days, as may be specified in the notification, the operation of all or any of the provisions of this Act, either generally or in relation to any specified banking company.

(2) In a case of special emergency, the Governor of the Reserve Bank, or in his absence a Deputy Governor of the Reserve Bank nominated by him in this behalf may, by order in writing, exercise the powers of the Central Government under sub-section (1) so however that the period of suspension shall not exceed thirty days, and where the Governor or the Deputy Governor, as the case may be, does so, he shall report the matter to the Central Government forthwith, and the order shall, as soon as may be, be published in the Gazette of India.

(3) The Central Government may, by notification in the official Gazette, extend from time to time the period of any suspension ordered under sub-section (1) or sub-section (2) for such period, not exceeding sixty days at any one time, as it thinks fit so however that the total period does not exceed one year.

(4) A copy of any notification issued under sub-section (3) shall be laid on the table of the Dominion Legislature as soon as may be after it is issued.

- 1) 16th March, 1949, as notified by No F-4 (46) F.1/49, 7/10-3-49, G.O. 9.1949, M.I. 3
2) Subs. by S. 2 of Act 21 of 1950 which came into force on 18-3-52
3) Subs. by S. 4, ibid.
4) Subs. by the A.O. 1950.

5. Interpretation.—(1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "approved securities" means securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of section 20 of the Indian Trusts Act, 1882 (II of 1882), and such securities of, or fully guaranteed by, ~~Acceding States~~ as the Reserve Bank may be authorised to purchase under clause (8) of section 17 of the Reserve Bank of India Act, 1934 (II of 1934);

(b) "banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise;

(c) "banking company" means any company which transacts the business of banking ~~in any Province of India~~;

Explanation.—Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause;

(d) "company" means any company which may be wound up under the Indian Companies Act, 1913 (VII of 1913);

(e) "Court" means the Court having jurisdiction under the Indian Companies Act, 1913;

(f) "demand liabilities" means liabilities which must be met on demand, and "time liabilities" means liabilities which are not demand liabilities;

(g) "gold" includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not;

(h) "managing agent" means a person, firm or company entitled to the management of the whole affairs of a banking company by virtue of an agreement with the company or by virtue of the memorandum or articles of association relating thereto, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement, memorandum or articles of association, and includes any person, firm or company occupying such position by whatever name called;

Explanation.—If a person occupying the position of managing agent calls himself manager or managing director, he shall nevertheless be deemed to be a managing agent for the purposes of this Act;

(i) "private company" has the same meaning as in the Indian Companies Act, 1913;

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

(k) "registrar" has the same meaning as in the Indian Companies Act, 1913;

(l) "Reserve Bank" means the Reserve Bank of India;

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

(n) "secured loan or advance" means a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance; and "unsecured loan or advance" means a loan or advance not so secured.

(2) In the application of this Act to ~~Acceding States~~ all references to the Provinces of India shall be construed as including references to the ~~Acceding States~~ to which this Act extends.

1) Subs. by S.3 Act 20 of 1950.

2) Ins. by S.5, ibid.

3) Deleted by the A.O. 1950.

PART II

BUSINESS OF BANKING COMPANIES

6. Forms of business in which banking companies may engage.—(1) In addition to the business of banking, a banking company may engage in any one or more of the following forms of business, namely:—

(a) the borrowing, raising, or taking up of money; the lending or advancing of money either upon or without security; the drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, hundees, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips and other instruments, and securities whether transferable or negotiable or not; the granting and issuing of letters of credit, traveller's cheques and circular notes; the buying, selling and dealing in bullion and specie; the buying and selling of foreign exchange including foreign bank notes; the acquiring, holding, issuing on commission, underwriting and dealing in stock, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments of all kinds; the purchasing and selling of bonds, scrips or other forms of securities on behalf of constituents or others, the negotiating of loans and advances; the receiving of all kinds of bonds, scrips or valuables on deposit or for safe custody or otherwise; the providing of safe deposit vaults; the collecting and transmitting of money and securities;

(b) acting as agents for any Government or local authority or any other person or persons; the carrying on of agency business of any description including the clearing and forwarding of goods, giving of receipts and discharges and otherwise acting as an attorney on behalf of customers, but excluding the business of a managing agent of a company;

(c) contracting for public and private loans and negotiating and issuing the same;

(d) the effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue, public or private, of State, municipal or other loans or of shares, stock, debentures, or debenture stock of any company, corporation or association and the lending of money for the purpose of any such issue;

(e) carrying on and transacting every kind of guarantee and indemnity business;

(f) managing, selling and realising any property which may come into the possession of the company in satisfaction or part satisfaction of any of its claims;

(g) acquiring and holding and generally dealing with any property or any right, title or interest in any such property which may form the security or part of the security for any loans or advances or which may be connected with any such security;

(h) undertaking and executing trusts;

(i) undertaking the administration of estates as executor, trustee or otherwise;

(j) establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the company or the dependents or connections of such persons; granting pensions and allowances and making payments towards insurance; subscribing to or guaranteeing moneys for charitable or benevolent objects or for any exhibition or for any public, general or useful object;

(k) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purposes of the company;

(l) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company;

(m) acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this sub-section;

(n) doing all such other things as are incidental or conducive to promotion or advancement of the business of the company;

(o) any other form of business which the Central Government may, by notification in the official Gazette, specify as a form of business in which it is lawful for a banking company to engage.

(2) No banking company shall engage in any form of business other than those referred to in sub-section (1).

7. Use of words "bank", "banker", "banking".—After the expiry of two years from the commencement of this Act, no company, other than a banking company, shall use as part of its name any of the words "bank", "banker" or "banking" and no company shall carry on the business of banking in any Province of India, unless it uses as part of its name at least one of such words:

Provided that nothing in this section shall apply to any association of banks formed for the protection of their mutual interests and registered under section 26 of the Indian Companies Act, 1913 (VII of 1913).

8. Prohibition of trading.—Notwithstanding anything contained in section 6 or in any contract, no banking company shall directly or indirectly deal in the buying or selling or bartering of goods, except in connection with the realisation of security given to or held by it, or engage in any trade, or buy, sell or barter goods for others otherwise than in connection with bills of exchange received for collection or negotiation or with such of its business as is referred to in clause (i) of sub-section (1) of section 6:

Provided that this section shall not apply to any such business as aforesaid which was in the course of being transacted on the commencement of this Act, so however, that the said business shall be completed before the expiry of one year from such commencement.

Explanation.—For the purposes of this section, "goods" means every kind of movable property, other than actionable claims, stocks, shares, money, bullion and specie, and all instruments referred to in clause (a) of sub-section (1) of section 6.

9. Disposal of non-banking assets.—Notwithstanding anything contained in section 6, no banking company shall hold any immovable property howsoever acquired, except such as is required for its own use, for any period exceeding seven years from the acquisition thereof or from the commencement of this Act, whichever is later or any extension of such period as in this section provided, and such property shall be disposed of within such period or extended period, as the case may be:

Provided that the banking company may, within the period of seven years as aforesaid, deal or trade in any such property for the purpose of facilitating the disposal thereof:

Provided further that the Reserve Bank may in any particular case extend the aforesaid period of seven years by such period not exceeding five years where it is satisfied that such extension would be in the interests of the depositors of the banking company.

1/ Subs. by S.O 27 Act 20 7 1950.

10. Prohibition of employment of managing agents and restrictions on certain forms of employment.—(1) No banking company—

(a) shall employ or be managed by a managing agent, or

(b) shall employ any person—

(i) who is or at any time has been adjudicated insolvent, or has suspended payment or has compounded with his creditors, or who is or has been convicted by a criminal Court of an offence involving moral turpitude; or

(ii) whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company; or

(iii) whose remuneration is, according to the normal standards prevailing in banking business, on a scale disproportionate to the resources of the company; or

(c) shall be managed by any person—

(i) who is a director of any other company, not being a subsidiary company of the banking company; or

(ii) who is engaged in any other business or vocation; or

(iii) who has a contract with the company for its management for a period exceeding five years at any one time:

Provided that the said period of five years shall, in relation to contracts subsisting on the 1st day of July, 1944, be computed from that date:

Provided further that any contract with the company for its management may be renewed or extended for a further period not exceeding five years at a time if and so often as the directors so decide.

(2) If any question arises in any particular case whether the remuneration is, according to the normal standards prevailing in banking business, on a scale disproportionate to the resources of the company for the purpose of sub-clause (iii) of clause (b) of sub-section (1), the decision of the Reserve Bank thereon shall be final for all purposes.

11. Requirement as to minimum paid-up capital and reserves.—(1) Notwithstanding anything contained in section 103 of the Indian Companies Act, 1913 (VII of 1913), no banking company in existence on the commencement of this Act, shall, after the expiry of three years from such commencement or of such further period not exceeding one year as the Reserve Bank, having regard to the interests of the depositors of the company, may think fit in any particular case to allow, carry on business in any Province of India, and no other banking company shall, after the commencement of this Act, commence or carry on business in any Province of India, unless it has paid-up capital and reserves of such aggregate value as is hereinafter required by this section.

(2) In the case of a banking company incorporated elsewhere than in the Province of India, 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:

Provided that no such banking company shall be deemed to have complied with the provisions of this sub-section, unless it deposits and keeps deposited with the Reserve Bank an amount not less than the minimum required by this sub-section, either in cash or in unencumbered approved securities or partly in cash and partly in such securities.

1) Subs. by S. 3 Act 20 of 1950.

(3) In the case of any banking company to which the provisions of sub-section (2) do not apply, the aggregate value of its paid-up capital and reserves shall not be less than—

(i) if it has places of business in more than one ^{Province} ~~Province~~, five lakhs of rupees, and if any such place or places of business is or are situated in the City of Bombay or Calcutta or both, ten lakhs of rupees; ^(Note)

(ii) if it has all its places of business in one ~~Province~~ ^{Province} none of which is situated in the City of Bombay or Calcutta, one lakh of rupees in respect of its principal place of business, plus ten thousand rupees in respect of each of its other places of business situated in the same district in which it has its principal place of business, plus twenty-five thousand rupees in respect of each place of business situated elsewhere in the ~~Province~~ ^{Province} otherwise than in the same district: ^(Note)

Provided that no banking company to which this clause applies shall be required to have paid-up capital and reserves exceeding an aggregate value of five lakhs of rupees:

Provided further that no banking company to which this clause applies and which has only one place of business, shall be required to have paid-up capital and reserves exceeding an aggregate value of fifty thousand rupees;

(iii) if it has all its places of business in one ~~Province~~ ^{Province}, one or more of which is or are situated in the City of Bombay or Calcutta, five lakhs of rupees, plus twenty-five thousand rupees in respect of each place of business situated outside the City of Bombay or Calcutta, as the case may be:

Provided that no banking company to which this clause applies shall be required to have paid-up capital and reserves exceeding an aggregate value of ten lakhs of rupees.

Explanation.—For the purposes of this sub-section, a place of business situated in a ~~Province~~ ^{Province} other than that in which the principal place of business of the banking company is situated shall, if it is not more than twenty-five miles distant from such principal place of business, be deemed to be situated within the same ~~Province~~ ^{Province} as such principal place of business.

(4) Any amount deposited and kept deposited with the Reserve Bank under the proviso to sub-section (2) by any banking company incorporated elsewhere ~~than in a Province of India~~ shall, in the event of the company ceasing for any reason to carry on banking business ~~in the Provinces of India~~, be an asset of the company on which the claims of all the creditors of the company ~~in the Provinces of India~~ shall be a first charge.

(5) For the purposes of this section "value" means the real or exchangeable value, and not the nominal value which may be shown in the books of the banking company concerned.

(6) If any dispute arises in computing the aggregate value of the paid-up capital and reserves of any banking company, a determination thereof by the Reserve Bank shall be final for the purposes of this section.

12. Regulation of paid-up capital, subscribed capital and authorised capital, and voting rights of shareholders.—No banking company shall carry on business ~~in any Province of India~~, unless it satisfies the following conditions, namely:—

(i) that the subscribed capital of the company is not less than one half of the authorised capital, and the paid-up capital is not less than one half of the subscribed capital and that, if the capital is increased, it complies with the conditions prescribed in this clause within such period not exceeding two years as the Reserve Bank may allow;

1) Subs. by the A.D. 1930.

2) Subs. by S.O. 7 Act 20 of 1930.

(ii) that the capital of the company consists of ordinary shares only or of ordinary shares and such preference shares as may have been issued prior to the 1st day of July, 1944;

(iii) that, subject to the provisions contained in clause (iv) hereof, the voting rights of any one shareholder, whether a preference shareholder or an ordinary shareholder, are strictly proportionate to the contribution made by him to the paid-up capital of the company;

(iv) that the voting rights of any one shareholder do not exceed five per cent. of the total voting rights of all the shareholders:

Provided that nothing contained in this section shall apply to any banking company incorporated before the 15th day of January, 1937.

13. Restriction on commission, brokerage, discount, etc., on sale of shares.—Notwithstanding anything to the contrary contained in sections 105 and 105A of the Indian Companies Act, 1913 (VII of 1913), no banking company shall pay out directly or indirectly by way of commission, brokerage, discount or remuneration in any form in respect of any shares issued by it, any amount exceeding in the aggregate two and one-half per cent. of the paid-up value of the said shares.

14. Prohibition of charge on unpaid capital.—No banking company shall create any charge upon any unpaid capital of the company, and any such charge shall be invalid.

15. Restrictions as to payment of dividend.—No banking company shall pay any dividend on its shares until all its capitalised expenses (including preliminary expenses, organisation expenses, share-selling commission, brokerage, amounts of losses incurred and any other item of expenditure not represented by tangible assets) have been completely written off.

16. Prohibition of common directors.—No banking company incorporated in a Province of India shall have as a director any person who is a director of another banking company.

17. Reserve fund.—Every banking company incorporated ^{in India} ~~in a Province of India~~ shall maintain a reserve fund, and shall, out of the net profits of each year and before any dividend is declared, transfer a sum equivalent to not less than twenty per cent. of such profits to the reserve fund until the amount of the said fund is equal to the paid-up capital.

Explanation.—For the purposes of this section, the expression "net profits" shall have the meaning assigned to it in sub-section (3) of section 87C of the Indian Companies Act, 1913 (VII of 1913).

18. Cash reserve.—Every banking company not being a scheduled bank shall maintain by way of cash reserve in cash with itself, or in an account opened with the Reserve Bank, or partly in cash with itself and partly in such account, a sum equivalent to at least two per cent. of its time liabilities and five per cent. of its demand liabilities and shall file with the Reserve Bank before the fifteenth day of every month three copies of a statement of the amount so held on Friday of each week of the preceding month with particulars of its time and demand liabilities on each Friday.

19. Restriction on nature of subsidiary companies.—(1) A banking company shall not form any subsidiary company except a subsidiary company formed for one or more of the following purposes, namely, the undertaking and executing of trusts, the undertaking of the administration of estates as executor,

1) Subs. by S.3 of Act 20 of 1950.

trustee or otherwise, the providing of safe deposit vaults or, with the previous permission in writing of the Reserve Bank, such other purposes as are incidental to the business of banking.

(2) Save as provided in sub-section (1), no banking company shall hold shares in any company, whether as pledgee, mortgagee or absolute owner, of an amount exceeding thirty per cent. of the paid-up share capital of that company or thirty per cent. of its own paid-up share capital and reserves, whichever is less:

Provided that any banking company which is on the date of the commencement of this Act holding any shares in contravention of the provisions of this sub-section shall not be liable to any penalty therefor if it reports the matter without delay to the Reserve Bank and if it brings its holding of shares into conformity with the said provisions within such period, not exceeding two years, as the Reserve Bank may think fit to allow.

(3) Save as provided in sub-section (1) and notwithstanding anything contained in sub-section (2), a banking company shall not, after the expiry of one year from the date of the commencement of this Act, hold shares, whether as pledgee, mortgagee or absolute owner, in any company in the management of which any managing director or manager of the banking company is in any manner concerned or interested.

20. Restrictions on loans and advances.—(1) Notwithstanding anything to the contrary contained in section 54A of the Indian Companies Act, 1913 (VII of 1913), no banking company shall make any loans or advances on the security of its own shares, or grant unsecured loans or advances to any of its directors or to firms or private companies in which it or any of its directors is interested as partner or managing agent or to any individuals, firms or private companies in cases where any of the directors is a guarantor.

(2) Every banking company shall, before the close of the month succeeding that to which the return relates, submit to the Reserve Bank a return in the prescribed form and manner, showing all unsecured loans and advances granted by it to companies in which it or any of its directors is interested as director or managing agent or guarantor.

(3) If on examination of any return submitted under sub-section (2) it appears to the Reserve Bank that any loans or advances referred to in that sub-section are being granted to the detriment of the interests of the depositors of the banking company, the Reserve Bank may, by order in writing, prohibit the banking company from granting any such further loans or advances or impose such restrictions on the grant thereof as it thinks fit, and may by like order direct the banking company to secure the repayment of any such loan or advance within such time as may be specified in the order.

21. Power of Reserve Bank to control advances by banking companies.—

(1) Where the Reserve Bank is satisfied that it is necessary or expedient in the public interest so to do, it may determine the policy in relation to advances to be followed by banking companies generally or by any banking company in particular, and when the policy has been so determined, all banking companies or the banking company concerned, as the case may be, shall be bound to follow the policy as so determined.

(2) Without prejudice to the generality of the power vested in the Reserve Bank under sub-section (1), the Reserve Bank may give directions to banking companies, either generally or to any banking company or group of banking companies in particular, as to the purposes for which advances may or may

not be made, the margins to be maintained in respect of secured advances and the rates of interest to be charged on advances, and each banking company shall be bound to comply with any directions as so given.

22. **Licensing of banking companies.**—(1) Save as hereinafter provided, no company shall carry on banking business ~~in any Province of India~~ unless it holds a licence granted by the Reserve Bank in such behalf. *in India*

(2) Every banking company in existence on the commencement of this Act, before the expiry of six months from such commencement, and every other company before commencing banking business ~~in any Province of India~~, shall apply in writing to the Reserve Bank for a licence under this section:

Provided that in the case of a banking company in existence on the commencement of this Act, nothing in sub-section (1) shall be deemed to prohibit the company from carrying on banking business until it is granted a licence in pursuance of sub-section (2) or is by notice in writing informed by the Reserve Bank that a licence cannot be granted to it:

Provided further that the Reserve Bank shall not give a notice as aforesaid to a banking company in existence on the commencement of this Act before the expiry of the three years referred to in sub-section (1) of section 11 or of such further period as the Reserve Bank may under that sub-section think fit to allow.

(3) Before granting any licence under this section, the Reserve Bank may require to be satisfied by an inspection of the books of the company or otherwise that all or any of the following conditions are fulfilled, namely:—

(a) that the company is in a position to pay its depositors in full as their claims accrue;

(b) that the affairs of the company are not being conducted to the detriment of the interests of its depositors;

(c) in the case of a company incorporated elsewhere than ~~in a Province of India~~ that the Government or law of the country in which it is incorporated does not discriminate in any way against banking companies registered ~~in a Province of India~~, and that the company complies with all the provisions of this Act, applicable to banking companies incorporated *in India* ~~outside the Provinces of India~~.

(4) The Reserve Bank may—

(a) cancel any licence granted under this section where any of the conditions set out in sub-section (3), on the fulfilment of which it required to be satisfied when granting the licence, ceases to be fulfilled or if the company ceases to carry on banking business ~~in the Provinces of India~~ or goes into liquidation;

(b) at any time after granting a licence under this section require that any of the said conditions, on the fulfilment of which it did not require to be satisfied when granting the licence, shall be fulfilled to its satisfaction within such time as it may specify, and if the condition is not so fulfilled, cancel the licence.

(5) Any banking company aggrieved by the cancellation of its licence under sub-section (4) may appeal to the Central Government, and the decision of the Central Government on such appeal shall be final.

23. **Restrictions on opening of new, and transfer of existing, places of business.**—~~No banking company shall open a new place of business or change, otherwise than within the same city, town or village, the location of an existing place of business without obtaining the prior permission in writing of the Reserve Bank; and before giving any such permission the Reserve Bank may require to be satisfied by an inspection under section 35 or otherwise as to the~~

1) Subs. by the A.O. 1950.

2) Subs. by S. 3 of Act 20 of 1950.

3) Subs. by S. 6, *ibid.*

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:

Provided that nothing in this 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, conference or mela.

Explanation.—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.

24. Maintenance of a percentage of assets.—(1) After the expiry of two years from the commencement of this Act, every banking company shall maintain in cash, gold or unencumbered approved securities, valued at a price not exceeding the current market price, an amount which shall not at the close of business on any day be less than twenty per cent. of the total of its time and demand liabilities ~~in the Provinces of India.~~

Explanation.—For the purposes of this section liabilities shall not include the paid-up capital or the reserves or any credit balance in the profit and loss account of the company or the amount of any loan taken from the Reserve Bank.

(2) In computing the amount for the purposes of sub-section (1), the deposit required under the proviso to sub-section (2) of section 11 to be made with the Reserve Bank by a banking company incorporated elsewhere than ~~in a Province of India~~ and any balance maintained by a banking company with the Reserve Bank or its agent or both, including in the case of a scheduled bank the balance required under sub-section (1) of section 42 of the Reserve Bank of India Act, 1934 (II of 1934), to be so maintained, shall be deemed to be cash maintained.

(3) For the purpose of ensuring compliance with the provisions of this section, every banking company shall, not later than fifteen days after the end of the month to which it relates, furnish to the Reserve Bank in the prescribed form and manner a monthly return showing particulars of its assets maintained in accordance with this section, and its time and demand liabilities at the close of business on each Friday during the month, or if any Friday is a public holiday under the Negotiable Instruments Act, 1881 (XVI of 1881), at the close of business on the preceding working day. *in India?*

25. Assets in the Provinces of India.—(1) The assets ~~in the Provinces of India~~ of every banking company at the close of the last working day of every quarter shall not be less than seventy-five per cent. of its demand and time liabilities therein.

(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 the last working day of the previous quarter.

(3) For the purposes of this section,—

(a) "assets" shall be deemed to include such promissory notes, bills of exchange and securities as the Reserve Bank is, under the Reserve Bank of India Act, 1934 (II of 1934) empowered to purchase, discount or make advances against, and export bills drawn in, and import bills drawn on, and payable in India and expressed in such currencies as the Reserve Bank may from time to time approve in this behalf;

(b) "quarter" means the period of three months ending on the last day of March, June, September or December.

1, Subs. by S.3 of Act 20 of 1950.
2, Subs. by S.7, ibid.

in India

26. Return of unclaimed deposits.—Every banking company shall, within thirty days after the close of each calendar year, submit a return in the prescribed form and manner to the Reserve Bank as at the end of such calendar year of all accounts ~~in the Provinces of India~~ which have not been operated upon for ten years, giving particulars of the deposits standing to the credit of each such account:

Provided that in the case of money deposited for a fixed period the said term of ten years shall be reckoned from the date of the expiry of such fixed period.

27. Monthly returns and power to call for other returns and information.—

(1) Every banking company shall before the close of the month succeeding that to which it relates submit to the Reserve Bank a return in the prescribed form and manner showing its assets and liabilities ~~in the Provinces of India~~ as at the close of business on the last Friday of every month or if that Friday is a public holiday under the Negotiable Instruments Act, 1881 (XVI of 1881), at the close of business on the preceding working day.

(2) The Reserve Bank may at any time, by notice in writing, require a banking company to furnish it within the time specified therein or such further time as the Reserve Bank may allow, with statements and information relating to the business of such banking company, and without prejudice to the generality of the foregoing power, may call for information every half-year regarding the classification of advances and investments of banking companies in respect of industry, commerce and agriculture.

28. Power to publish information.—The Reserve Bank, if it considers it in the public interest so to do, may publish any information obtained by it under section 27 in such consolidated form as it thinks fit.

29. Accounts and balance-sheet.—(1) At the expiration of each calendar year every banking company incorporated in a Province of India, in respect of all business transacted by it, and every banking company incorporated ~~outside the Provinces of India~~, in respect of all business transacted through its branches ~~in the Provinces of India~~, shall prepare with reference to that year a balance-sheet and profit and loss account as on the last working day of the year in the Forms set out in the Third Schedule or as near thereto as circumstances admit.

Provided that in the case of a banking company incorporated ~~outside the Provinces of India~~, the profit and loss account may be prepared as on a date not earlier than two months before the last working day of the year.

(2) The balance-sheet and profit and loss account shall be signed—

(a) in the case of a banking company incorporated ~~in a Province of India~~, by the manager or the principal officer of the company and where there are more than three directors of the company, by at least three of those directors, or where there are not more than three directors, by all the directors, and

(b) in the case of a banking company incorporated outside the Provinces of India by the manager or agent of the principal office of the company ~~in the Provinces of India~~.

(3) Notwithstanding that the balance-sheet of a banking company is under sub-section (1) required to be prepared in a form other than the form marked F in the Third Schedule to the Indian Companies Act, 1913 (VII of 1913), the requirements of that Act relating to the balance-sheet and profit and loss account of a company shall, in so far as they are not inconsistent with this Act, apply to the balance-sheet or profit and loss account, as the case may be, of a banking company.

1) Subs. by S. 3 of Act 20 of 1950.

(4) The Central Government, after giving not less than three months notice of its intention so to do by a notification in the official Gazette, may from time to time by a like notification amend the Forms set out in the Third Schedule.

30. Audit.—(1) The balance-sheet and profit and loss account prepared in accordance with section 29 shall be audited—

(a) in the case of a banking company incorporated ^{in India} ~~in a Province of India~~, by a person duly qualified under any law for the time being in force to be an auditor of companies;

(b) in the case of a banking company incorporated ~~outside the Provinces of India~~ either by such an auditor as aforesaid, or by a person duly qualified to be an auditor under the law of the country in which the company is incorporated.

(2) The Auditor shall have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 145 of the Indian Companies Act, 1913 (VII of 1913).

(3) In addition to the matters which under the aforesaid Act the auditor is required to state in his report, he shall, in the case of a banking company incorporated ~~in a Province of India~~, state in his report,—

(a) whether or not the information and explanations required by him have been found to be satisfactory;

(b) whether or not the transactions of the company which have come to his notice have been within the powers of the company;

(c) whether or not the returns received from branch offices of the company have been found adequate for the purposes of his audit;

(d) whether the profit and loss account shows a true-balance of profit and loss for the period covered by such account;

(e) any other matter which he considers should be brought to the notice of the shareholders of the company.

31. Submission of returns.—The accounts and balance-sheet referred to in section 29 together with the auditor's report shall be published in the prescribed manner, and three copies thereof shall be furnished as returns to the Reserve Bank within three months from the end of the period to which they refer:

Provided that the Reserve Bank may in any case extend the said period of three months for the furnishing of such returns by a further period not exceeding three months.

32. Copies of balance-sheets and accounts to be sent to registrar.—(1) Where a banking company in any year furnishes its balance-sheet and accounts in accordance with the provisions of section 31 it may, or when it is a private company, shall, at the same time send to the registrar three copies of such balance-sheet and accounts and of the auditor's report, and where such copies are so sent, it shall not be necessary for the company, to file copies of the balance-sheet and accounts with the registrar as required by sub-section (1) of section 134 of the Indian Companies Act, 1913 (VII of 1913), and such copies so sent shall be chargeable with the same fees and shall be dealt with in all respects as if they were filed in accordance with that section.

(2) When in pursuance of sub-section (2) of section 27 the Reserve Bank requires any additional statement or information in connection with the balance-sheet and accounts furnished under section 31, the banking company shall, when supplying such statement or information, send a copy thereof to the registrar.

1) Sub. by S. 32 Act 20 of 1950.

33. Display of audited balance-sheet by companies incorporated outside the Provinces of India.—Every banking company incorporated outside ~~the Provinces of India~~ shall, not later than the first Monday in August of any year in which it carries on business, display in a conspicuous place in its principal office and in every branch office ~~in the Provinces of India~~ a copy of its last audited balance-sheet and profit and loss account prepared under section 29, and shall keep the copy so displayed until replaced by a copy of the subsequent balance-sheet and profit and loss account so prepared, and every such banking company shall display in like manner copies of its complete audited balance-sheet and profit and loss account relating to its banking business as soon as they are available, and shall keep the copies so displayed until copies of such subsequent accounts are available.

34. Accounting provisions of this Act not retrospective.—Nothing in this Act shall apply to the preparation of accounts by a banking company and the audit and submission thereof in respect of any accounting year which has expired prior to the commencement of this Act, and notwithstanding the other provisions of this Act, such accounts shall be prepared, audited and submitted in accordance with the law in force immediately before the commencement of this Act.

35. Inspection.—(1) Notwithstanding anything to the contrary contained in section 138 of the Indian Companies Act, 1913 (VII of 1913), the Reserve Bank at any time may, and on being directed so to do by the Central Government shall, cause an inspection to be made by one or more of its officers of any banking company and its books and accounts; and the Reserve Bank shall supply to the banking company a copy of its report on such inspection.

(2) It shall be the duty of every director or other officer of the banking company to produce to any officer making an inspection under sub-section (1) all such books, accounts and other documents in his custody or power and to furnish him with any statements and information relating to the affairs of the banking company as the said officer may require of him within such time as the said officer may specify.

(3) Any person making an inspection under sub-section (1) may examine on oath any director or other officer of the banking company in relation to its business, and may administer an oath accordingly.

(4) The Reserve Bank shall, if it has been directed by the Central Government to cause an inspection to be made, and may, in any other case, report to the Central Government on any inspection made under this section, and the Central Government, if it is of opinion after considering the report that the affairs of the banking company are being conducted to the detriment of the interests of its depositors, may, after giving such opportunity to the banking company to make a representation in connection with the report as, in the opinion of the Central Government, seems reasonable, by order in writing—

- (a) prohibit the banking company from receiving fresh deposits;
- (b) direct the Reserve Bank to apply under section 38 for the winding up of the banking company;

Provided that the Central Government may defer, for such period as it may think fit, the passing of an order under this sub-section, or cancel or modify any such order, upon such terms and conditions as it may think fit to impose.

(5) The Central Government may, after giving reasonable notice to the banking company, publish the report submitted by the Reserve Bank or such portion thereof as may appear necessary.

1) Subs. by S.3 of Act 20 of 1950.

36. Further powers and functions of Reserve Bank.—(1) The Reserve Bank may—

(a) caution or prohibit banking companies generally or any banking company in particular against entering into any particular transaction or class of transactions, and generally give advice to any banking company;

(b) on a request by the companies concerned and subject to the provisions of section 45, assist, as intermediary or otherwise, in proposals for the amalgamation of such banking companies;

(c) give assistance to any banking company by means of the grant of a loan or advance to it under clause (3) of sub-section (1) of section 18 of the Reserve Bank of India Act, 1934 (II of 1934);

(d) during the course, or after the completion, of any inspection of a banking company under section 35, by order in writing, require the company—

(i) to call a meeting of its directors for the purpose of considering any matter arising in the course of or out of such inspection or of meeting an officer of the Reserve Bank to discuss any such matter;

(ii) to make, within such time as may be specified in the order, such changes in its management as the Reserve Bank may consider necessary in consequence of the state of affairs disclosed during or by the inspection.

(2) The Reserve Bank shall make an annual report to the Central Government on the trend and progress of banking in the country, with particular reference to its activities under clause (2) of section 17 of the Reserve Bank of India Act, 1934, including in such report its suggestions, if any, for the strengthening of banking business throughout the country.

(3) The Reserve Bank may appoint such staff at such places as it considers necessary for the scrutiny of the returns, statements and information furnished by banking companies under this Act, and generally to ensure the efficient performance of its functions under this Act.

PART III

SUSPENSION OF BUSINESS AND WINDING UP OF BANKING COMPANIES

37. Suspension of business.—(1) The Court may on the application of a banking company which is temporarily unable to meet its obligations make an order (a copy of which it shall cause to be forwarded to the Reserve Bank) staying the commencement or continuance of all actions and proceedings against the company for a fixed period of time on such terms and conditions as it shall think fit and proper, and may from time to time extend the period so however that the total period of moratorium shall not exceed six months.

(2) No such application shall be maintainable unless it is accompanied by a report of the Reserve Bank indicating that in the opinion of the Reserve Bank the banking company will be able to pay its debts if the application is granted:

Provided that the Court may, for sufficient reasons, grant relief under this section even if the application is not accompanied by such report, and where such relief is granted, the Court shall call for a report from the Reserve Bank on the affairs of the banking company, on receipt of which it may either rescind any order already passed or pass such further orders thereon as may be just and proper in the circumstances.

38. Winding up by Court.—(1) Without prejudice to the provisions contained in section 162 or section 271 of the Indian Companies Act, 1913 (VII of 1913), and without prejudice to its powers under section 37, the Court shall order the winding up of a banking company if it is unable to pay its debts and the Court shall also order the winding up of a banking company if the Reserve Bank applies in this behalf to the Court.

(2) The Reserve Bank may make an application under this section only if it is directed so to do by order under clause (b) of sub-section (4) of section 35 or if the banking company has failed to comply within due time with the demand contained in a notice under sub-section (5) of section 46.

(3) Without prejudice to the provisions contained in section 163 of the Indian Companies Act, 1913 (VII of 1913), a banking company shall be deemed to be unable to pay its debts if it has refused to meet any lawful demand for payment 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.

(4) A copy of every application by the Reserve Bank under sub-section (1) shall be sent by the Reserve Bank to the registrar.

39. Reserve Bank to be official liquidator.—Notwithstanding anything contained in section 175 of the Indian Companies Act, 1913 (VII of 1913), where in any proceeding for the winding up by the Court of a banking company, an application is made by the Reserve Bank in this behalf, the Reserve Bank shall be appointed as the official liquidator of the banking company in such proceeding.

40. Stay of proceedings.—Notwithstanding anything to the contrary contained in section 173 of the Indian Companies Act, 1913 (VII of 1913), the Court shall not make any order staying the proceedings in relation to the winding up of a banking company, unless the Court is satisfied that an arrangement has been made whereby the company can pay its depositors in full as their claims accrue.

41. Report of liquidator.—Notwithstanding anything to the contrary contained in section 177B of the Indian Companies Act, 1913 (VII of 1913), where a winding up order is made in respect of a banking company, the official liquidator shall submit a preliminary report to the Court within two months from the date of the order giving the information required by that section so far as it is available to him, to enable the Court to order the payment of a preliminary dividend if sufficient assets are available.

42. Power to dispense with meetings of creditors, etc.—Notwithstanding anything to the contrary contained in sections 178A and 183 of the Indian Companies Act, 1913 (VII of 1913), the Court may, in the proceedings for winding up a banking company, dispense with any meetings of creditors or contributories or with the appointment of a committee of inspection if it considers that no object will be secured thereby sufficient to justify the delay and expense.

43. Booked depositors' credits to be deemed proved.—Notwithstanding anything to the contrary contained in section 191 of the Indian Companies Act, 1913 (VII of 1913), the Court shall presume that the amounts shown in the books of a banking company as standing to the credit of depositors are proved without requiring further proof from the depositors concerned unless the official liquidator shows that there is reason for doubting any particular entry.

44. Restriction on voluntary winding up.—Notwithstanding anything to the contrary contained in section 203 of the Indian Companies Act, 1913 (VII of 1913), no banking company which holds a licence granted under section 22 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, and without prejudice to the provisions contained in sections 218 and 220 of that Act, the Court shall, on the application of the Reserve Bank, order the winding up of the company by the Court if at any stage during the voluntary winding up proceedings the company is not able to meet such debts as they accrue.

by Ins. & B. Act 20 of 1950.

~~45. Restriction on amalgamation, etc.—Notwithstanding anything contained in any law for the time being in force,—~~

~~(a) no Court shall sanction a compromise or arrangement between a banking company and its creditors or any class of them or between such company and its members or any class of them, unless the compromise or arrangement is certified by the Reserve Bank as not being detrimental to the interests of the depositors of such company, and~~

~~(b) no banking company shall enter into any agreement or arrangement for, or be a party to, any scheme for the amalgamation of such company with any other banking company without the previous sanction in writing of the Reserve Bank.~~

PART IV

MISCELLANEOUS

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

(2) If any person fails to produce any book, account or other document or to furnish any statement or information which under sub-section (2) of section 35 it is his duty to produce or furnish, or to answer any question relating to the business of a banking company which he is asked by an officer making an inspection under that section, he shall be punishable with a fine which may extend to five hundred rupees in respect of each offence, and if he persists in such refusal, to a further fine which may extend to fifty rupees for every day during which the offence continues.

(3) If any deposits are received by a banking company in contravention of an order under clause (a) of sub-section (4) of section 35, every director or other officer of the banking company, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent it, shall be deemed to be guilty of such contravention and shall be punishable with a fine which may extend to twice the amount of the deposits so received.

(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 made thereunder, every director and other officer of the banking company who is knowingly a party to the contravention or default shall be punishable with a fine not exceeding five hundred rupees, and where the contravention or default is a continuing one, with a further fine not exceeding fifty rupees for every day during which it continues.

(5) Without prejudice to the provisions of sub-section (4), if any banking company fails to comply with the provisions of section 24 or section 25, the Reserve Bank shall by notice in writing make a demand on the banking company to comply with the said provisions within thirty days from the receipt of the notice, and if the banking company fails so to do, the Reserve Bank may apply under section 38 for the winding up of the banking company.

47. Cognizance of offences.—No Court shall take cognizance of any offence punishable under section 46 except upon complaint in writing made by an officer of the Reserve Bank generally or specially authorised in writing in this behalf by the Reserve Bank, and no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any such offence.

48. Application of fines.—A Court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards the rewarding of the person on whose information the fine is recovered.

*1 Ins. by S. 2 of Act 23 of 1949.
2 Ins. by S. 7 of Act 20 of 1950.
3 Ins. by S. 10 of Act 20 of 1950.*

49. Special provisions for private banking companies.—The exemptions, whether express or implied, in favour of a private company in sections 17, 77, 86H, 91B, and 91D, and sub-section (5) of section 144 of the Indian Companies Act, 1913 (VII of 1913), shall not operate in favour of a private company which is a banking company.

50. Certain claims for compensation barred.—No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions contained in sections 10 and 16 or by reason of the compliance by a banking company with any order given by it under sub-clause (ii) of clause (d) of sub-section (1) of section 36.

51. Application of certain provisions to the Imperial Bank of India.—Without prejudice to the provisions of the Imperial Bank of India Act, 1920 (XLVII of 1920), the provisions of sections 10, 13 to 17, 19 to 21, 23 to 31, 34 to 48, 50 and 52 shall also apply, so far as may be, to and in relation to the Imperial Bank of India as they apply to and in relation to other banking companies.

52. Power of Central Government to make rules.—(1) The Central Government may, after consultation with the Reserve Bank, make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act and all such rules shall be published in the official Gazette.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the details to be included in the returns required by this Act and the manner in which such returns shall be submitted.

(3) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall not be less than six months from the date on which the draft of the proposed rules was published:

Provided that in respect of the first occasion on which rules are made under this section, the provisions of this sub-section shall not apply.

53. Power to exempt in certain cases.—The Central Government may, on the recommendation of the Reserve Bank, declare, by notification in the official Gazette, that any or all of the provisions of this Act shall not apply to any banking company or to any class of banking companies either generally or for such period as may be specified.

54. Protection of action taken under Act.—(1) No suit or other legal proceeding shall lie against the Central Government, the Reserve Bank or any officer for anything which is in good faith done or intended to be done in pursuance of this Act.

(2) Save as otherwise expressly provided by or under this Act, no suit or other legal proceeding shall lie against the Central Government, the Reserve Bank or any officer for any damage caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act.

55. Amendment of Act II of 1934.—The Reserve Bank of India Act, 1934 (II of 1934) shall be amended in the manner specified in the fourth column of the First Schedule, and the amendments to section 18 thereof as specified in the said Schedule shall be deemed to have had effect on and from the 20th day of September, 1947.

56. Repeals.—(1) The enactments mentioned in the third column of the Second Schedule shall be repealed to the extent specified in the fourth column thereof.

(2) Notwithstanding the repeal by this Act of any Ordinance mentioned in the Second Schedule, anything done or any action taken, in the exercise of any power conferred by any Ordinance so repealed, shall for all purposes be deemed to have been done or taken in the exercise of powers conferred by this Act as if this Act had been in force on the day such thing was done or such action was taken.

THE FIRST SCHEDULE

(See section 55)

AMENDMENTS

Year	No.	Short title	Amendments
1	2	3	4
1934	II	The Reserve Bank of India Act, 1934.	<p>(1) In section 17, to clause (15A), the following shall be added, namely:—</p> <p>“and under the Banking Companies Act, 1949”.</p> <p>(2) (a) Section 18 shall be renumbered as sub-section (1) of that section and in sub-section (1), as so renumbered,—</p> <p>(i) in clause (3), after the words “of that section”, the following words shall be added, namely:—</p> <p>“or, when the loan or advance is made to a banking company, as defined in the Banking Companies Act, 1949, against such other form of security as the Bank may consider sufficient”;</p> <p>(ii) for the words “under this section”, wherever they occur, the words “under this sub-section” shall be substituted;</p> <p>(b) After sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—</p> <p>“(2) Where a banking company to which a loan or advance has been made under the provisions of clause (3) of sub-section (1) is wound up, any sums due to the Bank in respect of such loan or advance, shall, subject only to the claims, if any, of any other banking company in respect of any prior loan or advance made by such banking company against any security, be a first charge on the assets of the banking company.”</p> <p>(3) In section 42, for sub-section (6) the following sub-section shall be substituted, namely:—</p> <p>“(6) The Bank shall, save as hereinafter provided, by notification in the Gazette of India,—</p> <p>(a) direct the inclusion in the Second Schedule of any bank not already so included which carries on the business of banking in any Province of India and which—</p> <p>(i) has a paid-up capital and reserves of an aggregate value of not less than five lakhs of rupees, and</p>

Year	No.	Short title	Amendments
1	2	3	4
			<p>(ii) satisfies the Bank that its affairs are not being conducted in a manner detrimental to the interests of its depositors, and</p> <p>(iii) is a company as defined in clause (2) of section 2 of the Indian Companies Act, 1913 (VII of 1913) or a corporation or a company incorporated by or under any law in force in any place outside the Provinces of India;</p> <p>(b) direct the exclusion from that Schedule of any scheduled bank,—</p> <p>(i) the aggregate value of whose paid-up capital and reserves becomes at any time less than five lakhs of rupees, or</p> <p>(ii) which is, in the opinion of the Bank after making an inspection under section 35 of the Banking Companies Act, 1949, conducting its affairs to the detriment of the interests of its depositors, or</p> <p>(iii) which goes into liquidation or otherwise ceases to carry on banking business:</p> <p>Provided that the Bank may, on application of the scheduled bank concerned and subject to such conditions, if any, as it may impose, defer the making of a direction under sub-clause (i) or sub-clause (ii) of clause (b) for such period as the Bank considers reasonable to give the scheduled bank an opportunity of increasing the aggregate value of its paid-up capital and reserves to not less than five lakhs of rupees or, as the case may be, of removing the defects in the conduct of its affairs ;</p> <p>(c) alter the description in that Schedule whenever any scheduled bank changes its name.</p>

Explanation.—In this sub-section the expression "value" means the real or exchangeable value and not the nominal value which may be shown in the books of the bank concerned ; and if any dispute arises in computing the aggregate value of the paid-up capital and reserves of a bank, a determination thereof by the Bank shall be final for the purposes of this sub-section."

THE SECOND SCHEDULE

(See section 56)

REPEALS

Year	No.	Short-title	Extent of repeal
1	2	3	4
1913	VII	The Indian Companies Act, 1913.	The whole of Part XA.
1946	XXVII	The Banking Companies (Restriction of Branches) Act, 1946.	The whole.
1946	IV	The Banking Companies (Inspection) Ordinance, 1946.	The whole.
1948	XXV	The Banking Companies (Control) Ordinance, 1948.	The whole.

THE THIRD SCHEDULE

(See section 29)

FORM A

FORM OF BALANCE-SHEET

CAPITAL AND LIABILITIES

PROPERTY AND ASSETS

	Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.
CAPITAL (a)—			CASH :		
Authorized Capital.....			In hand and with Reserve		
Shares of Rs.....each			Bank (including foreign		
			currency notes) . . .		
Issued Capital.....Shares			Balances with other Banks		
of Rs.....each . . .			(showing whether on de-		
			posit or current account):		
Subscribed Capital.....			(i) in the Provinces of		
Shares of Rs.....each .			India.		
			(ii) outside the Provinces of		
Amount called up at Rs....			India		
per share			MONEY AT CALL AND SHORT		
Less calls unpaid			NOTICE		
			BILLS DISCOUNTED AND PUR-		
Add forfeited shares			CHASED. (e)		
			(Other than Treasury Bills		
RESERVE FUND (b)			of the Central and Pro-		
DEPOSITS AND OTHER AC-			vincial Governments)		
COUNTS :			(i) payable in any Pro-		
Fixed Deposits			vince of India.		
Savings Bank Deposits . . .			(ii) payable outside the		
Current Accounts and Contin-			Provinces of India.		
gency (unadjusted) ac-					
counts.			INVESTMENTS (stating mode		
			of valuation, e.g., cost		
BORROWINGS FROM OTHER			or market value). (f)		
BANKS, AGENTS, ETC.:			(i) Securities of the Cent-		
(i) in the Provinces of India			ral and Provincial Gov-		
(ii) outside the Provinces of			ernments and Trustee se-		
India.			curities, including Treasury		
			Bills of the Central and		
Particulars :			Provincial Governments.		
(i) Secured (stating the na-			(ii) Shares (classifying into		
ture of security)			preference, ordinary, de-		
(ii) Unsecured			ferred and other classes		
			of shares and showing		
BILLS PAYABLE			separately shares fully		
BILLS FOR COLLECTION BE-			paid up and partly paid		
ING BILLS RECEIVABLE AS			up).		
per contra :			(iii) Debentures or Bonds.		
(i) payable in any Province			(iv) Other investments (to		
of India			be classified under pro-		
(ii) payable outside the Pro-			per heads).		
vinces of India.			(v) Gold.		
			LOANS, ADVANCES, CASH		
BILLS FOR COLLECTION BE-			CREDITS AND OVERDRAFTS		
ING BILLS RECEIVABLE AS			(other than bad and		
per contra :			doubtful debts for which		
(i) payable in any Province			provision has been made		
of India			to the satisfaction of the		
(ii) payable outside the Pro-			auditors).		
vinces of India.			(i) in the Provinces of India.		
			(ii) outside the Provinces of		
BILLS FOR COLLECTION BE-			India.		
ING BILLS RECEIVABLE AS					
per contra :					
(i) payable in any Province					
of India					
(ii) payable outside the Pro-					
vinces of India.					

FORM A—contd.

CAPITAL AND LIABILITIES

PROPERTY AND ASSETS

Rs. A. P. Rs. A. P.

Rs. A. P. Rs. A. P.

OTHER LIABILITIES (TO BE SPECIFIED). (c)

ACCEPTANCES, ENDORSEMENTS AND OTHER OBLIGATIONS *per contra*.

PROFIT AND LOSS :

Less appropriation thereof

CONTINGENT LIABILITIES. (d)

Particulars :

- (i) Debts considered good in respect of which the bank is fully secured
 - (ii) Debts considered good for which the bank holds no other security than the debtors' personal security
 - (iii) Debts considered good, secured by the personal liabilities of one or more parties in addition to the personal security of the debtors
 - (iv) Debts considered doubtful or bad, not provided for
 - (v) Debts due by directors or officers of the bank or any of them either severally or jointly with any other persons
 - (vi) Debts due by companies or firms in which the directors of the bank are interested as directors, partners or managing agents or, in the case of private companies, as members
 - (vii) Maximum total amount of loans, including temporary advances made at any time during the year to directors or managers or officers of the company.
 - (viii) Maximum total amount of loans, including temporary advances granted during the year to the companies or firms in which the directors of the bank are interested as directors, partners or managing agents or, in the case of private companies, as members
 - (ix) Due from banks.
- BILLS FOR COLLECTION
BEING BILLS RECEIVABLE
AS *per contra*:
- (i) payable in any Province of India
 - (ii) payable outside the Provinces of India

ACCEPTANCES, ENDORSEMENTS AND OTHER OBLIGATIONS *per contra*.

FORM A—*consolid.*

CAPITAL AND LIABILITIES

Rs. A. P. Rs. A. P.

PROPERTY AND ASSETS

Rs. A. P. Rs. A. P.

PREMISES LESS DEPRECIATION (g)

FURNITURE AND FIXTURES LESS DEPRECIATION (g)

OTHER ASSETS, INCLUDING SILVER (to be specified) (h)

NON-BANKING ASSETS ACQUIRED IN SATISFACTION OF CLAIMS (stating mode of valuation) (i)

PROFIT AND LOSS

TOTAL

TOTAL

NOTES

(a) *Capital* :—

- (i) The various classes of capital, if any, should be distinguished.
- (ii) Shares issued as fully paid-up pursuant to any contract without payments being received in cash should be stated separately.
- (iii) Where circumstances permit, issued and subscribed capital and amount called up may be shown as one item, e.g., Issued and Subscribed Capital.....Shares of Rs.....paid up.
- (iv) In the case of banking companies incorporated outside the Provinces of India, the amount of deposit kept with the Reserve Bank of India under sub-section (2) of section 11 of the Banking Companies Act, 1949, should be shown under this head; the amount, however, should not be extended to the outer column.

(b) The reserve fund maintained under section 17 of the said Act should be shown separately.

(c) Under this heading are to be included such items as the following, to be shown under separate headings suitably described : pension or insurance funds, unclaimed dividends, advance payments and unexpired discounts, liabilities to subsidiary companies and any other liabilities.

(d) These should be classified under the following categories :—

- (i) Claims against the banking company not acknowledged as debts.
- (ii) Money for which the bank is contingently liable showing separately the amount of any guarantee given by the banking company on behalf of directors or officers.
- (iii) Arrears of cumulative preference dividends.
- (iv) Liability on Bills of Exchange re-discounted.
- (v) Liability on account of outstanding Forward Exchange Contracts.

(e) Particulars as under "Loans, Advances, Cash Credits and Overdrafts" are to be shown under this heading.

(f) Where the value of the investments shown in the outer column of the balance-sheet is higher than the market value, the market value shall be shown separately in brackets.

(g) Bank premises wholly or partly occupied for the purposes of business should be shown against "Premises less depreciation." In the case of fixed capital expenditure, the original cost, and additions thereto and deductions therefrom during the year should be stated, as also the total depreciation written off. Where sums have been written off on a reduction of capital or revaluation of assets, every balance-sheet after the first balance-sheet subsequent to the reduction or revaluation should show the reduced figures with the date and amount of the reduction made. Furniture, fixtures and other assets which have been completely written off need not be shown in the balance-sheet.

(h) Under this heading may be included such items as the following, which must be shown under headings suitably described : preliminary, formation and organisation expenses, development expenditure, commission and brokerage on shares, interest accrued on investments but not collected, investments in shares of subsidiary companies and any other assets.

(i) Value shown shall in no case exceed market value.

References to the Provinces of India shall be construed as including references to the Acceding States to which the Banking Companies Act, 1949, for the time being extends.

FORM B

FORM OF PROFIT AND LOSS ACCOUNT

Profit and Loss Account for the year ended

December

EXPENDITURE

INCOME (LESS PROVISION MADE
DURING THE YEAR FOR BAD AND
DOUBTFUL DEBTS)

Interest paid on deposits. ..
 Salaries and Allowances (showing
 separately salaries and allowances
 to managing director or manager.) ..
 Directors' Fees and allowances. ..
 Local Committee members' fees and
 allowances ..
 Provident Fund. ..
 Rent, Taxes, Insurance, Lighting, etc. ..
 Law Charges. ..
 Postage, Telegrams and Stamps. ..
 Auditors' Fees. ..
 Depreciation on Bank's Property. ..
 Repairs to Bank's Property. ..
 Stationery, Printing, Advertisement,
 etc. ..
 Loss from sale of or dealing with non-
 banking assets. ..
 Other Expenditure. ..
 Balance of Profit. ..

Interest and Discount. ..
 Commission, Exchange and Broker-
 age. ..
 Rents. ..
 Transfer from contingencies account. ..
 Profit made on sale of investments,
 gold and silver, land, premises
 and other assets. ..
 Profits made on revaluation of in-
 vestments, gold and silver, land,
 premises and other assets. ..
 Income from non-banking assets, and
 profit from sale of or dealing with
 such assets. ..
 Other receipts. ..
 Loss (if any). ..

Total ..

Total ..

Repealed by Act 48 of 1952
RECEIVED ASSENT ON 13 JUL 1949

Act no XL of 1949.

[AS PASSED BY THE DOMINION LEGISLATURE.]

A
BILL

to repeal certain enactments and to amend certain other enactments.

WHEREAS it is expedient that certain enactments which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed;

AND WHEREAS it is expedient that certain amendments should be made in certain other enactments;

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Repealing and Amending Act, 1949.

2. **Repeal of certain enactments.**—The enactments specified in the First Schedule are hereby repealed.

3. **Amendment of certain enactments.**—The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

4. **Savings.**—The repeal by this Act of any enactment shall not affect any other enactment in which the repealed enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE

Repeals

(See section 2)

Year	No.	Short title
1	2	3
<i>Acts of the Central Legislature</i>		
1923	XXV	The Moorshedabad (Amendment) Act, 1923.
1929	VIII	The Indian Soft Coke Cess Act, 1929.
1942	X	The Indian Patents and Designs (Extension of Time) Act, 1942.
1946	XXIII	The Reserve Bank of India (Amendment) Act, 1946.
1947	XI	The Reserve Bank of India (Amendment) Act, 1947.
1947	XXIII	The Reserve Bank of India (Second Amendment) Act, 1947.
1947	XXXVII	The Indian Patents and Designs (Extension of Time) Amendment Act, 1947.
<i>Ordinances made by the Governor-General</i>		
1942	V	The Motor Vehicles (Drivers) Ordinance, 1942.
1943	XX	The Reserve Bank of India (Limitation of Dividend) Ordinance, 1943.
1943	XLIII	The Penal Deductions Ordinance, 1943.
1945	XXXII	The Bengal Textiles Association Ordinance, 1945.
1947	XXVIII	The Cotton Textiles Equalisation Fund Ordinance, 1947.

THE SECOND SCHEDULE

Amendments

(See section 3)

Year	No.	Short title	Amendments
1	2	3	4
<i>Acts of the Central Legislature</i>			
1869	IV	The Indian Divorce Act, 1869.	In sub-section (1) of section 3, for clauses (a) to (h), the following clauses shall be substituted:— “(a) in a Governor's Province, the High Court of that Province; (b) in Delhi, the High Court of East Punjab; (c) in Ajmer-Merwara, the High Court at Allahabad; (d) in Coorg, the High Court at Madras; (e) in the Andaman and Nicobar Islands, the High Court at Calcutta; (f) in Panth Piploda the High Court at Bombay; and” and clause (i) shall be relettered as clause (g).

Year	No.	Short title	Amendments
1	2	3	4
1872	I	The Indian Evidence Act, 1872.	In section 83, for the words "any Government in the Provinces", the words "the Central Government or any Provincial Government" shall be substituted.
1878	VIII	The Sea Customs Act, 1878	In sub-section (3) of section 19A, for the words "British Burma", the word "Burma" shall be substituted.
1890	VIII	The Guardians and Wards Act, 1890.	In sub-section (2) of section 1, the word "and" at the end shall be omitted.
1923	XXI	The Indian Merchant Shipping Act, 1923.	(a) For clause (ii) of sub-section (1) of section 224, the following clause shall be substituted:— " (iii) in the case of any other ship, a certificate to be called 'an Indian load-line certificate'." (b) In clause (ii) of section 224G, for the words "British India load-line certificate," the words "Indian load-line certificate" shall be substituted. (c) In sub-section (1) of section 224K, for the words "British India load-line certificates", the words "Indian load-line certificates" shall be substituted. (d) In section 224L, for the words "a British India load-line certificate", the words "an Indian load-line certificate" shall be substituted.
1934	II	The Reserve Bank of India Act, 1934.	In sub-section (8) of section 17, for the words "share capital", wherever they occur, the word "capital" shall be substituted.
1938	XXVI	The Employment of Children Act, 1938.	In section 3C, for the words "as to whether any child has or has not completed his twelfth or fifteenth year, as the case may be", the words "as to the age of any child who is employed or is permitted to work by the employer" shall be substituted.
1940	V	The Trade Marks Act, 1940.	(a) In section 19, sub-section (3) of section 22, the <i>Explanation</i> to sub-section (2) of section 46 and sub-section (3) of section 58, for the words "Indian State", wherever they occur, the words "Acceding State or other Indian State" shall be substituted. (b) In clause (a) of sub-section (3) of section 68, for the words "a country outside the Provinces", the words "an Acceding State or of a country outside India" shall be substituted.
1940	XXIII	The Drugs Act, 1940	(a) In clause (d) of section 3 and in the Schedule, for the words "League of Nations", the words "World Health Organisation" shall be substituted. (b) In clause (i) of sub-section (2) of section 5, for the words "Director General, Indian Medical Service", the words "Director General of Health Services" shall be substituted.
1946	IX	The Indian Oilseeds Committee Act, 1946.	For the words "Indian Oilseeds Committee", wherever they occur, the words "Indian Central Oilseeds Committee" shall be substituted.

Year	No.	Short title	Amendments
1	2	3	4
1947	II	The Prevention of Corruption Act, 1947.	(a) In clause (a) of section 6, before the words " Central Government ", where they occur at the end, the words " of the " shall be inserted. (b) In clause (b) of the same section, before the words " Provincial Government " where they occur at the end, the words " of the " shall be inserted.
1947	XXXIV	The Indian Boilers (Amendment) Act, 1947.	In clause (ccc) of section 2, before the words " does not form ", the word " which " shall be inserted.
1948	X	The Insurance (Amendment) Act, 1948.	In section 2, after the words, figures and brackets " In sub-section (I) of section 4 " the words and figures " of the Insurance Act, 1938 " shall be inserted.
1948	XV	The Industrial Finance Corporation Act, 1948.	For sub-section (2) of section 1, the following sub-section shall be substituted, namely :— “(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.”
1948	XXXVII	The Census Act, 1948	Ditto.
1948	XLVI	The Coal Mines Provident Fund and Bonus Schemes Act, 1948.	Ditto.
1948	LIII	The Mines and Minerals (Regulation and Development) Act, 1948.	Ditto.
1948	LXI	The Central Silk Board Act, 1948.	Ditto.
1948	LXIII	The Factories Act, 1948	(a) For sub-section (2) of section 1, the following sub-section shall be substituted, namely :— “(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.” (b) In sub-section (3) of section 7, for the words " within thirty days ", the words " at least thirty days " shall be substituted. (c) In section 55, for the words " The period ", the words " The periods of work " shall be substituted. (d) In sub-section (4) of section 79, for the words " If, for the purpose ", the words " For the purpose " shall be substituted. (e) In section 82, for the word " workers ", the word " worker " shall be substituted.
<i>Act of the Bombay Legislature</i>			
1879	VI	The Bombay Port Trust Act, 1879.	In sub-section (1) of section 6, for the word " thirteen ", the word " fourteen " shall be substituted.

Repealed by Act 48 of 1952

RECEIVED ASSENT ON 8.12.49. Act No XII of 1949

[AS PASSED BY THE DOMINION LEGISLATURE.]

~~BILL~~ Act-

Further to amend the Reserve Bank of India Act, 1934.

WHEREAS it is expedient further to amend the Reserve Bank of India Act, 1934 (II of 1934), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Reserve Bank of India (Amendment) Act, 1949.

2. **Amendment of section 17, Act II of 1934.**—In clause (11) of section 17 of the Reserve Bank of India Act, 1934,—

(a) after the words “any Indian State”, the words, figures and brackets “or the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948 (XV of 1948)” shall be inserted;

(b) after sub-clause (e), the following sub-clause shall be inserted, namely:—

“(f) in respect of the aforesaid Corporation, the issue and management of its bonds and debentures;”.

3. **Repeal of Ordinance XIX of 1949.**—(1) The Reserve Bank of India (Amendment) Ordinance, 1949 (XIX of 1949) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action was taken.